

PLANNING BOARD  
SEPTEMBER 13, 2022 7 PM

The Manasquan Planning Board held a zoom meeting on September 13, 2022 at 7:00 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: Edward Donovan, Lori Triggiano, Frank DiRoma, Robert Young, Greg Love, John Muly, Mark Apostolou, Leonard Sullivan, Neil Hamilton, Mark Larkin and John Burke

Absent: None

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 zoom meeting.

**OLD/NEW BUSINESS**

**Vouchers**

Mr. Young made a motion to approve the vouchers, seconded by Mr. Apostolou. Motion carried by the following vote:

AYES: Mr. Donovan, Ms. Triggiano, Mr. DiRoma, Mr. Young, Mr. Love, Mr. Muly, Mr. Apostolou, Mr. Sullivan, Mr. Hamilton, Mr. Larkin, and Mr. Burke.

NAYS: None

ABSTAIN: None

**Regular Meeting Minutes – December 14, 2021**

**Regular Meeting Minutes – December 21, 2021**

Mr. Young made a motion to approve the minutes, seconded by Mr. Sullivan. Motion carried unanimously.

**Regular Meeting Minutes – July 5, 2022**

**Special Meeting Minutes - July 19, 2022**

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Mr. Apostolou made a motion to approve the minutes, seconded by Mr. Muly. Motion carried unanimously.

**Perotti, Thomas – 77 Ocean Avenue – Block 175 Lot 20.01 – Application #31-2021 -Request for Extension on Granted Variances**

Mr. Sullivan made a motion to approve a 9-month extension on this application, seconded by Mr. Apostolou. Motion carried by the following vote:

AYES: Mr. Donovan, Ms. Triggiano, Mr. DiRoma, Mr. Young, Mr. Love, Mr. Muly, Mr. Apostolou, Mr. Sullivan, Mr. Hamilton, Mr. Larkin, and Mr. Burke.

NAYS: None

ABSTAIN: None

Chairman Hamilton stated that there will be agenda change to hear the Henry Appeal at this time.

**#11-2022 Henry, James Appeal of Zoning Officer's Decision – 85 Morris Avenue – Block 71 Lot 108**

Mr. McGill stated they will hear the Henry application first and he has reviewed the paperwork in this matter and it seems that the appellant filed for permit to fill in a portion of this rear yard at lot 108 and construct a retaining wall. The Zoning Officer issued a denial of permit dated May 11, 2022 and the letter cited 2 ordinance sections one was section 35-18.3 which requires planning board approval for the project. He stated that section 35-18.3 is the planning board's site plan ordinance which exempts one and two family properties. He stated that this exemption would apply to this case. He noted that the ordinance itself creates a situation which probably shouldn't have because it gives discretion to what it refers to as the building officer. He stated that the term building officer is vague under the statute and ordinances and is not defined. He stated assuming it would be the zoning officer it gives discretion to the officer where their exists soil and drainage conditions or traffic factors that may result in environmental problems. He stated that the zoning officer, Mr. Furey didn't know what to do with it so he sent it to the planning board which is the right thing to do. He stated that the other ordinances that Mr. Furey relied upon was section 30.1.7 which deals with permits for soil over 50 cubic yards. He advised that this ordinance directs the permit activity that must be submitted to the construction officer and not the zoning officer so actually section 30 is not a zoning ordinance that the planning board would have jurisdiction over. He stated that the appellant would be entitled to a ruling from the planning board that would reverse Mr. Furey's decision in this matter and the planning board should direct the issuance of a permit all other things being in order.

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Mr. Apostolou inquired about this being 2-pronged situation that the planning board does not have jurisdiction over the second prong. He wants to know if the appellant has to go to the construction department and seek a remedy there.

Mr. McGill stated that the appellant would have to comply with the ordinances and would need to discuss it with the construction officer and work it out.

Jason Tuvel attorney for the appellant agreed with what Mr. McGill said and he went over the ordinances that were cited.

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

There being no comment Mr. Apostolou made a motion to close the public portion, seconded by Mr. Sullivan. Motion carried unanimously.

Mr. Sullivan made a motion to reverse and refer the appellant back to the zoning officer, seconded by Mr. Donovan. Motion carried by the following vote:

AYES: Mr. Donovan, Ms. Triggiano, Mr. Young, Mr. Love, Mr. Muly, Mr. Apostolou, Mr. Sullivan, Neil Hamilton, Mark Larkin and Mr. Burke.

