

PLANNING BOARD
APRIL 18, 2023 4 PM

The Manasquan Planning Board held a special meeting in person and remotely on April 18, 2023 at 4:02 pm with Chairman Neil Hamilton presiding.

Chairman Neil Hamilton stated that notification of this meeting was given to the Asbury Park Press and the Coast Star and the agenda for this meeting has been posted on the official website of the borough.

Chairman Neil Hamilton welcomed everyone and asked that everyone join him in a Salute to the Flag.

ROLL CALL: Present: Frank DiRoma, Robert Young, John Muly, Mark Apostolou, Neil Hamilton, Mark Larkin, and John Burke

Absent: Mayor Ed Donovan, Lori Triggiano, Greg Love, Leonard Sullivan

Also present was Board Attorney George McGill and Board Engineer/Planner Albert Yodakis.

Mr. McGill read the Sunshine Laws for the meeting and the process to be followed for the courtesy zoom meeting.

Mr. McGill recused himself from the first application as he has a conflict of interest with some of the members of the North Potter Partners, LLC. He stated that Kevin Kennedy, Esq. will be filling in for him on this application.

Chairman Hamilton introduced Mr. Kennedy.

APPLICATIONS

**#01-2023 North Potter Partners, LLC – 66 North Potter Avenue – Block 162 Lot 1 & 2
(carried from 3/7/2023)**

Jeffrey Beekman, Esq. representing the applicants N. Potter Partners, LLC.

Mr. Kennedy requested that appearances be entered into the record.

Mr. Beekman named Frank Morris, Gary Ciliberto and Jennifer Naughton as the principals of North Potter Partners, LLC.

Edward Liston, Esq. entered his appearance as representing Tom and Sandy Stiles who own property adjacent to the applicant's property.

Mr. Kennedy swore in Al Yodakis.

PLANNING BOARD
APRIL 18, 2023 4 PM

Mr. Kennedy stated a height requirement is being requested and went over a bulk D variance and who can hear the application.

Mr. Beekman stated that they will be keeping what was proposed lower than what would require a D variance, which is less than 10% of the permitted height for that particular lot.

Mr. Kennedy marked the following into the record:

- A-1 Application with the Zoning Denial Letter for 3 lot subdivision
- A-2 Zoning Officer Denial Letter for 3 lot subdivision dated October 13, 2022
- A-3 Topographic Survey prepared by Paul Lynch dated April 4, 2022
- A-4 Major Subdivision Plan prepared by Paul Lynch dated December 9, 2022
- A-5 Communication from the applicant's Engineer/Planner Elizabeth Waterbury to the Planning Board Secretary dated February 24, 2023
- A-6 Major Subdivision Plans prepared by EM Waterbury & Associates – 6 pages with revisions.
- A-7 Exiting Conditions Aerial prepared by EM Waterbury & Associates dated March 30, 2023
- A-8 Proposed Conditions Overlay prepared by E. M. Waterbury & Associates dated March 30, 2023
- A-9 Rendering Exhibit prepared by EM Waterbury & Associates dated March 31, 2023
- A-10 NJDEP Permit Plan (Layout and Grading Plan) prepared by E.M. Waterbury & Associates dated March 16, 2023
- A-11 Surveyors Report prepared by Paul Lynch Dated November 2, 2022
- A-12 Email Memorandum from Tax Assessor Dated October 21, 2022
- A-13 Exemption Letter Prepared by the Monmouth County Planning Board dated February 27, 2023
- A-14 A 4 Lot Concept B Layout and Dimension Plan Prepared by EM Waterbury & Associates dated March 30, 2023
- A-15 A 4 Lot Concept B Overlay Exhibit prepared by EM Waterbury & Associates dated March 30, 2023
- A-16 Zoning Officer Denial Letter for a 4 Lot Subdivision dated March 7, 2023
- A-17 Zoning Permit Application for 4 Lots Undated
- A-18 A 4 Lot Concept A Layout and Dimension Plan prepared by EM Waterbury & Associates dated March 30, 2023
- A-19 a 4 Lot Concept A Overlay Exhibit prepared by EM Waterbury & Associates dated March 30, 2023
- A-20 Freehold Soil Certification dated March 22, 2023
- A-21 Application for Soil Erosion and Sediment Control dated December 21, 2022
- B-1 Planning Board Engineer's Review Letter dated January 20, 2023
- B-2 Planning Board Engineer's Review Letter dated March 10, 2023

Mr. Beekman stated that he has one more exhibit to mark which is the Borough Tax Map Sheet 25 which will be marked as Exhibit A-22

PLANNING BOARD
APRIL 18, 2023 4 PM

Mr. Beekman had copies available for the board members and the audience, including Mr. Liston. He stated that they are here for a 3 Lot Major Subdivision. He stated that the short of the application is that they are proposing 3 Lots with a couple of internal variances as opposed to a fully conforming 4 Lot Subdivision. He stated that the testimony that will be provided by the applicant's expert will indicate the reasons why they think this is a better alternative.

Mr. Kennedy swore in Frank Morris for N. Potter, LLC and Engineer/Planner Elizabeth Waterbury.

Mr. Morris was asked questions by Mr. Beekman.

Mr. Morris named the other 2 partners of the LLC and stated that he is authorized to speak on behalf of the LLC.

Mr. Beekman asked Elizabeth Waterbury to go over her qualifications as an expert in both engineering and planning.

The Board accepted her qualifications as an expert engineer and planner.

Ms. Waterbury was asked questions by Mr. Beekman.

Ms. Waterbury went over the application and the documents that were submitted. She answered questions on certain exhibits that were submitted by Paul Lynch, Land Surveyor. She went over which type of professional needs to submit which documents. She stated that they submitted revised plans which went over point-by-point response from the board engineer's report. She went over the exhibits that she prepared. She stated that an application was submitted to the NJDEP for CAFRA approval for the development. She went over other exhibits and stated that they are looking for a 3 lot subdivision. She went over what a denial letter means and why they need to be before the board. She described the property in its current condition and how she came up with the aerials for 2 lots. She went over the R2 zoning requirements. She went over the exhibits with an explanation and description for each one. She also went over the size of the lots. She stated that they are looking to do the 3 lots and to have a lesser height on one and a variance is needed because it is a non-conforming building on a conforming lot. They are looking to do the 3 lots and not the 4 lots. She stated that they are maintaining a C variance with regard to the height of the building. She went over the board engineer's review letter of March 10, 2023. She went over the stormwater requirements and drainage as well as the floodplain. She stated that they are going through a flood hazard review by the DEP where they will be looking at the grading of the lots. She stated that if any future construction on the new lots does not meet the zoning requirements, setbacks, etc. a separate application to the board will be required. She stated that the trees being removed would be up to the individual homeowner when preparing their plan in addition to what needs to be done and shown for CAFRA. She went over the 4 lot concept B and advised that there would be no variances required, just a major subdivision for the 4 lots. She went over the 4 lot concept A showing driveways on Ocean Avenue. She stated that the applicant is requesting the 3

PLANNING BOARD
APRIL 18, 2023 4 PM

lot plan with two variances that are shown on the plan. She presented information as it relates to a C2 variance. She stated that the only variance is an internal variance between the 2 properties with the one house being lesser height than 38 which is also a lesser impact than what you could do with a 4 lot subdivision. She stated that they meet are the conditions of the ordinance as to lot size, lot dimensions and all setbacks except for the defined rear yard. She referenced the Master Plan and how it relates to this application. She stated that the prior testimony has been that they feel that this particular pattern that has been proposed for the 3 lots versus the 4 lots is looking to balance the R1 to the R2 and also try and preserve and mirror some of the development that is going on right now. She continued with references to the Master Plan as it relates to underutilized property. She stated that as part of the CAFRA permit they do have to improve open public access somewhere within the community and that would have to be worked out with the Borough. She stated that they have met the burden of proof for both the negative and positive criteria and she offers that the property is uniquely and particularly suited for the 3 lot development, consisted with the Master Plan and ordinance for the Borough and promote several of the specific goals noted in the examination report. She stated that the variances can be granted with a substantial detriment to the public good and she offers that there is not a substantial detriment to having a less dense development on the property and the variance will not substantial impair the intent purposes of the zone plan and zoning ordinance.

Mr. Hamilton questioned the setback and asked that the only way to eliminate the need for that variance would be to basically shrink the building.

Ms. Waterbury explained that this would be around a 15' wide house.

Mr. Hamilton confirmed that the only way to remove the variance would be to shrink the structure to comply. He inquired about the anticipated square footage of the house that will need the variance.

Mr. Beekman stated that at this time his clients have not decided whether they are going to be the developers or whether they are going to sell one or more lots. He stated that they will need to come in as a single-family home to the construction department and the zoning office to make sure it conforms. He stated that what they are proposing conforms with what is allowed and will not be greater than the building coverage allowed under the ordinance.

Mr. Hamilton asked questions about getting the property to comply without a variance.

Mr. Beekman stated that it has been said a number of times that they think a 3 lot subdivision even with the variance is more appropriate than a 4 lot fully conforming and authorized subdivision.

There was discussion on the square footage of the proposed structures on lot 1.02 and 1.03.

There was discussion on moving lot 1.03 north.

PLANNING BOARD
APRIL 18, 2023 4 PM

Ms. Waterbury stated that there are NJDEP requirements that do not allow the structure to be moved north.

There was discussion on the riparian buffer and what can be done within there.

Ms. Waterbury stated that they would stipulate making the home 32' wide on lot 1.03.

There was discussion on the driveway on N. Potter and where it will be located.

Ms. Waterbury stated that driveway on N. Potter will be within the same perimeter as the current driveway.

There was discussion on the flood elevations for the property and the elevation of the current property.

Mr. Beekman confirmed that the ordinance allows side yard setbacks of 5' on both sides and they are proposing Lot 2 a greater side yard setback between 1.02, 1.03 and 2.02 of 10'.

Ms. Waterbury confirmed the 10' side yard setback and she stated that they would take that as a condition that the house on 2.02 had a 5' setback on the easterly side and a 10' setback on the westerly as shown on the plan.

Mr. Liston cross examined Ms. Waterbury on the testimony she provided about the 3 lot and 4 lot subdivisions. He asked Ms. Waterbury if it would be possible to develop a conforming 3 lot subdivision by having 2 lots facing Ocean Avenue and 1 lot facing Stockton Lake with driveway on N. Potter in terms of their footage.

Ms. Waterbury stated that she is sure that it could be created and thought it would have greater impact to the resident on 1.03 and they thought it was better having 3 lots that were not all of minimal and in that instance you would have to 2 lots that would be of the minimal size.

Ms. Liston continued to cross examine Ms. Waterbury on the plans and testimony she presented. He brought forward a sketch prepared by his expert Andy Thomas who is a planner of the subject property showing a 3 lot subdivision with 2 lots fronting Ocean Avenue and 1 lot fronting N. Potter dated April 12, 2023.

Mr. Kennedy marked this sketch into evidence as Exhibit O1.

Mr. Liston stated that this is a proposed 3 lot subdivision which his expert will testify if fully conforming without any variances. He asked questions of Ms. Waterbury about Exhibit O1.

Ms. Waterbury stated numerous times that she could not comment on Exhibit O1 as she has not had the opportunity to compare the plans.

PLANNING BOARD
APRIL 18, 2023 4 PM

Mr. Liston continued to ask questions about Exhibit O1.

Ms. Waterbury stated that there are times when a variance that is being requested in a particular scenario because of the benefits that it can offer is a better scenario than something that would be conforming. She stated that her testimony to the board is that she feels the benefits that we had before and with the one building being lower was positive for the area. She stated that she has not reviewed Exhibit O1 so she cannot comment on the plan.

Mr. Liston continued to cross examine Ms. Waterbury on her testimony and her 3 lot plan. He inquired about trees that are on the property, specifically a copper beach tree.

Ms. Waterbury stated that they have not shown all the trees on the plan as required because at the time that the plot plans are developed that is when it is determined what trees are coming down and what trees are staying. She stated that in her plan and the objector's plan the copper beach tree would be coming down.

Mr. Liston continued his cross examination and Ms. Waterbury responded regarding drainage, water table, flooding of Stockton Lake, and grading.

Mr. Beekman stated that he had a few rebuttal questions. He asked questions of Ms. Waterbury.

Ms. Waterbury went over the proposed conditions aerial and stated that for the most part they are trying to mimic the pattern of development in the area. She went over required grading and stated that in title areas the DEP states that you can only grade directly into the tidal area if you are not impacting other lots.

Mr. Liston inquired about the driveway locations.

Ms. Waterbury confirmed that her plan shows one driveway on N. Potter and two on Ocean Avenue.

M. Yodakis stated that the plans show that the grading on the lots worked, and he stated that his dealings with CAFRA and DEP permits would meet those requirements.

Ms. Waterbury stated that is the submission to CAFRA which is indicating that kind of grading and not grading that goes through another lot.

There was a question as to Mr. Liston's planner being sworn in and testifying.

Mr. Burke made a motion to open the hearing to the public, seconded by Mr. Larkin. Motion carried unanimously.

PLANNING BOARD
APRIL 18, 2023 4 PM

Jill Swiecinski, 227 Stockton Lake was sworn in by Mr. Kennedy. She inquired about looking into the safety aspects of subdividing the property. She stated that since it is a very busy corner as well as pedestrian crossing that is the main route for families to get to the beach. She wanted to know the safety impact to have more homes there as well as the impact on fact that it is an evacuation route along Stockton Lake Boulevard.

Mr. Beekman stated that the proposal meets the ordinance definition of a lot size which is a single family home and is permitted use. They are not looking for a variance for lot size or lot width so they are in conformity with all but those two variances that which have been clearly identified through testimony from the client. He advised that with this layout they are proposing only 1 driveway along N. Potter and that what is existing today. He does not believe there is a safety issue with a single family development that is any more or less impactful than any other development in this area of town.

Ms. Swiecinski stated her question is having another home near the corner where there is a stop sign, what impact will that have for the traffic flow, visibility, for people trying to cross the street, for the existing cross walk that newly created there and for the bike lane.

Ms. Beekman advised that their expert is an expert in engineering and Ms. Waterbury could testify more about Ms. Swiecinski's question.

Ms. Waterbury advised this is one of the things that she looked at and went out to the site to see. She referenced the existing aerial exhibit A7 where she pointed out the vegetation that exists around the property and all along the fence line of Ocean Avenue and N. Potter. She stated that all of this vegetation is in the site triangle that relates to that corner and as part of the development the site triangle is shown on the plans as it is required per the ordinance requirements which limits the height of any thing going in there to open up the view. She went over the driveways and where they are located on the plans as it relates to the stop sign on Ocean Avenue.

Patricia Connolly, 65 Ocean Avenue was sworn in by Mr. Kennedy. She inquired about the CAFRA permit and wanted to know if it was applied for yet and how was the public notified.

Ms. Waterbury stated that the CAFRA permit has been submitted and copies are available in the clerk's office and she is not the person who submitted the permit. She stated that per the requirements they had to provide notice to the people within 200'.

There was discussion on who gets noticed of the CAFRA submission and who sends it out.

Ms. Connolly inquired about parking on Ocean Avenue and stated that by putting driveways on Ocean Avenue you are denying the public parking and there access to the beach and the DEP does not like that.

PLANNING BOARD
APRIL 18, 2023 4 PM

Ms. Waterbury stated that the DEP requires that they improve public access as part of the CAFRA permit but they would not consider that as improving public access. She advised that they have to provide an enhancement to public access within the community.

There was discussion on parking on Ocean Avenue between Ms. Connolly and Ms. Waterbury.

Ms. Connolly voiced her view on the lots and would love for the lots to become a park.

Mr. Beekman on behalf of his client consented to extend the timeframe in which the Board has to act on the matter.

Mr. Burke made a motion to carry this hearing to May 16, 2023 at 4 pm with no new notice required, seconded by Mr. Young.

AYES: Mr. DiRoma, Mr. Young, Mr. Muly, Mr. Apostolou, Mr. Hamilton, Mr. Larkin, and Mr. Burke.

NAYS: None

ABSTAIN: None

Mr. Apostolou suggested that Mr. Liston provide Mr. Beekman with the plans that Mr. Thomas drew up and were referenced by Mr. Liston during cross examination.

Mr. Kennedy asked that a small copy of the plan that Mr. Thomas created be provided to Mr. Beekman and the board secretary.

There was a 5 minute recess.

Roll was taken after the recess.

#03-2023 Hannafey, Eugene & Valerie - 10 Minnesink Road - Block 16 Lot 5

Mr. MGill swore in Valerie and Eugene Hannafey as well as Al Yodakis

Mr. Hannafey went over their application and why they are requesting a variance for a pool to be placed closer to the property for reasons that are important for safety and wellbeing.

Mrs. Hannafey stated that the reason for pushing the pool away from the house would allow for a ramp in the future if need be for their parents.

Mr. Young asked if there was a way to reduce some of the concrete on the property that currently exists to try and get under for lot coverage.

PLANNING BOARD
APRIL 18, 2023 4 PM

Mr. Hamilton stated that the lot coverage is 45% and the applicant is at 47.1%.

Mrs. Hannafey stated that they will be at 47% and the concrete they are removing is a small patio and the concrete along the side with the only other concrete being their driveway.

There was discussion on pavers and concrete on the property.

Mr. Young made a motion to open the hearing to the public, seconded by Mr. Burke. Motion carried unanimously.

Thomas Bateman was sworn in by Mr. McGill. He voiced his opinion on the application and is favor of it.

Mr. Young made a motion to close the public portion, seconded by Mr. Burke. Motion carried unanimously.

Mr. Larkin made a motion to approve this application, seconded by Mr. DiRoma. Motion carried by the following vote:

AYES: Mr. DiRoma, Mr. Young, Mr. Muly, Mr. Apostolou, Mr. Hamilton, Mr. Larkin, and Mr. Burke.

NAYS: None

ABSTAIN: None

OTHER BUSINESS

Mr. Young made a motion to close the meeting at 7:25 p.m., seconded by Mr. Burke. Motion carried unanimously.

Date Approved: July 11, 2023