

**OCEANPORT PLANNING BOARD
MINUTES
January 24, 2017**

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 11, 2017 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. Kleiberg, Mr. Proto, Mr. Whitson, Mr. Kahle, Mr. Widdis

MEMBERS ABSENT: Mr. Savarese, Mr. Sullivan, Mr. Fichter

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

BOARD BUSINESS: Ms. Smith administered the Oath of Office to new Planning Board Member Robert Proto.

OLD BUSINESS: None

NEW BUSINESS:

1. PB2016-14, Sopenoff, Adam & Jasmine
1217 Turf Drive
Block 130, Lot 10
Request for Variance for Bulk Variance

Chairman Widdis advised that the application would not be heard that evening as the notice was deficient and new notice would be sent with new hearing date.

2. PB2015-10.1, 460 Adrian Ave., LLC
460 Adrian Ave.
Block 76, Lot 3
Request for Variance for Lowest Floor Elevation

A-1 Revised Grading Plan prepared by Charles Surmonte, P.E., (revised 1/4/17)

William White was sworn in as the Board Engineer/Planner. Mr. DeNoia stated for the record that service had been reviewed, was in order and the Board accepted jurisdiction.

Richard Tilton, Esq., Attorney for the Applicant, stated that Christopher Ilvento is the principal of the company. Mr. Tilton described the location of the property in the R-4 zone. The property received bulk variance relief approval from the Board in June of 2015 for construction of a singlefamily house, attached garage and pool. Construction is significantly completed. The Applicant is seeking relief from the Borough's Flood Prevention Ordinance Section 229-72b(1)a. He introduced Exhibit **A-1**.

Charles Surmonte, Applicant's Engineer, was sworn in, presented his qualifications, having been previously qualified by the Board, was accepted by the Board as an expert in engineering and land surveying. He testified that the finished floor of the constructed dwelling is 11.67 where 12.4 is required.

The initial grades reflected elevations 19 inches higher than the true grades. Mr. White advised Mr. Surmonte of the issue. Mr. Surmonte recalculated and found Mr. White to be correct. The revised grading plan shows the correct elevation. Chairman Widdis questioned Mr. Surmonte regarding the error. Mr. White suggested that the Mayor and Council enact an ordinance that requires new construction to show not only the location of the foundation, but also include a top of block. He explained that surveyors have their own benchmarks throughout the town. There was discussion regarding benchmarks and elevation. Mr. Proto asked if there was a system in place to confirm elevation figures before construction to prevent this type of error in the future. Mr. Surmonte confirmed that there was. Mr. Whitson asked if the elevation numbers are positively correct. Mr. White responded Mr. Surmonte's license was at risk if they weren't. Mr. White stated that when the information was compared to neighboring properties, the measurements were within 1/10 of a foot. Mr. Foster asked if there was a change that was going to affect adjacent properties and if so, how it would be mitigated. Mr. Surmonte testified the grading is very similar if not identical to the original. Mr. Kahle asked if Mr. Surmonte went to multiple inlets and adjusted his numbers on manholes. Mr. Surmonte re-shot his known elevations in the area and was able to find the differentials. Councilwoman Cooper wanted to make sure the Applicant knew that if the variance is approved, the elevation might not meet flood insurance regulations and could increase flood insurance costs. Mr. Surmonte was aware of that.

PUBLIC:

Chairman Widdis opened the meeting to the public for this witness only.

Elizabeth Waterbury, Engineer for Lots 1 and 2, stated that the elevations shown on the revised plans match the survey done for Lots 1 and 2. She stated it appeared the grading is directing flow from the side of the house onto Lots 1 and 2. She asked if the Applicant would prevent that flow if her Applicant's subdivision is not approved or in the event it is approved, to coordinate with her Applicant's grade. Mr. Surmonte stated that if the development of the two properties coincided, it would be beneficial to coordinate on the common property line grading. He stated there was a concern because this property should be completed within a few months, while Ms. Waterbury's Application may take longer. He discussed plans to direct drainage away from the property. Ms. Waterbury asked that the Applicant provide a swale on the north side if necessary. Mr. White expressed his concerns with having a completed project which will match the adjacent property currently and then have variances approved for something different which could have an adverse impact. Chairman Widdis opined that the Board did not have sufficient information to make a decision on the grading plan. Mr. Tilton stated that the grading plan had been previously approved by the Board. The variance relief requested now is for elevation. Mr. Surmonte stated there are plans to pipe the roof leaders to the inlet. There was discussion of other options for managing drainage. There was further discussion of the impact of the change in elevation on the drainage and solutions to mediate water flow. Chairman Widdis stated there should be a Plan A and Plan B. Mr. White stated Plan A is to create a grading plan in unison that works for both properties. Plan B will be a submission to Mr. White that will demonstrate that a majority of the water will be captured.

As no one else from the public wished to question this witness, Chairman Widdis closed that portion of the hearing.

Mr. Whitson asked Mr. DeNoia if the Board agreed to the lower floor elevation, if the Borough would be legally liable in the event of a flood of the century. Mr. White responded that there are two conditions: there is an increased risk and an increase in flood insurance premium. There was discussion regarding including conditions as deed restrictions and including a resolution number. Mr. Tilton stated the Applicant would include the variance relief and attach the resolution to the deed.

PUBLIC:

Chairman Widdis opened the meeting to anyone from the public who wished to be heard on this application. As no one from the public wished to be heard, Chairman Widdis closed that portion of the meeting.

There was additional discussion regarding conditional approvals and drainage. Mr. DeNoia stated that any deed of conveyance shall attach and have recorded a copy of the resolution of approval so any future purchaser will be on notice. Mr. Tilton stated some type of time component should be included. Mr. Kahle suggested putting the drain in now. Mr. White explained that Mr. Kahle's suggestion wouldn't work. Mr. Tilton stated he could provide a grading plan to ensure that none of the roof water would find its way to Lot 2. He has no control over the side yard. Mr. Surmonte stated the Applicant has agreed to install a yard drain along the southerly property line on his side of the property line. The roof leaders will discharge on the southerly half of the building and convey it to the inlet on Adrian Ave. Mr. White asked if that meant the Applicant would pull back the contour closer to the building so the elevation is maintained, which will create a sump, and that one in each corner of the house would be appropriate. Mr. Surmonte agreed that installing two sumps would be beneficial, but would rather install only one right now. There was discussion regarding the location of the sump. Mr. Surmonte and Mr. White will work together to determine the location for the inlet. There will be one sump pump along the south property line. Mr. White suggested 18" x 18" for yard inlets with 8" pipe. New plans have to be submitted to the Building Dept.

Chairman Widdis asked for a motion. Councilwoman Cooper made a motion to approve the application in accordance with conditions including installation of an 8" drain and inlet, all future deed conveyances to have Board Resolution attached, which was seconded by Mr. Foster. The motion received the following roll call:

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

Ms. Smith stated the motion carried.

At 8:27 p.m., the Board adjourned for a five-minute recess.

At 8:32 p.m., the Board returned to regular session. Ms. Smith called roll with all previous members once again in attendance.

3. PB2016-15 Caruso, Carmine
219 Comanche Drive
Block 40, Lot 5
Request for Variances

- A-1 Plot Plan prepared by DW Smith Associates, LLC dated December 15, 2016, last revised January 12, 2017.**
- A-2 Enlarged Portion of Tax Map Sheet 6**
- A-3 Google Earth Image Aerial of Block for Average Front and Rear Setback Analysis prepared by DW Smith Associates, LLC dated**
- A-4 Colored Rendering of Front Elevation prepared by Michael James Monroe, Architect, undated.**

Dennis Collins, Attorney for the Applicant, appeared before the Board on behalf of the Caruso's seeking approval to construct a new single family home requiring variances.

Timothy Lurie, Engineer/Planner for Applicant was sworn in and having appeared before the Board previously on several occasions was accepted as an expert in the fields of engineering and planning.

Mr. Collins asked Mr. Lurie to describe the Exhibits being submitted for the record. Mr. Lurie described documents which were marked as **Exhibit A-1, A-2 and A-3**. Chairman Widdis asked Mr. Collins to describe which variances the Applicant is seeking. Mr. Collins stated it is a pre-existing lot with a variance, required is 120 feet, proposed 90 feet is a pre-existing condition. He stated a front yard variance is required, while the plans comply with the minimum required front yard, but the application deviates from the average front yard. Also, a rear yard variance is required, while the plans comply with the rear yard minimum, the application deviates from the average. The plan is compliant with the building coverage, but a lot coverage variance is required. Required is 37, the plan calls for 47.8. There is also a setback for a proposed two block retaining wall. Chairman Widdis asked where the retaining wall is proposed. Mr. Lurie replied the eastern side of the property.

Mr. Lurie described the property. The lot is 19,221 sq. feet in the R-3 zone. The existing house has been demolished, and there is an existing driveway on the left side of the property. The house fronts on Comanche Dr., and the Shrewsbury River is toward the east. The site elevation is 7 feet at the roadway, the center is approximately 8.5 feet and slopes to the water to elevation 5 at the bulkhead. The lot is 90' x 211'. The Applicant is proposing a 2 ½ story dwelling with a 3 car garage in an L shape. There is no basement. The house is 35' high, with the first floor at 10' high and second floor at 8 ½' high. Total footprint of house, garage and covered porch is 4,407 sq. ft. In the rear of the lot, a proposed 15 x 30 pool and spa area, with pavers around the pool. The proposal is to relocate the driveway to the right side. On the left side, there will be a walkway that leads to the rear by the pool. The proposal includes 65 arborvitaes planted along the right and left sides of the property. Foundation plantings are proposed. There will be a two foot high retaining wall on the right side of the property, starting at the water and transitions back to grade at the rear of the house. All roof drainage will be connected to an underground drain system with lawn inlets to contain water. The grading goes from the middle of the house to the street and the rear goes to the Shrewsbury River, where swales will direct the water. The house and garage elevation is 10', the crawl space elevation is 8'. The finished floor is set at 13', which is 3' above base flood elevation. Flood vents will be installed on the perimeter of the house.

Mr. Lurie stated the rationale for the retaining wall is to provide cover for the roof leader system to discharge through the bulkhead. The plan allows grading on both sides of the wall to ensure that drainage does not enter or exit the property. The plans have been revised to accommodate Mr. White's comments. Mr. Lurie explained the plan provides connecting to the existing utilities. A wrought iron fence will be 6' at the rear of the property and transition to 4' in the front of the property.

Mr. Lurie explained the plans show the existing lot area is 19,221 sq. ft., where the minimum is 12,000 sq. ft. The minimum lot width is 120', the lot is 90', which requires a variance. The lot depth minimum is 100', the lot has 211'. He explained the front, side, rear and bulkhead setbacks, which meet the requirements. The pool equipment will also meet the required setbacks. The house meets the 2 ½ story requirement, the maximum height requirement, and the building coverage requirement. The Applicant requests a variance for impervious coverage where 37% is required, the plan requests 47.8%.

Mr. Lurie described A-3, which shows the Shrewsbury River cutting into the property. He described how the plans took into consideration of the average rear yard setbacks and the impact on the side views of the neighbors. He discussed the average front and rear yard setbacks. The adjacent lots are deeper than this lot. The plans attempt to line up the rear and front with the neighboring yards. Mr. Lurie explained the neighboring lots are completely developed, and there is no land available for purchase.

Mr. White stated Mr. Lurie addressed all of his concerns. He did ask what existed along the northern property line. Mr. Lurie replied that there is an existing retaining wall and it is higher than the Applicant's property. Mr. White asked Mr. Lurie about runoff. Mr. Lurie explained there will be no runoff to adjacent properties.

Chairman Widdis asked for questions from the Board for Mr. Lurie. Mr. Kleiberg asked for the location of the HVAC equipment and was told it will be on the roof. Mr. Foster asked what the ceiling height of the attic was, which was deferred to the architect. He asked where the height of the roof ridge was measured from and was told it was measured from the crown of road at center of lot. Mr. Whitson asked about the square footage of each story. Mr. Lurie replied that the square footage of the house, covered porch and garage is 4,407 sq. ft. The first floor is 3,068, second story is 3,566. Mr. Whitson pointed out that the numbers on the architect plan does not match, which was deferred to the architect.

Mr. Proto asked questions about impervious coverage calculations. Mr. Lurie stated the driveway is asphalt. Mr. Proto noted that the pavers by the pool and driveway totaled 4,200 sq. ft., about half of the impervious coverage.

Chairman Widdis asked the house where was the rear of the house in relation to the adjacent neighbors shown on Exhibit A-3. Mr. Lurie explained that the front and rear of the house align with neighbors' homes so as not to obstruct their views.

Chairman Widdis asked questions about the fence including location, requirements for the pool and design of the fence. Mr. Lurie testified that the fence would tie in with the neighbor's fence, would meet the 50% open requirement and would be along each property line with the exception of the rear property line along the bulkhead where it was not required.