NAYS: None

ABSTAIN: None

**ORDINANCES FOR REVIEW**

Mr. Hamilton stated that there a couple of ordinances that should not have come before the planning board for review which are 2375-22 and 2381-22.

Mr. Hamilton stated that there were no issues with ordinances 2383-22, 2380-22, 2378-22. He stated that as to 2376-22 he wanted to see a definition for procedure to fill out paperwork for possible site plan improvement through the code/construction department. He stated that 2377-22 refers to swimming pools and a 2 car garage where one side can be converted into a pool house with bathroom facilities. He stated their concern with 2377-22 is that the area would become a sleeping capacity or is safe to have a kitchen that close to a house if it is not fully permitted and fire rated.

Mr. Apostolou voiced his concerns about the definition of garage for ordinance 2377-22.

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Manasquan Borough Planner Jenn Beahm stated that based upon her professional opinion all of the ordinances are consistent with the Master Plan and if there are comments regarding specific items in each of the ordinances she believes a memo should be transmitted to the governing body.

Mr. Apostolou voiced his concerns regarding the definition of a pool and his understanding of the Master Plan and the standards.

Ms. Beahm voiced her professional opinion as to the Master Plan and advised that the ordinance is consistent with the Master Plan and the comments from the planning board should be included in correspondence to the governing body. She stated that the Master Plan says that the Stormwater Management Plan needs to be maintained, reviewed consistently and updated and that is what the goal is. She stated that this is consistent with the Master Plan.

Mr. Hamilton stated that the concerns on the 2 ordinances will be sent to the governing body for their review.

There was discussion on the sign ordinance and it was advised that this ordinance does not include American flags.

Ms. Beahm stated that there does not need to be wording regarding American flags as it is under a totally different statute.

Mr. Hamilton stated that a letter be sent to the Municipal Clerk who can forward it to the governing body.

Mr. Hamilton made a motion finding the ordinances consistent with the Master Plan and authorizing Mr. McGill to write a letter with the comments that the board has and removing ordinances 2375-22 and 2381-22 from consideration, seconded by Mr. Burke. Motion carried unanimously.

## **RESOLUTIONS**

### **#30-2022 120 South Street, LLC – Block 70 Lot 2.04 -Application #04-2022**

Mr. Young made a motion to approve the resolution, seconded by Mr. Burke. Motion carried by the following vote:

AYES: Mr. Young, Mr. Sullivan, and Mr. Burke.

NAYS: None

ABSTAIN: None

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**#31-2022 LeBlanc, Kenneth & Ellen – 117 First Avenue – Block 168 Lot 6 – Application  
#09-2022**

Mr. Apostolou made a motion to approve the resolution, seconded by Mr. Young. Motion carried by the following vote:

AYES: Ms. Triggiano, Mr. DiRoma, Mr. Young, Mr. Love, Mr. Muly, Mr. Apostolou, Mr. Sullivan, and Mr. Burke.

NAYS: None

ABSTAIN: None

**APPLICATIONS**

Mr. Burke recused himself from this application.

Mr. McGill stated that Mr. Larkin was absent from the hearing and did listen to the audio of the meeting. He stated that Mayor Donovan and Council Member Triggiano will not be participating in this application. He also stated that Frank DiRoma cannot participate as he has issued violations to the VFW through the code/construction department.

**#43-2021 VFW Lodge 1838 - 30 Ridge Avenue - Block 43 Lot 40.1 (carried from 8/2/22)**

Representing the applicant was Keith Henderson, Esq.

Mr. McGill swore in Joseph Griffin, Thomas Condon and Al Yodakis.

Mr. Henderson call Mr. Griffin to testify.

Mr. Griffin stated that he was retained by the applicant to review the application and the amend the drawings if necessary.

He was accepted as a professional engineer.

Mr. Griffin stated that there was previously submitted a site plan which was prepared by RC Associates. He reviewed documents from the planning board engineer and has visited the site several times and he installed a camera system in the drainage system. He stated that he reviewed the plans and recommended changes. He stated that the plans before the planning board tonight were prepared by RC Associates but he corrected the changes. He advised that the changes he made were the moving of a shed which is now 5' off the property line, shower on the north side of the property that was encroaching in the set back which has been removed, he made a few other changes to the plan that were referenced in the original planning board engineer's letter in 2021.

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He stated that these changes eliminated some of the problems with the property and he stated that the biggest issue was the drainage that was shown on the original plan that was approved was not fully constructed and he directed a change to the current plan to satisfy the run off from the building to accommodate the original design. He went over the drainage system plan that is in the current plan.

Mr. McGill marked the following exhibits: A-1 plan for drainage system dated today.

Mr. Griffin explained the process and the correction of the drainage system. He stated that the building (garage/storage) was originally approved for construction of 600 square feet and through an error by the mason and it was extended .2' in width and about 2' in length. He stated that the building is about 649 square feet, and a bulk variance will be needed for the additional square footage. He stated that there is a minimum lot coverage that is being exceeded however the lot coverage was addressed in the prior resolution number 21-2013. He stated that the current plan is reducing the lot coverage that was stated in that resolution from 59.81% and on the current plan it is 59.56%. He talked about the accessory buildings on the property and the lighting on the property as well as the signs on the property.

Mr. McGill stated that the driving force here is the bar that was added to the use and it is not just the size of a structure. He stated that the board is here for an expansion of a nonconforming use.

Mr. Griffin went over the plans which show a permanent structure that is labeled bar on the drawing and is not attached to the bar and on the right side of the building there is a temporary bar that was made for COVID which is to be removed in September or October. He stated that there is an ADA table top where wheelchairs can come up to the back of it and is not a bar as there is no service to the table top. He stated that the previous plan showed it as a bar when in fact it is not a bar but a long table top.

Mr. Hamilton stated that the whole issue here is the 2 "bar" areas that have been installed that could accommodate additional seating. He stated this has been the whole thing that has been driving the force of this application and there was discussion that the "bars" would have to be removed. He stated that the planning board does not have jurisdiction to make them be removed they can only suggest that. He stated that it would be under code enforcement to see how they want to deal with it. He advised that to say the "bar" is just there to accommodate those that are handicapped in a wheelchair and is not part of this application he was not understanding that.

Mr. Henderson stated that he is not saying that this is not part of this application but is saying that there is a representative from the VFW who will be going to explain them and is going to testify. He stated that Mr. Griffin was explaining what they were, and the VFW will explain what they are intended to be and then get feedback as to what the board wants them to do. He advised that to remove them would defeat the purpose of having handicap seating.

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Mr. Apostolou stated that there has been very extensive testimony in the past about the “bars” and he doesn’t want the public to be deceived by saying there hasn’t been testimony.

Mr. Griffin stated that what he can verify is that the ADA tabletop, temporary bar and the bar showing on the plans is what is there today.

There was discussion on the over build of the garage and an expansion of the premise and how this application came before the board. There was also discussion on the drainage.

Mr. Henderson called Mr. Condon to testify.

Mr. Condon stated that he is a member of the VFW for about 25 to 27 years. He went over the history of the building. He stated that the temporary bar was put there because it was determined that the VFW could not use the bar underneath the canopy. He read the definition of a bar and stated that the ADA table is not considered a bar as there is not alcohol beverages served or any services across the table. He explained the ADA tabletop and its purpose. He stated that the bar in the back is not connected. He went over the events that brought attention to the VFW when they moved outside for COVID reasons. He went over the community events that are held at the VFW and that there are no sound systems that are associated with the bar when it is in operation. He believed that the events are limited per the ABC, Borough of Manasquan and the VFW and he went over some of the events and outside organizations that use the facility. He thinks that the VFW is more than respectful of the neighbors of the VFW and that he has heard baseless accusations that cannot be proven.

Mr. Love inquired about the building that was approved as a garage and if there was plumbing in it.

Mr. Condon stated yes.

Mr. Love inquired about the bar that was created and there being a permit for the bar and the plumbing that was put into the building.

Mr. Condon stated that he believes so.

There was discussion on construction permits.

Mr. McGill stated that if the applicant wanted to get the permits that were issued for the board, they could do that. He stated that it is not for the board to dig up evidence.

Mr. Condo went over the VFW acquiring the building and the request to move the VFW to a different location.

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Mr. Apostolou asked if it was Mr. Condon's position that the bar was approved by the planning board.

Mr. Condon stated that his understanding is that the bar was built as an accessory outside like a piece of furniture because it is not attached to the building.

Mr. Henderson stated that they have removed some of the encroachments, clarified and fixed an underground water retention system which was not built in accordance with the plans that were approved. He believes that the planning board's primary concern is the outdoor bars and his understanding from the VFW that they thought the bar is a handicap accessible bar and designed specifically for that purpose and was considered furniture but now is permanent. He wants to know what more the board wants the VFW to do.

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

Timothy Middleton on behalf of Sean Brown questioned Mr. Condon on his statements who answered them to the best of his knowledge.

Mr. Condon stated that there are 3 events scheduled at the VFW a year. He stated that there are 2 different types of events which are 3 social events and the other 8 events are similar to Troopers assisting Troops, Poker Run and similar and this is where the back area is used.

There were questions on the PA system, bands, and DJ's.

Mr. Middleton asked Mr. Condon if it is his position that the construction of a bar on this property that will be attached to the garage, would that require use variance approval.

Mr. Condon stated that if it was attached to the garage, he believes it would, but the bar is not attached to the garage.

There was discussion on the outside bars and the amount of time the bars were used and the number of seats at the bars. There was also discussion on when the back bar was shut down and how many bar seats are inside of the building.

Mr. Henderson stated that he would like to get feedback from the board so that when we come back the concerns can be addressed.

Mr. Young made a motion to open the hearing to questions and comments from the audience, seconded by Mr. Apostolou. Motion carried unanimously.

Pamela Martin was sworn in and voiced her concerns about the VFW club activities and the outside storage area. She is requesting the variance requests be denied.

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Stephanie Brown addressed Mr. Condon on his comments about her mother observing someone urinating in the street. She stated that Mr. Martin's comments are completely accurate and agrees with her request to deny the variances.

Mr. Middleton called Sean Brown to testify, and Mr. McGill swore him in.

Mr. Brown answered questions from Mr. Middleton regarding when the bar was built, noise and parking in the neighborhood.

Mr. McGill stated that the photographs to be shown need to be identified and will start with O-1

Mr. Brown presented O-1 which he stated is a very well attended event. He stated that he took the photograph and does not know the date as he saved them to his computer in September 2022. He stated that this photo was after a golf outing. He presented exhibit O-2 which is a similar photo showing a band from the same event.

Mr. Brown stated that he asked for a list of VFW events from the town council and he stated that he has been promised those numerous times and he has never received those events. He stated that he did an OPRA request for those events and was told that the town does not track the VFW events even though the town grants them their events via the liquor license. He stated that this year he believes there to be 18 events.

Mr. McGill stated that the photographs need to stop being shared or they need to be identified when they come up.

Mr. Brown presented O-3 which is a photo of the outdoor bar under the canopy and the photo was taken from Facebook and he does not know the date and he could provide that information post meeting. He stated that he obtained the photograph in 2020.

Mr. Brown stated that he could provide the dates and put them on the pdf to be submitted post meeting.

Mr. Apostolou asked if the photos pre-dated the cease and desist letter of 2018.

Mr. Brown stated that the photos did pre-date the cease and assist letter of 2018. He put into evidence as O-4 the letter dated September 24, 2018 signed by Richard Furey. He stated that the temporary bar is being used today and the outdoor bar in the rear is not being used.

Mr. McGill marked O-5 exhibit which is a letter dated September 23, 2020 signed by Richard Furey and O-6 letter dated September 23, 2020 signed by Frank DiRoma and O-7 which is the Notice and Order of Penalty.

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Mr. McGill stated that the planning board will need copies of all these documents.

Mr. McGill marked the next photograph as O-8 which a photo of the long bar.

Mr. Brown stated that it would be hard to verify that this is an ADA bar. He stated that this is a Facebook picture. He stated that he would get all the required information and submit the exhibits to Mr. Middleton so they can be submitted to the borough.

Mr. Middleton went over Mr. Brown's testimony.

Mr. McGill swore in Barbara McCredie, John Bredehorst, Patty Bossone, William Pelly, Karen Jansen, and Joe Bossone.

Ms. McCredie voiced her support for the VFW and stated that she has lived across the street for 30 years. She stated that 2020 is the year that changed everyone's lives including the VFW and eventually people felt safe to come outside and finally see each other again and the outside area provided a safe open air area for people to gather just as they did at every organization, restaurant and outdoor venues throughout town.

Mr. Bredehorst voiced his support for the VFW and stated that he lives next door and has lived there since 2007. He stated that he bought his house knowing that the VFW was there. He does not feel that any of the events held at the VFW are intrusive or compete with his lifestyle.

Ms. Bossone voiced her support for the VFW and stated that she is 2 lots west of the VFW and she has lived there for 32 years. She stated that she has never had a problem and her upstairs deck looks down into the VFW parking lot. She stated that the pictures that Mr. Brown showed are from when there was Covid and they did have a couple of big events outside. She stated that there is on street parking issues every school day and it is going to get worse when the new school building is done. She stated that there is more noise coming the high school field than the VFW.

Mr. Pelly voiced his support for the VFW and is 5 doors down from the VFW. He stated that he has never been offended or upset as having them as a neighbor for the past 26 years. He went over the ways the VFW has helped people in the neighborhood and stated that they work with the neighbors if there is an issue they work it out.

Ms. Jansen voiced her support for the VFW and stated that she has been a neighbor of the VFW for 43 years and she has never had an issue with anything that goes on at the VFW. She agreed that the issue with the parking is from the school and not the VFW.

Mr. Bossone voiced his support for the VFW and agreed with everything that was said about the VFW being a good neighbor. He stated that he looks forward to their events and hearing them in his backyard. He stated that there are a lot of people that want to sit outside these days and this

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would be a perfect setting for them to be. He stated that they have always been respectful to his family and a lot of the parking issues come from the school.

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

M. Henderson stated that he came here tonight having completed a bunch of things required to be done to bring the property more into compliance and he wanted to get a reaction from the board as to where that leaves the applicant in their minds so he can talk to his client. He stated that they have not had a lot of guidance from the public until tonight that he has heard and from the board. He stated they just need to know where they are going from him.

Mr. Middleton stated that he would like to present a closing argument if the board is going to have a vote.

Mr. Henderson stated that he does not want a vote tonight and is asking that the board carry this application and is looking for some guidance as what the board is looking for.

Mr. Middleton stated that he is not objecting to carrying the application.

Mr. Apostolou wanted to know what the purpose of carrying the application would be and if there is going to be additional testimony.

Mr. Henderson stated that if the board is telling him that they decided that it is a use variance then he might have to bring a planner.

Mr. McGill stated that it is a use variance, and a use variance was applied for.

Mr. Henderson stated if that is the board's position then he will be back with a planner and he will have a better idea what it is that the board wants. He went over why it should be carried.

Mr. McGill stated that the board may not want anything, and they are not here to give guidance but sometimes they do, but that is not their job, and they are to hear applications and to vote. He stated that he believes that they are at the end of this matter at this point.

Mr. Apostolou and Mr. Love voiced their opinion on carrying the application.

Mr. Apostolou stated that the applicant had provided detailed testimony from its professional planner, Ray Carpenter, in the past.

Mr. Henderson requested that this application be carried until the next meeting and a decision can be made at the beginning of that meeting and he will at least have that time to investigate what his marching orders are.

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Mr. Hamilton stated that the only reason to carry this application would be to have more investigation into the permits that were issued and how these things evolved. He stated that he doesn't know if taking the bar away makes the problem go away.

There was discussion on what the definition of a bar is and construction of the bars without permits.

Mr. McGill stated that the VFW has approvals from 2013 and that is what they are entitled to and if there is anything else there they do not have approvals for that. He stated that the VFW is here for a variance relief to expand a non-conforming use.

Mr. Apostolou made a motion to not carry this application and vote tonight, seconded by Mr. Young. Motion carried by the following vote:

AYES: Mr. Young, Mr. Muly, Mr. Apostolou, Mr. Sullivan, Mr. Hamilton, and Mr. Larkin.

NAYS: Mr. Love

ABSTAIN: None

Mr. McGill stated that now they need a motion for application.

Mr. Apostolou made a motion to deny the application and allow the storage shed in the present state not requiring the removal and allow the additional freestanding rear shed, seconded by Mr. Young. Motion carried by the following vote:

AYES: Mr. Young, Mr. Love, Mr. Muly, Mr. Apostolou, Mr. Sullivan, Mr. Hamilton and Mr. Larkin

NAYS: None

ABSTAIN: None

**OTHER BUSINESS**

Mr. Young made a motion to cancel the September 20, 2022 Special Meeting date, seconded by Mr. Sullivan. Motion carried unanimously.

**EXECUTIVE SESSION**

Mr. Love made a motion to go into closed session, seconded by Mr. Donovan. Motion carried unanimously.

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Mr. Donovan made a motion to close the regular meeting, seconded by Mr. Love. Motion carried unanimously.

Date Approved: November 1, 2022