

**JANUARY 23, 2015
SPECIAL PLANNING BOARD MEETING**

The Manasquan Planning Board held a Special meeting at 4PM on January 23, 2015 in the Council Chambers of the Borough Hall, 201 East Main Street, Manasquan, NJ.

The Chairman, Neil B. Hamilton greeted everyone and asked everyone present to please stand and salute the Flag.

ROLL CALL:

Board Members Present:

Neil Hamilton, Councilman McCarthy, John Burke, Greg Love, Peter Ragan, Mark Apostolou, Kevin Thompson, and Robert Young (Mayor's Alternate)

Board Members Absent:

Mayor Dempsey, John Muly, Paul Rabenda, Joan Harriman, Leonard Sullivan

Professionals Present:

Geoffrey S. Cramer – Planning Board Attorney

Albert D. Yodakis – Planning Board Engineer/Planner

Geoffrey S. Cramer, Planning Board Attorney read a slightly revised Open Public Meetings Act Statement to give here this evening for members of the audience and for the record.

Prior to starting the hearing Board members Robert Young and Peter Ragan took their Oaths of Office for the year 2015, duly sworn in by Geoff Cramer.

APPLICATION #10-2015 – Pharo, Ryan – 19 Lockwood Avenue – Block: 150 – Lot: 14 – Zone: R-3 – Geoff Cramer swore in the owners/applicants Ryan and Karen Pharo, and Bill Holzapfel, builder for the applicants. Mrs. Pharo opened with a written statement she read to the Board explaining the need for their Variances. She stated their home was substantially damaged during Super Storm Sandy; they are seeking to raise the home and additionally seeking relief from front and rear setbacks to construct a small front porch and a small rear deck. She stated this is a unique circumstance; their home was built just 5 years ago by Atlantic Modular Builders. In December 2008 they were granted a height Variance, they were held to 33-feet. Six years later after incurring hardship, displacement with a baby and a toddler, and a devastating loss. They need relief from the hardship of the height request. Raising their home 6-feet would prevent future hardships and flood damage and alleviate our neighborhood additional burden from parking, especially during peak summer season. Ryan had plans and the Engineer which is already in the Board members packets. He explained in talks with FEMA, they guided him to the height that he is seeking. The current BFE is 9-feet as Al Yodakis confirmed. Ryan said when the home

was built the data set was different, it was the 1929 datum. Right now his first floor is at 9-feet to the top of the floor. His joists and mechanicals are below that, all duct work and plumbing. Neil asked him if in order to achieve this height he needs to convince this Board that the minimum height to meet the FEMA requirements plus it's recommended and we have been giving the additional 1-foot of free board to applicants in the past. You need to tell us what the minimum is for FEMA, add that additional foot of free board and then convince this Board if you are above that minimum requirement why you need to exceed that. Ryan said according to the documents that FEMA gave him, we should be at 14-feet, that's the top of our finished floor, the reason is we are currently a foot too low, we have the three feet of mechanicals that hang below and they recommend that you go to the V-Zone requirement which would mean the lowest horizontal member needs to be above the BFE, so that brings us to 14-feet. Mark asked for a diagram that shows that. Ryan had a diagram that shows his mechanicals, he drew lines in response to the TRC report. Mark Apostolou asked to bounce something off the attorney, he said under that amendment to the Statute, doesn't this gentleman have by right, he is not talking about the decks, but the house, doesn't he have the right to raise that house to meet the standards of the BFE. Geoff said if that's all he was doing then yes, but he has applications for encroachments into the front and rear yard setback. Owen McCarthy said just to be clear on that if all he is doing is going up with the home, he can build as a right for what he is requesting. Neil said we need to get the height out of the way and then deal with the decks. Peter Ragan asked isn't the issue, not only the height as a right but also that they are asking for additional because of the low lying duct work. Owen asked Al and Geoff but he thinks the Judge is right with that Statute that the applicant is not building a new home, you have a house that's built and all you're doing is raising what you have and going up on the same footprint. Al said absolutely with the mechanicals and the joists that's correct. Neil said what you are showing in these photos, we see insulation, we don't see a mechanical unit under there like a heating unit. Ryan said that's a main return to the furnace, it's all metal. Neil asked where the furnace itself is located and was that affected by water. Ryan said yes, it's currently on a platform that is equal with the finished floor in the attached garage. Neil said what is unique to this and being a modular this is the first one that we have had that's come in where there have been mechanicals underneath the main structure. The main structure is going up; we are almost bound by the restriction of the Sandy Law to provide that. Al said you are asking for 6-feet, if your finished floor is at 9-feet, plus 1-foot of joists and then 3-feet of mechanicals below that, that would be 4-feet that would give you all your mechanicals at 9-feet, plus free board is another foot so that would be 5-feet that would be 37-feet. Neil said so the minimum you could go to would be 37-feet. Ryan said that would get all the mechanicals out. Owen said because of that State Law he doesn't know if we have the right to say no, regardless of what other Local Ordinance we impose, he thinks he can almost do that without the decks. Al agreed 38-feet would give him 1-foot of free board. Geoff said the Statute doesn't talk about mechanicals, it talks about other additions, there may be beyond just lifting the house in the existing footprint. It doesn't mention mechanicals anywhere in the Statute. It talks about elevating the house in its footprint, what it takes to get out of the flood area. Mark said if we took the decks off this proposition he said the Board would have to grant as a right to get the mechanicals out of there, this is unique with the modular. Geoff said possibly you can handle that administratively. This case has to come before the Board because of the encroachments.

Kevin Thompson said we can move on with the rest of the issues, is it fair to say the 38-feet is a given right now. Neil said at this point the height is not the issue. Neil said for public information, we haven't had an applicant or a builder come in and argue that I need the height of my structure because I want to lay my mechanicals underneath and this came to light so for our edification and that of the public and the press who are here, if we were to get another application to come before us and they wanted to drop the mechanicals underneath, he would hope this Board would take that into serious consideration and not permit that. Owen said this is unique in that this is one of the first homes that we see that is really raising above. We have seen homes completely rebuilt after being destroyed, this is unique in that they are taking what they have and merely going up. He understands the situation there, being young and having a young family and their options are limited at this juncture, so he thinks from a height perspective he doesn't think there is anything the Board can do to adjust it. Next the Board moved onto the decks. Ryan had photos to be marked as evidence, there were 6 in total, marked A-2 through A-7. Neil said start with the size of the front deck. The Board had this in their packets. Right now they have just an entrance porch; they propose a porch across the front with stairs. Kevin and Owen said they didn't have a problem with the front porch and are in favor of it, Peter said the Board is in favor of front porches. Neil said the Board appreciates them and they add to the aesthetics of the house. The porch is 8-feet and the part with the steps would be 6-feet. Next, the rear deck was addressed. The rear deck is proposed at 10-feet off the back of the house. The elevation of the rear deck is 8-feet from grade. The deck will be built so rain water flows through it. Ryan stated that all new homes that are built on Rogers Avenue all have decks at the higher elevation. Mark Apostolou made a motion to open to the public, seconded by Kevin Thompson, all in favor none opposed.

Audience Members Coming Forward:

Fred Murnane – 24 Potter Avenue – he is a part owner of 24 Potter Avenue, he feels the deck in the rear will not give them a privacy buffer and he is worried about the impervious surface and the impact that might have on future or sale of his house. They have a flooding issue with their yard caused by other construction. Neil asked Ryan Pharo if he had retention system put in as per Ordinance. Ryan said there were pop up drains put in. He additionally has stone beds around the house for water retention for his down spouts. Neil said there is no change in this application for impervious coverage, they are going straight up in the air, and there is no addition of any concrete. Mr. Murnane asked the height of the fence, the answer was 6-feet. Neil said this is an issue the Board has been wrestling with, these houses are going up in the air, as neighbors go higher to meet FEMA requirements, he had an attached deck with that house, he is permitted to take everything straight up in the air. You are right, it becomes a privacy issue. Mr. Murnane for us it's the combination of the two things. We will have the Zoning Officer take another look at his drainage system on his property.

Reed Sweeney – 24 Potter Avenue - he is related to Fred, he asked if a Storm water Management Plan available. Neil told him it will be in the file from when he first appeared before the Board. Mr. Sweeney said it's a concern, they are real nice neighbors and his family is not trying to stop progress, it has to be done, but we did have a few concerns. The stairs off the back deck would be how far from the fence. Neil said 11-feet from the fence. John Burke wanted it on the record that the house is going up, you are going to extend all drain spouts and everything down so it goes into the areas of gravel and so on on the

property. Ryan said that is correct. John said in your Resolution from 2008 you stated that you will landscape the property, put in shade trees and so on, obviously Sandy took all of that out, will you go back and put that stuff back in. Ryan said yes, their two trees did survive, a Crepe Myrtle in the back and a Sweet Bay Magnolia in the front of the property, there are existing two trees on the property right now.

Megan Murnane – 24 Potter Ave – she is not sure about the math and would like it explained to her. She said the concern they have with the deck is the lack of privacy, she asked if there is anything that can be done in the back to afford privacy, could they put something along the fence line to possibly 6-feet so they don't feel like they are in a fish bowl, so they don't feel like we are looking up at them and watching everything they are doing also. It would be a win/win for them. Her concern is also the fence, when they built in 2008 the land along the fence line it was raised up about 12 and 18-inches, and that's where they are getting the ground water. It's not that they are set down, we've always been that height, and their land went up with the original building. We're concerned it will get worse; they would like to see something done. They had a tree that had to be taken down because it was leaning and the tree guy told them it was because of the flooding in the back. They used to have a vegetable garden, they can't grow vegetables now because it's too damp, and they can't sit back there because it's muddy. We are concerned that new construction will compound what the old construction did. Neil said they are not increasing any encroachment into the ground are. You could ask the applicant if they will consider putting in some sort of retaining wall, unless you can prove water is running from his property onto yours I don't know if it's going to help you. She asked if Manasquan would give them an Engineer report because water is running from their property onto hers. Kevin said could we ask the applicant if they would consider landscaping back there. Ryan said he understands what you are saying, but their property is actually lower, he had a picture that was taken just after a rain storm. We have a high water table in this area. He said there are other houses that have had construction done recently and he doesn't see how it can be just his house causing the water problem. Neil said basically you have to retain all the water on your property, if any of your water is filtering into a neighbor's property, this isn't new. Code has been there before about this issue. Kevin asked if Ryan would entertain putting some landscaping, because one, it may take some of the water and two, maybe you could create privacy for both people involved. Ryan said they currently have hydrangeas there, Kevin said he needs something more evergreen, maybe some type of Cedar, Leyland Cypress, something that would take the salt down there. Something that might get 10-feet tall. Ryan said we would consider that, Kevin said obviously the bigger mass you have it's going to take water off, because plants want water. Mark asked if the neighbor is looking for some type of evergreen, and are you concerned about the fact that the planting might grow very tall. The neighbor said the height would be welcome. Kevin said there is a list out of salt water tolerant plants, Rutgers has it, they grow in the swamps in South Jersey, you are trying to take up some of the water and also be good neighbors and you are also trying get some privacy for both sides. Mark said it would be ongoing, subsequent landowners would be subject to maintain it over perpetuity. Neil said it will be in the Resolution we need some substantial planting back there that will at least give the neighbors some privacy, the drainage and all that will be thrown over to Code Enforcement and they will have to address that.

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

Bob Young asked how far is the end of your stairwell in the rear to the end of your property. The answer was about 11 – 12-feet. Greg Love said after looking at the pictures he would feel more comfortable with an 8-foot wide deck as opposed to 10-feet. Ryan wants 10-feet. Neil said the width of the deck didn't seem to be an issue with the neighbors. Kevin Thompson moved to approve the application, Owen McCarthy seconded the motion with the stipulations stated.

Board Members Voting Yes:

Councilman McCarthy, John Burke, Peter Ragan, Mark Apostolou, Kevin Thompson, Robert Young and Neil Hamilton.

Board Members Voting No:

Greg Love

APPLICATION APPROVED

APPLICATION #11-2015 – Savini, Daniel, DDS – 45 N Farragut Avenue – Block: 111 – Lot: 12 – Zone: R-1 – He said he is here to seek approval for a minor subdivision, he was sworn in along with Al Yodakis by Geoff Cramer. He is representing himself as this is a subdivision by right. Al Yodakis addressed his report, there is an existing house on the property and his recommendation is that the house be removed before the subdivision is filed and also that the monuments be set. Dr. Savini said he is aware and agrees to comply. Neil said the Shade Tree Commission will look at this, Dr. Savini said he has already had them over there, one tree does need to be removed because it is not healthy. Neil said he will ask Mary to have Shade Tree look at the property and do a mark out. Mark Apostolou made a motion to open the meeting to the public, seconded by Kevin Thompson. There was no audience participation, Mark Apostolou made a motion to close the public portion, seconded by Owen McCarthy, all in favor none opposed. Councilman McCarthy made a motion to approve the application, seconded by Mark Apostolou.

Board Members Voting Yes:

Councilman McCarthy, John Burke, Greg Love, Peter Ragan, Mark Apostolou, Kevin Thompson, Robert Young and Neil Hamilton

APPLICATION APPROVED

Neil said there is one more item that needs to be addressed, the owner of the Ocean Star Gas Station who was here at the last meeting for a 15-minute presentation. She is still looking for a Special meeting in February and we are still wrestling with how she should proceed. We don't know if it's an abandonment of Use, we are going to assume it was not, it was just a stalled issue. What do we tell this applicant and how does she proceed. Neil said there is a Site Plan, we pulled it from Gulf. Everything is there. Al said Dick is saying she needs to come in for a Conditional Use because in essence he is looking at it as the Use was abandoned. At this point he has issued a denial, so she would need to either come in with an application, or come in with a request for interpretation of his denial, or appeal the denial. Owen asked who the appeal would be to. The answer would be the appeal would be to the Board, we have a combined Board, Owen and the Mayor would need to step down. Mary is to contact Ms. Jablonski and ask her to bring in all the information she has including the CD from the DEP and any paperwork she has. The Board Engineer, Al

Yodakis will review the same and then discuss with Neil and TRC regarding this and then will inform Carol Jablonski how she is to proceed. The Resolution regarding this property is #13-1983.

Kevin Thompson made a motion to adjourn the meeting, Greg Love seconded the motion, all in favor none opposed.

MEETING ADJOURNED AT 5:07PM

Respectfully Submitted,

**Mary C. Salerno
Planning Board Secretary**