PUBLIC:

Chairman Widdis opened the meeting to the public for questions for this witness only. As no one from the public wished to be heard Chairman Widdis closed that portion of the hearing.

Mr. Collins introduced Allison Coffin, Professional Planner for the Applicant, who was sworn in and having been before the Board previously on several occasions was accepted as an expert in planning.

Ms. Coffin provided testimony including a description of the lot's characteristics, surrounding neighborhood, adjacent lots, average front and rear yard setbacks, and retaining wall setback. She explained that neighboring lot coverages in the area exceed the minimum. She stated the variances can be granted under the C-1 and C-2 standards. She explained the pre-existing non-conforming conditions. She opined that the benefits of the variances substantially outweigh the detriments. Despite the excess lot coverage, there is no anticipated detriment that would result from storm water from the site, and there is no increased runoff to the neighboring properties. She explained that the retaining wall will not be visible to neighbors. She explained that the shape of the coastline of the Shrewsbury River impacted the depth of this lot, but the rear of the home is in alignment with the rear of neighboring homes and will not have an impact on water views. The proposed L shape is designed not to have the garage doors fronting on the street. Chairman Widdis asked Ms. Coffin about fencing along the southeastern property line. She stated the fence will run along the lower end of the retaining wall.

Chairman Widdis asked for questions from the Board for Ms. Coffin.

Mr. Kleiberg asked about the height of the habitable attic area shown as 7.2' should be 7' and was deferred to the architect.

PUBLIC:

Chairman Widdis opened the meeting to the public for questions for this witness only. As no one from the public wished to be heard Chairman Widdis closed that portion of the hearing.

Mr. Collins introduced **Exhibit A-4** and Michael James Monroe, Architect for the Applicant, who was sworn in, presented his qualifications and was accepted as an expert in architecture.

Mr. Monroe provided testimony to address earlier Board questions concerning the height of the habitable attic space. The third floor is 630 sq. ft. The habitable attic meets the code for a habitable attic. Mr. Kleiberg stated the attic has to be 7'. Mr. Collins asked Mr. Monroe to clarify the calculations. Mr. Monroe stated the architectural number of 3,340 for the second floor is correct. Second floor space was difficult to measure, open to below spaces are subtracted. Both the architectural and engineering plans will be modified to show accurate representations and the numbers will match. Chairman Widdis asked Mr. Monroe to describe his design. He stated the design is intended to soften the setbacks and roofline. He stated the design was sensitive to the water views. Placement of the HVAC on the roof means it's not visible, not noisy and accessible for service.

Chairman Widdis asked questions about the location of the pool equipment and related items. Mr. Monroe stated the equipment will probably be put in a recess and landscaped to be soundproofed from the neighbors. Mr. Laurie stated currently the equipment is shown in the northern corner, but it will be relocated. Mr. Kleiberg noted that the pool heater cannot be located as shown because there are different setbacks. Mr. Laurie stated any equipment will be installed in conformance with the codes. Mr. White noted that there are elevation requirements for the pool equipment and they Applicant should check with the construction official.

Chairman Widdis asked for questions from the Board for Mr. Monroe. Mr. Kleiberg asked if a generator would be installed and was told yes, most likely where the other mechanicals were located on the roof. Mr. Foster asked whether locating the generator with the other mechanicals was compliant. Mr. Monroe stated it would be. There will be a relatively small natural gas generator, which is permissible. Mr. Whitson commented that it was a nice looking house.

Chairman Widdis asked about outdoor lighting and concerns for the neighbors. Mr. Monroe responded that they had discussed that and all lighting would be indirect LED light, facing downward. Dock lighting outside will be coordinated so that everyone has the same level.

PUBLIC:

Chairman Widdis opened the meeting to the public for questions for this witness only. As no one from the public wished to be heard Chairman Widdis closed that portion of the hearing.

PUBLIC:

Chairman Widdis opened the meeting to the public for comments.

Ann Marie Massaro, 223 Comanche Drive, was sworn and commented that the Caruso's had come to them with the plan and they think the house is beautiful and would fit in with the neighborhood. Nothing obstructs the water view and she is pleased with the design.

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

Mr. Whitson made a motion to approve the application which was seconded by Mr. Proto. The motion received the following roll call:

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

Ms. Smith stated the motion carried.

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

ADJOURNMENT: As there was no further business, the meeting was adjourned at 9:27 p.m. on a motion by Mr. Proto, which was seconded by Mr. Foster and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary