

PLANNING BOARD
MARCH 23, 2021 4 PM

The Manasquan Planning Board held a zoom meeting on March 23, 2021 at 4:00 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, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, 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

Special Meeting Minutes – October 20, 2020

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

Special Meeting Minutes – January 26, 2021

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

Regular Meeting Minutes – March 2, 2021

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

RESOLUTIONS

There were no resolutions to approve at this meeting.

APPLICATIONS

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Mr. McGill swore in John Burke as Planning Board Alternate 2 Member.

#11-2021 Kane, Patrick – 188 Third Avenue (Carried)

Appearing for this application was Engineer and Planner Joseph Kociuba, Ryan Meyers from Atlantic Modular, and Patrick Kane.

Mr. McGill swore in Joseph Kociuba, Ryan Meyers and Patrick Kane.

Mr. Kociuba stated that this is an interior lot on Third Avenue which is an undersized lot being 2,402 square feet in a R-3 3400 square foot zone 30 feet wide where 40 is required and the surrounding uses are single family residential of varying lots.

Mr. McGill marked the plot plan as Exhibit A-1.

Mr. Kociuba stated that this property is located in a flood zone AE-9, a dwelling exists on the property with several nonconformities and the owners plan on demolishing the home and construct a flood compliant dwelling. He stated that the house would be 23.5' wide, which would result in side yard setbacks of 3.25' on both side and finished floor would be at 14.59 which would be flood compliant with a driveway and garage with 2 parking stalls underneath the home. He stated that the building height is fully compliant for a noncompliant lot which is less than 33' and the side yard setbacks are 3.25' where 5' is required. He stated that currently the side yard setbacks are 1.79' on the right side 2.92' on the left side and stated that they are increasing that and providing a more fire code compliant dwelling. He also stated that the other relief requested is a rear yard setback where 5.10' where 20' is required in the corner of the lot. He stated that the existing rear yard setback is at 1.6'. He stated that due to the unique shape of the property and the undersized nature relief is required there and he is requesting that the building coverage variance of 41.09% where 35% is required. He stated that on a lot of this size of 1000 square feet under the allowable area it is only 133 square feet the coverage is due to the undersized nature of the lot and if this was a conforming lot of 3400 square foot lot this would be 29%. He stated that the variances that are being requested, specifically, the lot area which is existing and all the property around it has been developed and there is no opportunity to remedy that. The lot frontage at 30' is what is existing already, the setback at 3.25' and rear yard setback of 5.1' at the one specific point and the coverage can all be granted under both the C1 and C2 criteria. He stated under a C1 a hardship variance applies when a unique shape or extraordinary situation unique to a property which exists here. He stated that not only is it a narrow property and undersized it also has the odd shape. He stated that under the C2 criteria the substantial benefit where the benefits of the variance outweighs the detriment and they are promoting several purposes of zoning, promoting the general welfare, improving several previous pre-existing nonconformities where the side setbacks were much worse, and the rear setback as well. They are promoting a more desirable visual environment and what is being proposed is a more desirable property and more desirable development for the area and they are promoting the protection and safety from fire and flood. He stated that they are

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increasing the side yard setbacks which promotes fire safety and elevating the home to be fully flood compliant while still complying with the nonconforming height requirement. He stated that there is no substantial detriment to the public good and no substantial detriment to zone plan or zoning ordinance. He stated that based on this information the board can grant relief. He went over Mr. Yodakis' letter and advised that 1, 2 and 3 are informational, item 4 was correctly identifying the survey front yard setbacks with the average of 12.17' where 14' is proposed, the first floor elevation is compliant with flood, a new depressed curb and driveway are proposed and will obtain a permit for that, the minimum 2 parking spaces are being provided under the home, drainage system proposed with a dry well towards the front, existing fence in the rear will be located onto his property, the method of stabilizing the lot will be a stone cover which currently exists, the required storage space is provided per the ordinance and the plan can be updated to show landscaping. He stated that the utilities will be located underground if possible and that curb and sidewalks will be replaced if damaged during construction.

Mr. Yodakis wanted to know if the roof drain piping will be consistent in the front and back as proposed for the front on the plans.

Mr. Kociuba stated that it will be consistent in the front and back as the lot is not very deep so there is the potential that it would be guttered from back to front, but if there are gutters at the rear it certainly will be connected.

Mr. Apostolou asked about the cantilevered fire box and wanted to know if it could be moved in so it doesn't interfere with the side yard.

Mr. Meyers stated that the cantilevered fire place has been removed from the plans.

Mr. Burke wanted to know if the required storage will be under the building.

Mr. Kociuba stated that it will be under the building as there is plenty of room for storage and 2 parking spaces.

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

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

Mr. Apostolou made a motion to approve this application with the specific statement that the chimney is being withdrawn, seconded by Mr. Sullivan. Motion carried by the following vote:

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

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NAYS: None

ABSTAIN: None

#15-2021 Conforti, Michael – 62 Pearce Avenue

Appearing for this applicant was Attorney Michael Herbert, Engineer Bill Jensen, and Michael Conforti.

Mr. Herbert stated that the applicant is looking to build a small plunge pool where there is currently cement. He stated that most of the cement will be replaced by stone and reduce the lot coverage from 72.8% to 58.9%. He also stated that this property is surrounded by property with several other pools and he is trying to satisfy some of the municipal land use requirements by lessening flooding, reduce the lot coverage and use of the backyard and use of outdoor space.

Mr. McGill swore in Michael Conforti and William E. Jensen, Jr.

Mr. Herbert asked questions of Mr. Conforti.

Mr. Conforti stated that he purchased the property about a year ago and is working on making a number of improvements starting with the interior and now he is looking to the outside to improve some of the conditions of the back yard which is primarily the concrete driveway. He stated that he is looking to install a small plunge pool with a little outdoor entertainment area including a grilling area, dining area and an outdoor fireplace. He stated that this will make better use of the area outside for the family.

Mr. Larkin stated that according to the plans the proposed coping is to be raise 1.5' and wanted to know if the pool will be raised 1.5' above ground level.

Mr. Hamilton stated that this question will be asked of the engineer when he testifies.

Mr. Jensen stated his qualifications to be qualified as an expert in engineering. His qualifications were accepted.

Mr. Herbert asked Mr. Jensen to layout to the board members where the property is located, what it is surrounded by and layout exactly what is being requested for the property specifically addressing the question that was raised regarding the raised coping which was brought up by the planning board member.

Mr. Jensen stated that the property is Block 63 Lot 25 consists of 7,000 square feet in the R2 Zone on Pearce Avenue and surrounded by residential property with most of them having in ground pools. He stated that the existing property has an existing dwelling in the front and a detached garage in the back and a large concrete driveway that extends from the front to behind the house

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to the garage. He stated that the driveway along the side is approximately 1' from the property line and once the driveway goes past the house it meanders over to be 5' and the existing lot coverage is 72.5%. He stated that the applicant is proposing installing a 160 square foot pool with coping which will be raised 18" which is considered a sitting wall. He stated that from the edge of the coping it will go down 18" to the paver patio which is at grade.

Mr. Herbert asked that a sitting wall be explained.

Mr. Jensen stated that a sitting wall is small decorative wall around the pool for people to sit on and he stated that there is 18" above ground and the 4 to 5 foot pool will all be underground. He advised that the bottom of the pool is proposed to be greater than the 2' above seasonal high water table as required by ordinance, the pool equipment will be located in the garage as to not impact any of the neighbors, the pool will be located in an area that is already concrete and will not be impacting any vegetative areas and 1,275 square feet of the existing concrete will be removed and replaced with dry pavers to allow for storm water remediating into the ground. He stated that there will be an outside grill area and outdoor fireplace and the property will be surrounded by a 6' solid PVC privacy fence. He also stated that the fencing at the driveway area will be a 4' high PVC picket style fence with a pool compliant gate. He stated that the existing lot coverage is 72.5% is going to be reduced by 13.6% to 58.9%. He stated that the existing variance condition that is being asked for is the reduction of the 72.5% lot coverage to 58.9%. He stated that there are a few existing nonconforming conditions which will not be impacted or changed for this project, one being the existing building coverage of 46.3% where 30% is allowed, existing front yard setback of 24.9' where 25' is allowed, and existing accessory building of 1, 435 square feet where 600 square feet is allowed. He stated that it also should be noted that the area of the proposed pavers that are within 5' of the property line are actually for the existing driveway to get back to the garage so all of the proposed pavers for the patio will meet the 5' setback.

Mr. Herbert confirm that this is really an upgrade to this property by reducing the coverage, taking cement out and putting in a nice pool with decorative walking stone and the eating area.

Mr. Jensen agreed with this statement.

Mr. Apostolou asked for a description of the 18' sitting wall as his concern is a tripping hazard.

Mr. Jensen stated that the pool is 18' above, then there is the coping that will go straight across about 12" to 18" and it goes straight down 18" with a decorative finish on it like stucco or decorative wall.

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

Mr. McGill swore n Tony Sofia, 61 Pearce Avenue.

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Mr. Sofia stated that he is directly across from his house and advised that the work done so far has been an improvement and he is in favor of this request.

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

Mr. Herbert stated that this is just a reduction in lot coverage from 72.8% to 58.9% and is a significant upgrade to the property and will fit into the area as several other properties have pools and the applicant has spent a significant amount of money on the inside of the home and now he is working on the outside. He stated that this is an upgrade to the neighbor.

Mr. Hamilton inquired about the size of the existing garage and was there any research done to see how that size of garage got there.

Mr. Conforti stated that he does not know the history on the garage but it was one of the features that he liked about the property as he has a number of cars.

Mr. McGill confirmed the variances for this application, one for impervious and one for patio setback.

Mr. Apostolou made a motion to approve the application, seconded by Mr. Sullivan. The motion carried by the following vote:

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

NAYS: None

ABSTAIN: None

#16-2021 Tackett, Frank – 75 Beachfront/74 First Avenue

Appearing for this application was Francis Tackett

Mr. McGill swore in Francis Tackett.

Mr. Tackett stated that he and his wife own 75 Beachfront as well as 74 First Avenue and he is here today to request some relief to build a deck on the front of his beachfront home extending out into the beach.

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Mr. Hamilton stated that he saw reports from the State that there was a paver patio that was removed and on the plot plan it shows a retaining wall and upon his site visit the wall was also removed.

Mr. Tackett stated that the original building plans that were submit 4 years ago there was a paver patio in the plans which the town did approve. He stated that after further inspection from State he was advised that he was not allowed to have a paver patio there and he did have to remove it. He stated that there is a No Further Action Letter that was submitted which was in the packet.

Mr. Apostolou asked that a letter be submitted by the State stating that they would not stand in the way of a deck on the property. He asked that the applicant submit his plans to the State and get that notification from them in a letter.

Mr. Tackett stated that he supplied a watered down version and should have supplied further information. He stated that this was a long process that went over a 2 year period with the State and DEP. He hired Envirotactics and made application before the State to put a paver patio down and a retaining wall to retain the dune that is in front of his property.

Mr. Apostolou stated that he is familiar with all that and does not have an issue with that but all he is saying is because of the vagueness of the email he would like a letter from the State.

Mr. Tackett stated that going back and forth with the State they advised him that it was not regulated and they suggested that he do the deck and that is how it is indicated in the email. He stated that he could try and get more stuff from them but it is not easy to get a hold of the State. He stated that the State suggested this to retain and stop the dunes from eroding onto his property.

Mr. Apostolou deferred to the attorney and engineer, but he believes a letter with an ok from the State is required, not just an email.

