

**OCEANPORT PLANNING BOARD
MINUTES
April 26, 2016**

Chairman Widdis called the meeting to order at 7:30 p.m. and gave the Statement of Compliance with the Open Public Meetings Act: "Adequate notice of this meeting has been provided by notice to the Asbury Park Press and The Link News on January 15, 2016, publication on January 21, 2016 and by the posting of same on the municipal bulletin board and Borough Web Site."

Chairman Widdis led the flag salute.

MEMBERS PRESENT: Mr. Foster, Councilwoman Cooper, Mr. Kahle, Mr. Sullivan, Mr. Savarese, Mr. Whitson, Mr. Proto, Mr. Widdis

MEMBERS ABSENT: Mr. Wible, Mr. Kleiberg, Mr. Fichter

OFFICIALS PRESENT: Jeanne Smith, Board Secretary, Rick DeNoia, Esq., Board Attorney, Board Engineer/Planner William White

BOARD BUSINESS:

1. Minutes of the meeting of March 22, 2016 were approved as presented on a motion from Mr. Whitson and a second from Mr. Kahle and approved by the eligible Board members.

OLD BUSINESS:

2. PB2015-13 DeMarco Development
91 Monmouth Road
Block 136, Lot 51
Request for Minor Subdivision with variance(s)

A-1 Minor Subdivision Plan, prepared by Charles Surmonte PE, PLS, dated May 15, 2015

A-2 Minor Subdivision Plan with Conforming Lots, prepared by Charles Surmonte PE, PLS, dated May 15, 2015, last revised September 30, 2015

Chairman Widdis recused himself from the application at 7:33. Vice Chairman Whitson acted as Chairman. David Shaheen, attorney for the applicant, gave a brief review of the application. The application is to subdivide into two lots, on as 100 foot width, with a lot width variance. The second lot would be a fully conforming lot. The property is approximately 2 acres, with approximately one-third of wetlands. There is an existing one and a half story building on the property, and it fronts on Monmouth Road. The Board has two plans before them. At the first hearing, the Applicant's engineer, planner and architect testified before the Board. During that meeting, the Board asked the Applicant to review the possibility of creating two conforming lots. The application was carried. At the second hearing, the Applicant returned with A-2. The vote on Applicant's plan was a tie. Mr. Shaheen stated that A-1 presented the better plan from a planning perspective and from a visual perspective. A-1 provides the most usable area for each lot. At the first hearing, the planner testified in support of A-1. He mentioned that the 100 foot lot limits the disturbance to the wetlands by avoiding the need for a transition area average. The Applicant believes A-1 is the best plan, despite the fact that a variance is required. He cited case law to support the Applicant's position that Exhibit A-1 would have less of an impact on the environment. No new testimony was presented. Mr. Shaheen requested the Board rescind the vote on A-2 and adopt a resolution approving A-1.

PUBLIC:

Vice Chairman Whitson invited questions or comments from the public. There was no comment from the public.

Vice Chairman Whitson asked for a motion on the application and for Board members to include their position on sidewalks and deed restriction. Mr. Kahle stated he wants the sidewalk to go down to the stream because people do walk on Monmouth Road. Mr. White asked for clarification regarding curb and sidewalk. Mr. Shaheen stated the State will determine the curb requirement. Vice Chairman Whitson asked that anyone who makes a motion be clear on their position on sidewalk and curbs. Mr. Kahle made a motion to approve as is but with the condition that if the State requires curbing, the Applicant must provide it. If the State does not require a curb, then the Applicant does not have to provide it. He stated the other condition must be across the front of both properties. Vice Chairman Whitson asked if wanted both properties or to the stream. Mr. Kahle stated to the stream. Vice Chairman Whitson stated he just wanted clarification. Mr. Shaheen stated he understood what Mr. Kahle meant. Mr. Kahle stated 51.02 down to the stream. Vice Chairman Whiston asked if Mr. Kahle wanted to include the 51.03 deed restriction. Mr. Kahle agreed to the deed restriction.

Mr. DeNoia restated the conditions for purposes of preparing the resolution. There is a motion to approve A-1, which grants the variance for the lot width. Sidewalks are required from the edge of the property to the stream. The Board members confirmed that the sidewalk should be on the entire property to the stream. Mr. DeNoia stated that curbs will only be installed if required by the State. Language will be included for a deed restriction that the lots are not subject to further subdivision. Mr. Foster seconded the motion.

The motion received the following roll call:

AYES: Mr. Whitson, Mr. Foster, Councilwoman Cooper, Mr. Savarese, Mr. Sullivan,
Mr. Kahle, Mr. Proto
NAYES: None
ABSTAIN: None
ABSENT: Mr. Wible, Mr. Kleiberg, Mr. Fichter
INELIGIBLE: Mr. Widdis

Ms. Smith stated the motion carried.

NEW BUSINESS:

3. PB2016-05 Savin, Paul & Cabezas, Helena
47 Cayuga Avenue
Block 27, Lot 27
Request for Variance from Flood Damage Prevention Ordinance

Chairman Widdis returned to chair the meeting at 7:52 PM. Mr. DeNoia stated for the record that service had been reviewed, was in order and had been accepted for jurisdiction and then asked for a 5-minute recess which was approved by the Board at 7:53 PM. Meeting resumed at 7:56 PM with all previous members in attendance present.

The following person was sworn in: William White, Board Engineer/Planner. He explained that the application is not a typical variance request. It's a variance from the Flood Damage Prevention Ordinance. Elevations are area specific. The flood maps will probably be revised in early 2017. The elevation requirements are going to be lowered and at that point the property would be in compliance.

Chairman Widdis invited questions from the Board. Questions included what the implication were if the Board were to approve something lower than required. Discussion ensued.

Afterwards, Mr. DeNoia advised that in order to protect the Borough from litigation, that if the Board approves an elevation lower than the requirements, there will be a condition placed in the resolution.

PUBLIC:

Chairman Widdis opened the meeting to the public for questions. James Kaplun, 57 Cayuga Ave, was sworn. He asked questions regarding the 200 foot notices. Some property owners within the 200 foot area were not notified and others outside the area were notified. Mr. DeNoia responded that the Borough's tax office provides the applicant with the list. Mr. Kaplun expressed his concerns regarding repercussions from the inaccuracy of the list. Ms. Smith will meet with the tax assessor to determine where the error occurred.

As no one else from the public wished to be heard, Chairman Widdis closed that portion of the hearing.

Mr. Savarese made a motion to approve the application with a provision that the Borough not be subject to litigation due to the lower elevation, which was seconded by Mr. Whitson. The motion received the following roll call:

AYES: Mr. Whitson, Mr. Foster, Councilwoman Cooper, Mr. Savarese, Mr. Sullivan,
Mr. Kahle, Mr. Proto, Mr. Widdis.
NAYES: None
ABSTAIN: None
ABSENT: Mr. Wible, Mr. Kleiberg, Mr. Fichter

Ms. Smith stated the motion carried.

RESOLUTION:

4. PB2016-03 Pisane, Neil and Dana (117 Smith Street). As the Resolution was made available to the Board previously, Mr. DeNoia summarized the Resolution after which Mr. Whitson made a motion to approve the resolution which was seconded by Mr. Foster and received the following roll call:

AYES: Mr. Whitson, Mr. Foster, Mr. Savarese, Mr. Kahle, Mr. Widdis.
NAYES: None
ABSTAIN: None
ABSENT: Mr. Wible, Mr. Kleiberg, Mr. Fichter

Ms. Smith stated the motion carried.

PETITIONS FROM THE PUBLIC: Chairman Widdis opened the meeting to Petitions from the Public. As no one from the public wished to be heard, Chairman Widdis closed that portion of the meeting.

ADJOURNMENT: As there was no further business, the meeting was adjourned at 8:31 p.m. on a motion by Mr. Foster which was seconded by Mr. Whitson and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary