Chairperson, John Peterson called the meeting to order at 7:02pm

Flag Salute:

Certification: Adequate notice of this meeting has been given in accordance with the Open Public Meeting Act pursuant to Public Law 1975, Chapter 231, Said notice has been advertised in the Atlantic City Press and is posted on the bulletin board showing the time and place for the meeting.

Roll Call: Members Present: Carol Bennis, John Peterson, Edward Kenney, Denise Kane, Janice Peterson, and Beverly Totten

Members Absent: Carol Foster, Mike McGowan and Kathy Chance

Others Present: Board Secretary–Joanne Siedlecki
Acting Planning Board Engineer – Paul Dietrich
Planning Solicitor – Robert Merenich

Approval of the minutes:
A motion was made by Janice Peterson and seconded by Carol Bennis to approve the February 21, 2017 minutes. RCV: All ayes.

Old Business:
A resolution (#52-2017) was passed at the Council meeting of March 13, 2017 to clarify the terms of the Planning Board members for 2017 as follows:

Janice Peterson Class IV 4 yr. term expires 12/2019 (void appointment of 2017)
Carol Bennis Class IV 4 yr. term expires 12/2018 (void appointment of 2017)
Denise Kane Class IV 4 yr. term expires 12/2020
Kathy Chance Class IV 4 yr. term expires 12/2020
Ed Kenney Class IV 4 yr. term expires 12/2019 (void appointment of 2017)
John Peterson Class IV 4 yr. term expires 12/2019 (void appointment of 2017)

*All agreed with the above.

New Business:
Applications for Raymond Leps; (all fees are paid and taxes are current). Application #1-2017. The property is located at 505 & 509 Beach Drive, Corbin City and is in the riverfront residential zone as shown on the city’s tax map. The application indicates the need for the following: Block 107, Lots 4 +5 for a Minor subdivision with several bulk variances and Block 108, Lots 1+2 Change of use application.

Note: There was an error on the certified property list which the Tax Assessor supplied Mr. Facenda with and Carol Bennis should not have been noticed (because she is not within 200 feet). Mr. Merenich stated she will not be conflicted out of this application. It was decided to start with the minor subdivision application in hopes the seventh member will arrive in time to hear the variances application.
Mr. Facenda, Esq. opened the meeting by introducing the applicants Planner, Tiffany Cuviello and the applicant Raymond Leps. The subdivision is at 509 Beach Drive and will be referred to as the riverfront lot; known as block 107; lots 4+5 and is approximated .16 acres in size. The property is located in the Riverfront Residential zone according to the city tax map. The current use of this property is residential in nature.

In connection with the sub-division application the board has received a sub-division plan. Mr. Leps and his neighbor to the left looking at the map have agreed in principal and subject to the boards review, want to slide the existing property line 12 feet to the left to allow 12 feet more on the Leps property and 12 feet less on the neighboring property. No other changes are being requested.

Ms. Cuviello was sworn in and stated she is a licensed professional planner. She is familiar with the plan submitted. Mr. Leps is requesting a lot line adjustment to refigure the rotation of the existing lot line which would be lot 4 and lot 5. Currently the existing lot lines run thru the pond and bulkhead that are on lot 4 which was part of the lot when it was purchased. Mr. Leps would like to acquire some of the property running thru the pond and bulkhead from his neighbor so the encroachment is no longer on the adjoining property. The intent is to rectify the encroachment and it will only be noticeable on paper. Mr. Leps property would increase by 12 feet in width. Lot 4 which is .16 acres will increase in size to .19 acres. The width now is 75 feet and side yard will go from 13.1 feet to 25 feet. On lot 5 there will be a reduction it will go from .54 acres to .51 acres.

The following questions/comments were answered as stated:

1. Should there be an agreement of sale from the owner of lot 5? There is no agreement of sale but the consent of ownership was completed by Dale and Margaret Platt as part of the application.

2. There is a typographical error on the general notes the property is zoned as R-2-30, it should be Riverfront Residential and will be corrected on the final plan.

3. There was another question on #6 of the general notes; as to how this application should be filed. The subdivision plan was based on someone else’s survey whose name should be on the plan? Ms. Cuviello stated it is not required for a minor subdivision application. They will note the date of the survey on the plan.

4. It was also asked if there should be a key map on the plan. Ms. Cuviello answered yes. The width of Beach Drive should be stated on the plan; Ms. Cuviello explained since this is a minor subdivision they will be filing it by deed not by plat but would supply the information if the board feels it is necessary.

Mr. Dietrich gave his report as stated below:

**Engineers Report:** of June 27, 2017
Corbin City Planning/Zoning Board
316 Route 50
Corbin City, NJ 08270

Re: Minor Subdivision
Block 107, Lots 4 & 5
Applicant: Ray Leps  
Application No. C-040

Dear Board Members:

This review is based on: Application, one (1) plan sheets prepared by Design Land Surveying, PA, entitled “Minor Subdivision Plan, 509 Beach Drive, Block 107 Lot 4, Atlantic County, New Jersey”, dated August 20, 2015.

The applicant is requesting minor subdivision approval with several bulk variances to realign the existing lot lines. No new lots are proposed. Both lots have existing development.

<table>
<thead>
<tr>
<th>Variance Request</th>
<th>Existing</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area (lot 4)</td>
<td>0.16 ac</td>
<td>2 ac</td>
<td>0.19 ac</td>
</tr>
<tr>
<td>Lot Width (Lot 4)</td>
<td>75 ft</td>
<td>150 ft</td>
<td>87 ft</td>
</tr>
<tr>
<td>Front Setback (Lot 4)</td>
<td>18.6 ft</td>
<td>50 ft</td>
<td>18.6 ft</td>
</tr>
<tr>
<td>Side Setback (Lot 4)</td>
<td>13.1’/26.2’</td>
<td>15’/35’</td>
<td>13.1’/25.1’</td>
</tr>
<tr>
<td>Rear Setback (Lot 4)</td>
<td>34 ft</td>
<td>35 ft</td>
<td>34 ft</td>
</tr>
<tr>
<td>Lot Area (Lot 5)</td>
<td>0.54 ac</td>
<td>2 ac</td>
<td>0.51 ac</td>
</tr>
<tr>
<td>Rear Setback (Lot 5)</td>
<td>16 ft</td>
<td>35 ft</td>
<td>16 ft</td>
</tr>
</tbody>
</table>

The review for technical compliance with the ordinance has found the following comments:

1. This application will improve the Lot Width and Lot Area for Lot 4. Other variance conditions are not impacted by the proposed subdivision.
2. This application will slightly reduce the already non-conforming Lot Area for Lot 5. The rear setback is not impacted by the proposed subdivision.
3. The property corners should be set and coordinates should be shown on the plan in accordance with the Map Filing Law.

Sincerely,
Paul E. Dietrich, Sr. PE  
Acting Corbin City Board Engineer
Cc: Thomas Tolbert via email, Chris Facenda, Esq. via email, Bob Merenich, Esq. via email

Mr. Peterson opened the floor for public comment.

Mr. Merenich swore in Fran Reed of 209 Main Street. She asked if the applicant will be an adding onto the home? Mr. Facenda replied at this point there is no proposal to add onto the home and if there were that would be a separate application.

Mr. Peterson closed the floor for public comment.
A motion was made by Janice Peterson to approve the minor subdivision with the prior pre-existing conditions, non-conforming lot including variance for lot area, lot width, front, rear and side yard setbacks and seconded by Denise Kane. RCV: Beverly Totten-yes, Carol Bennis-yes, John Peterson-yes, Ed Kenney-yes, Janice Peterson-yes and Denise Kane-yes

The second part of the application considers block 108 lots 1+2 for a change of use (D variance to allow (2) principal uses on one site and a C-1 variance for an undersized lot, and a bulk variance for the residential use on an undersized lot). Mr. Merenich stated the applicant is relying on the prior application which was submitted in 2013; which was remanded back to the board by the Judge; to move forward his change of use application. Mr. