**The Manasquan Planning Board held a regular meeting on October 3, 2017 at 7PM in the Council Chambers of the Borough Hall, 201 East Main Street, Manasquan, New Jersey. Chairman Neil Hamilton asked everyone present to please stand and Salute the Flag.**

**ROLL CALL:**

**Board Members Present:**

**Mayor Ed Donovan, John Muly, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin, Kevin Thompson, John Burke, and Neil Hamilton.**

**Robert Young arrived at 8:15PM**

**Board Members Absent:**

**Councilman James Walsh, Leonard Sullivan, Barbara Ilaria (Mayor’s Alternate)**

**Professionals Present:**

**Albert D. Yodakis, BORO Engineering -Board Engineer/Planner**

**Geoffrey S. Cramer – Board Attorney**

**Geoff Cramer read the Sunshine Law agreement.**

**Mark Apostolou made a motion to approve the July 25, 2017 Special Meeting Minutes, seconded by Kevin Thompson, all in favor none opposed.**

**John Muly made a motion to approve the vouchers, seconded by Mark Apostolou.**

**Board Members Voting Yes:**

**Mayor Donovan, John Muly, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin,**

**Kevin Thompson, John Burke, and Neil Hamilton**

**RESOLUTION #32-2016 – McLaughlin, John – 18, 18 ½ Ocean Avenue – Denial of minor subdivision – Mark Apostolou made a motion to memorialize, seconded by John Burke, all in favor none opposed.**

**RESOLUTION #17-2017 – Kelly, Melissa – 235 Second Avenue – Mark Apostolou made a motion to memorialize, seconded by John Burke, all in favor none opposed.**

**RESOLUTION #30-2017 – RALCO, Atlantic View Cemetery – 49 Forest Avenue – Denial of a Use Variance. Kevin Thompson made a motion to memorialize, Mark Apostolou said he believes that the Board attorney said certain factual representations be made regarding prior Engineer’s report to be inserted, he acknowledges that based upon our attorney’s recommendation seconds the vote. Neil said that is the Golub Engineer report. All in favor none opposed. Mayor Donovan abstained. Geoff Cramer said he does have an e-mail from Mr. Starkey, attorney of record with respect to Atlantic View Cemetery as well as RALCO/OCLAR that he received today. Mr. Starkey did not feel the Resolution was written as it was, Geoff told the Board members he believes it is very accurate. Mark said based on the Board’s attorney he accepts. All in favor none opposed.**

**APPLICATION #18-2017 – Dreyer, Walter – 160 First Avenue – Block: 170 – Lot: 16.01 – Zone: R-4 – Keith Henderson is the attorney representing the applicant. He gave the specifics of the property. The Board accepted jurisdiction. Geoff swore in three witnesses, Walter Dryer, owner/applicant, Patrick Ward, PE of InSite Engineering, David Collins, RA, of Feltz Collins Architecture, as well as Al Yodakis, the Board Engineer. Mark Apostolou wanted it on record that he had the honor of officiating Mr. Ward’s wedding. The Board did not have a problem with him hearing the case as Mr. Ward was not the applicant. Keith Henderson talked about how this lot came to be. He did a title search and took the Board through it. He attached the Deeds he found to the file which date from 1937 to present. He then called Walter Dryer as his first witness. He purchased the property in November 2016. The house that existed was severely damaged from Super Storm Sandy and he ultimately demolished the house, he retained the slab and sand so it wouldn’t erode so if somebody wanted to see the footprint that was originally there they could. There is no parking there. He owns three other properties in Manasquan and his family has been here for 50 years. Next, Keith called Pat Ward to testify. He gave his credentials which were accepted by the Board. He described the property using the Municipal Tax Map which was entered as Exhibit A-1. He stated this is on the Beachfront, we also have frontage on First Avenue. The property is in the middle from Main Street to Riddle Way on First Avenue. He reviewed the Bulk requirements for this lot; he said this is a single-family use in the R-4 Zone. There is a minimum lot area of 4200 square-feet required and 1657.75 square-feet existing and proposed. The 4200 allows two principal buildings on the same lot. There will only be one which is an important point. Lot frontage 30-feet required, 25-feet is existing and proposed. The front yard setback is 10-feet required, existing and proposed is 0.11. A rear yard setback of 20-feet is required with 14.2-feet proposed; the existing is 16.39-feet so that’s an improvement. We have two side yard setback criteria one side 5-feet is the minimum requirement we are proposing 3.1-feet where 2.85 exists another improvement. The other side yard setback is 5-feet required, we are proposing 3.23 where 2.45 exists another improvement on the site. The building height is 33-feet allowed. We are at 31.2-feet. Three and one-half stories existed and we will be two and one-half stories. Building coverage in this zone is 35%, 54% is proposed. Maximum lot coverage is 50% for the zone with some changes that we’ve considered as a team leading up to this evening all of the exterior surfaces that are proposed are going to be pavers, by doing so and just considering the building and the rear stoop and stairs our lot coverage is reduced from 83.3% to 57%. That’s a substantial reduction. He reviewed the TRC report as well as Mr. Yodakis’ report. He believes this application meets the C-1 variance criteria the Hardship Variance being the exceptional narrowness of the lot. It also meets a C-2 Variance criteria being a flexible variance. The lot coverage’s would fall under these criteria. We are taking down an existing home that is in need of repair, we are proposing a brand new dwelling. We are improving many of the existing non-conformities, albeit they are still non-conforming but we are improving them. The new house will meet all the Zoning requirements as well as the FEMA Codes. Mark Apostolou asked if they can go up to 33-feet and they are only asking for 31.2-feet, wouldn’t they want to take advantage of that. Mr. Henderson said they could add a block. John Burke asked if the existing concrete slab will be used or removed. Mr. Ward said that will be removed, there will be all new. Al asked about the steps on either side will they be re-built, Mr. Ward said the proposal now is just on the north side to have the stairs re-built with pavers, on the south side they are proposing gravel and to be left open. Al said on the south side he believes the stairs go onto the neighbors property is it proposed to eliminate everything in that area. Keith said there is a 3-foot easement on our property for people to go to the Beach. Al said his concern is if you grade that out and the neighbor keeps the retaining walls. Keith said they would address it with the neighbor. Al said he would like some detail on that down the road. He asked about mechanicals, they would be elevated in the rear. Keith asked for a waiver of the Landscaping Plan. Neil said so basically you are just squaring this house up as proposed to what was there before with these indents and that’s what’s creating the building coverage issue. Keith said essentially that’s correct. We are not coming forward and pretty much not going east, we will be in line with the other houses. The Board didn’t request to hear testimony from the architect. Option A or B is no longer a question. Mark Apostolou made a motion to open the meeting to the public, seconded by John Muly, all in favor none opposed. There was no audience participation. Mark Apostolou made a motion to close the public portion, seconded by Mayor Donovan, all in favor none opposed.**

**Keith Henderson made his closing argument to approve the application. Mark Apostolou made a motion to approve the application going up to 33-feet subject to all the stipulations noted by Mr. Henderson and our Borough Engineer, seconded by John Burke.**

**Board Members Voting Yes:**

**Mayor Edward Donovan, John Muly, Greg Love, Mark Apostolou, Peter Ragan,**

**Mark Larkin, Kevin Thompson, John Burke and Neil Hamilton.**

**APPLICATION #23-2017 – Atlantic Modular for Kaplan – 145 First Avenue – Block: 171 – Lot: 41 – Zone: R-5 – Neil asked the applicants to introduce themselves. Michael Kaplan said he is the owner of the property. Terrence Hegel said he is the builder. Mr. Cramer swore them both in. Terrence Hegel said he is here because they had an accidental curb cut that was put in and they would like to keep. Terrance was the first to testify, he said the property is on the corner of Riddle and First Avenue. It was an undersized property and rather than getting Variances they elected to build according to Code. They received Zoning approval last January for the house; they had a plot plan prepared by KDA that showed a single curb cut on First Avenue. There were no other requirements in terms of replacing sidewalk or curbing in the Zoning application or shown on the Plot Plan. So, back in July it was time to put in the curb cut on First Avenue which was originally a yellow curb, replaced all the sidewalks, replaced all the curbing, did the sidewalks with ADA compliant maps etc. and then Mike elected to take the curbing all the way around and down Riddle where there was no curbing previously. So, we have some photographs of the lot before we put the curbing in. There was curbing on Riddle, it was all washed out, the sand and stuff was off the lot and into the Street. There was a pretty decent amount of erosion of the Street itself where the water was coming off of First Avenue undermining the Road a little bit. So, Michael put some curbing in and along the course of putting that curbing in, our curbing contractor discovered an apron for the old house that was on the North West corner, the old parking of the house. So, he went ahead and tore out the old apron and replaced it with a new one, not realizing that would create a zoning issue for us. From Atlantic Modular’s perspective we didn’t catch it, we didn’t stop it, it got poured, the Borough inspected it also as part of their process and they overlooked it also, not that it’s their job to catch it. We had three opportunities to have not done this and all three of them missed. I just want to make clear that there was no curbing on Riddle we put a $5000 improvement to the Borough. We are here tonight to ask to keep that curb cut, we think we have common sense reasons and I think we have a rational that the Board can approve it also. I think from a common sense perspective having a second curb cut would not take away any existing space. There is still the same amount of off Street parking now as there was before the curb cuts, ok. We believe that having a second curb cut provides two additional off Street parking spaces in an area where parking is at a premium, particularly during the summer. Also, having the second curb cut will reduce the need to use the First Avenue curb cut. We believe that provides a safer means of accessing the property than via First Avenue. The First Avenue curb cut is within 10-feet of the cross walk, 10-feet of the corner, and 10-feet of a Stop Sign and 3-feet of a parking spot. Trying to back out in the height of the summer is pretty difficult. Those are our common sense reasons for wanting it. I’ve been through enough of these to understand the criteria and I’d like to explain that criteria as I understand it and if I’m wrong somebody tell me. We’re not claiming a straight hardship here we know there is not a hardship, it was a mistake but this Board has the power to grant this variance relief for this particular instance under MLU Law and what is referred to as a C-2 and flex C Variance. He went on to state the positive attributes. He did not see any detriments. Ed Donovan asked if no one ever parked there. When you are saying striped are you talking about the white line? Terrence said yes. Ed said that would negate someone from parking in front of where that old apron was. Terrence said the apron was buried in the sand, when Mike bought the house and he handed me the Survey there was no apron shown on the Survey, hence the apron wasn’t even reflected on the Plot Plan. Kevin Thompson said he is not in favor having two curb cuts. Parking is at a premium down there. Neil said and in your case, you make a good point but two things, the Borough put this Ordinance in place, it was probably generated through a Court Case of the property directly behind you which was owned by the Dryer’s who just left. He thinks that what generated the fact that the Borough no longer wanted two curb cuts on any property. The fact that the Court Case erupted and the Code Enforcement went to the Council and said we need to put this in place and they did so, so quickly saying we are going to overturn their decision doesn’t make a lot of sense to him. I would hope the Board would think in the same way. On the other hand you being a builder in this Community I think you should have been aware that this was in the works to take place. If you had come to the Council when they were putting this Ordinance in place and said you know what, I get it but I have a property underway, we were assuming we could have this, could I possibly be exempt from the Ordinance, you may have gotten some relief from the Borough Council. Obviously, that didn’t happen. Mr. Hegel said he wasn’t aware this Ordinance was being passed. The other thing he would say is putting two parking places off street where you could only put one in and it limits the egress on First Avenue, a busy Street and when we designed the house and we put in for the Zoning approval I was a little surprised that they allowed a curb cut so close to a cross walk, intersection, stop sign, etc. Also, from a common sense perspective Mr. Kaplan wasn’t required to put all that curbing in, but he put it in and it just seems a shame to have him tear it out. We could have asked for side yard setbacks and height limitation but we are not asking for that. Quite frankly I am not sure we would have to put in new curbing in its place, we would be cutting the curbing taper it down and not have any curbing there at all, there was no requirement for curbing. Kevin stands by one curb cut, one or the other. Board members asking questions or making comments were Mark Larkin, Greg Love, and Ed Donovan. Terrence said if I was in your position I would use common sense and also look at the situation to grant the Variance. Mayor Donovan said Mr. Dryer came back in the room and he would probably tell you that we made it very clear to him he has two driveway cuts but one of them is not valid, he is not going to get an enforcement from the Police Department saying that someone is parked in front of his driveway. Kevin Thompson made a motion to open the meeting to the public, seconded by Mayor Donovan, all in favor none opposed.**

**Audience Members coming forward:**

**Helen Young – 142 Second Avenue – She first wanted to say she is delighted with the house that has been built there, it’s a very nice looking house. That being said she objects to the additional curb cut on Riddle Way. Several reasons but the main one being is with the Parking Lot on Riddle and Third, people during the summer are constantly walking down that Street. Most of the time in the middle of the Street, not on the sidewalk, you have little kids running around. I know how difficult it is to get my car out during the summer months onto Riddle Way. She believes that’s a danger to our people. Atlantic Modular parked a dumpster there most of the winter, she believes they knew there was a curb cut on Riddle Way. Also, the house is for sale and whoever purchases it could come back and ask for a change.**

**Tom Sims – 151 Second Avenue – He generally likes to see the Town enforcing the Ordinances. He said there is nothing unusual about this lot. He doesn’t believe this meets the criteria for a hardship variance. He does note that this being a corner lot can be sometimes problematic, two front yards, two side yards. He checked corner lots in the neighborhood and found them each to have a single curb cut. The only exception was Mr. Dryer’s house. He thinks the curb cut on First Avenue is more of a problem because of the narrowness and traffic on First Avenue. Although there is a lot of pedestrian traffic on Riddle Way going from the Parking Lot up to the Beach. He doesn’t have a strong objection but he does encourage the Board to stick with the Town Ordinances. He went online and found the listing for the house and it states there is a ton of parking. This made him ask was having two curb cuts an accident.**

**William J. Miller – 137 First Avenue – He is one house off of Riddle Way. It is his habit to park on Riddle Way because of the competition for parking on First Avenue. He would rather have that extra parking spot. It’s a valuable piece of real estate to have an additional parking spot; he is not in favor of the curb cut on Riddle Way. He doesn’t have a curb cut himself.**

**Kevin Thompson made a motion to close the public portion of the meeting, seconded by Mayor Donovan, all in favor none opposed.**

**Terrence Hegel said he has heard the neighbors, they have a valid point, so we’ll let you make your decision.**

 **Mark Apostolou, stated he wishes to see the curb cut on Riddle Way for purposes stated not only by the Ordinance but also for pedestrian safety be eliminated, seconded by Kevin Thompson who said he asks that they remove the pad and put in a full curb.**

**Board Members Voting Yes for Denial:**

**Mayor Edward Donovan, John Muly, Greg Love, Mark Apostolou, Peter Ragan,**

**Mark Larkin, Kevin Thompson, John Burke and Neil Hamilton.**

**APPLICATION DENIED**

**APPLICATION #20-2017 – Munoz, Lilia and Muniz, Roberto – 167 First Avenue – Block: 171 – Lot: 21 – Zone: R-5 – Mrs. Munoz introduced herself as an attorney. Tom Peterson is the architect appearing with the applicants. Geoff Cramer swore in Lilia Munoz, owner/applicant, Tom Peterson, architect, and Al Yodakis, Board Engineer. Lilia Munoz was the first to speak. She said her son lives in the house full-time. She said in 1998 they decided to purchase a home in Manasquan. In April of 2000 she found a little house that had another back house on First Avenue; they purchased it in May 2000 with the intention of making her permanent home here one day.**

**There was only one bedroom and a sun room with a bed; they made do with a very small house for vacation purposes. In 2011 they came before the Planning Board to request Variances to request something similar to their neighbor a few doors down which was a 2 ½-story house. After receiving the approval, she and her husband sat down and decided to wait a little while before knocking the house down and re-build. In October 2012 Sandy made a visit to Manasquan and at that point the back house was a total loss. According to their insurance company the front house was a partial loss. They hired a structural engineer, they sent his report to the insurance company and they agreed that the front house was also a total loss. They had to then make a decision to go with what was approved by the Planning Board in 2011 or build something smaller. They then had Tom Peterson design something smaller for the lot that they could afford. Now, they have a beautiful house that’s great as a weekend house. Mrs. Muniz explained that her living space only fits four people comfortably and her dining space is also very small. She won’t be able to fit her family on a full-time basis. She doesn’t want to move, she likes the location of her house which is so close to the Beach. Neil Hamilton said he doesn’t know if any of the Board members had a chance to get in that house, for them to make a decision they need to visit the property and know what the environment is about and what the expansion is, that’s item #1. Neil said he believes they over built the house for sleeping purposes and anticipated they would have probably sunny, warm summer weekends to have the expansion of an open deck to accommodate your folks. Mrs. Munoz said she only has four bedrooms in that house. Neil said right, four bedrooms could accommodate maybe eight to ten people. You have almost an oversized kitchen in that house. Now, you built the house but a small common area. It’s a small piece of property and that’s why he thinks TECH needs to look at this and also the Board members. He would like to see what impact this will be on the neighbors. This property is probably maxed out built, you have no side yard setback to the south, and you have two-feet to the north. The only way to access your backyard is through your garage or your main entrance door. Neil feels that the Board shouldn’t proceed on tonight without carrying this application until we physically do a site visit. He said the other issue is in the 2011 Resolution, he gave that to the Engineer for Al to go over this. Al Yodakis said he just received it tonight and not everything that is shown on Tom’s plan as existing was what was approved in the 2011 Resolution, most notably the side yard setbacks and the height. He doesn’t know where the discrepancy is he doesn’t know where things changed. Neil said and in the front as well Al. Mark Apostolou asked if the as-built violated the Resolution. Tom Peterson said that’s not exactly correct. He said what happened was in 2011 we had the Resolution to go ahead and expand the house. At that point we had the smaller side yard setbacks; the approval at that point for the coverage was 50%. As a part of that we were going from a two-family to a one-family, which is always good, you are going from a non-conforming use to a conforming use. What happened was, we didn’t build that, Super Storm Sandy came along and damaged the existing; we lifted that house so the height was different, it wasn’t a 2 ½ story house, and it’s now the ground floor and just two stories up above. That’s where we got to this, what’s there now is not what was there when we went for the variance in 2011 and is not what was approved in 2011, it’s somewhat less than that. Neil said how were you able to build it without coming back to this Board for an amendment. Tom said because it was Sandy damage and we were able to lift the house in place. Al said so you stood within the existing footprint. Tom said at that time we talked about well should we come to the Board and say ok we had an approval for this, now we have to lift the house should we come back with some kind of a hybrid of those two and do it at that point. For whatever family reasons they had we said let’s just put the house, let’s keep the setbacks the way they are. The State said any of these homes that were damaged can be lifted, we kept it under the height, we kept it within the same footprint. We did remove the house in the back, it was well damaged anyway. We knew that at some point we would remove it anyway because then we were going to have to come here for another variance because now we were working with the house that was lifted as opposed to what was there to begin with. It’s a convoluted path, but if money was unlimited, back in 2011 we would have just built it the way we were going to or who knows what would have happened with Sandy. Maybe its better we didn’t do that because it wouldn’t have been lifted above the Flood waters at that time. So, that’s how we got to here. I don’t know if you want us to proceed with the presentation or if you guys want to go take a look and then proceed. We are certainly in line with what was approved in 2011 as well as a couple of the other houses that have been done, the two houses that we did for Ron Langell which were projects of his. Keeping with those setbacks and those coverage’s, you can take a look at the aerial photograph, there is a lot of other structures that are far bigger on the properties or close to the property lines. Neil said personally would like to take a look, he would like to see the neighbors and the location of the other structures. Mark Apostolou said he would rely on the TECH committee’s recommendation. Mrs. Munoz said had she known that the TECH committee didn’t get in she would have had this carried to next month, because her understanding was that they were going in that morning. Neil said it wasn’t conducive for us and we all had our days planned. Neil said we will make this arrangement with Mary and you and the committee, carry this to the next meeting. Tom Peterson said he had some photographs to submit, an aerial photograph Exhibit A-1, A-1, B, C, D, and E that Geoff marked into evidence. Mark Apostolou asked if the raised house was the pre-Sandy house. Mrs. Munoz said it was constructed and raised in 2014. Mark said the automatic variance only applies to homes that existed at Sandy and you were raising to get out of the flood plane, it does not apply to new construction. Neil asked when the new house was built, Tom Peterson said 2014. Neil asked who gave the approval to build the house that is there. Tom Peterson said it’s within the footprint of the old house. Mark Apostolou said you destroyed the old house and this was not within the footprint. Neil said the original house was a small one-story house, you went in the front there was a galley kitchen and a living room maybe a fireplace. That’s all that was there, then you went to the back house and that was probably a garage that was converted years ago. Mrs. Munoz said you walked in the back house and there was a bathroom to your left, there was a bedroom in front of you, there was a kitchen and dining area, living room and another bedroom. Neil said right, so how did we get approval to build this structure you have right now? Neil said so we took down the original front house and built what we have now, but you didn’t build to the guidelines of the 2011 Resolution, you built something else. Tom Peterson said right we built a smaller house that was within the footprint that was there. In 2013 after Sandy that house was removed, we went from 59% to 37% coverage, we went from .69 to 1.25 side yard setbacks, so we kept it within what we had and we reduced the coverage’s. We didn’t build it as big as we had the approval for in 2011, but the house was now raised up. Greg Love said so you went for permits with a side yard setback of 1.25-feet you had to go for a variance anyway. Tom said but it was existing at .69 and we were now replacing a Sandy damaged structure within less than the footprint. Mark Apostolou said that’s not an automatic variance, they shouldn’t have granted that to you. Mayor Donovan said no automatic variance, because an existing pre-Sandy structure and lifted it straight up, if you added anything on to it and changed the dimensions of it at all the variance goes away. Geoff said variances usually run with the land but in this situation I think what the Board approved was a design of a house with the variance relief in place with respect to that specific house. Neil asked if Tom had the plans from 2011 that the Board approved. Can you provide them to us? Tom said yes he would. Neil said and they would be different than what we have today which is built. Neil said if you can provide Mary with all of that so TECH can review this whole file. Neil said we will carry this to November 8, 2017 we will put you on first. There is no reason to notice, please give Mary some numbers as to how we can contact you. Kevin Thompson made a motion to carry the application to the November 8th meeting, seconded by Mayor Donovan, all in favor none opposed.**

**APPLICATION CARRIED**

**Mark Apostolou made a motion to open the meeting to the public, seconded by Mayor Ed Donovan, all in favor none opposed. There was no public participation. Mark made a motion to close the public portion, seconded by Ed Donovan, all in favor none opposed.**

**Neil said the Board would now go into closed session to have Geoff explain a letter he received from an opposing attorney.**

**Motion to close the meeting was made by Kevin Thompson, seconded by Mayor Donovan, meeting adjourned at 8:45PM.**

**Respectfully submitted,**

**Mary C. Salerno**

**Planning Board Secretary**

**Date the minutes were approved:**