Mr. Yodakis stated that he did some research before coming into the meeting and advised that decks are not regulated as what Mr. Tackett is proposing here and he believes CAFRA's email is correct. He stated that with this information this could probably move forward but did suggest a letter from DEP stating that it is not a regulated activity. He stated that the email received is consistent with their regulations.

Mr. McGill confirmed that they are talking about the December 26, 2019 email. He stated that we always include a condition that they comply with all state, local, county and federal regulations so they have to comply with DEP and any approval that the board gives is always subject to DEP approval. He believes Mr. Apostolou wants the applicant to submit this approval or the plans to DEP. The problem he sees is that we can't force the DEP to respond to something that they will say they are not regulated.

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Mr. Apostolou suggested it being sent and if it is not responded to in a certain number of days it is approved.

Mr. McGill inquired about what would be sent over to the state.

Mr. Apostolou stated just the submission of the architectural rendering and his prior email just saying that the board requested that they just be made aware of the application.

Mr. McGill stated that he does not see this as being such an onerous condition for the applicant to put together a letter with the plans and advise the DEP that approval (if approved) was granted and ask if any approvals are required from the DEP.

Mr. Hamilton wanted to know what happens in the time frame for the applicant to move forward with his permits.

Mr. McGill stated that what we are doing is putting the DEP on notice that if there is an issue. If they want to take action they take action independent of what the Planning Board does. He stated that the only thing that we need to see is that the applicant did send in application and the letter to the DEP and then we can be confident that the DEP knows and whether they take action or not is up to them. He stated that we are putting them on notice that this approval has been granted by the Planning Board and we have done what we needed to do to be confident that those issues are being taken care of.

Mr. Donovan asked if this could be done the other way around and wait for DEP's response before the Planning Board approves the application.

Mr. Tackett stated that he has already proposed something to the State of New Jersey with a letter from them dated December 36, 2019. He stated that the DEP stated that he is allowed to build a deck going over a dune but you are not allowed to build a paver patio on his property where there is not dune or a retaining wall.

Mr. McGill stated that the DEP stated that you could build a deck not specifically this deck this far out this close to the dune etc. He stated that some members of the board want a condition that any grant of an approval on a return of the DEP saying it OK or they have no jurisdiction.

Mr. Tackett stated that he will try and get whatever the board requires.

Mr. McGill stated that the applicant is entitled to an up or down vote or the applicant can agree to carry the application.

There was discussion on how long it can be carried.

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Mr. Tackett stated that he will re-address DEP and see if he can get a letter. He wanted to know if there is anything else that he will need to do for this application once the letter is received.

Mr. Apostolou stated that specific plans should be submitted and have them sign off on it.

Mr. Larkin inquired about beach access.

Mr. Tackett stated that there is access to the side of the dunes. He stated that he is not trying to disturb the dunes. He said he will try and get the letter. He requested that this application be carried.

Mr. Yodakis stated that there were 3 variances with this application. Front yard setback 2' is proposed to the beach front and side yard setbacks are on both sides and neither of those setbacks are going beyond the existing dwelling and there are some existing nonconformities none of which are being modified with this application.

Mr. Hamilton asked Mr. Tackett if he is giving them permission to waive this hearing tonight to carry this application until there is a signed letter from the DEP with the exact same plans being submitted.

Mr. Apostolou made a motion to carry this application, seconded by Mr. Sullivan. Motion carried by the following vote:

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

NAYS: None

ABSTAIN: None

OTHER BUSINESS

There was discussion on what documents need to be submitted for the website and the timeframe in which they need to be posted.

EXECUTIVE SESSION

Litigation – 49 Forest Avenue

Mr. McGill read the closed session resolution.

Mr. Apostolou made a motion to approve the closed session resolution, seconded by Mr. Donovan. Motion carried unanimously.

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The closed session portion of the minutes begins on the next page.

Mr. Apostolou made a motion to close the meeting, seconded by Mr. Young. Motion carried unanimously.

Date Approved: OCTOBER 19, 2021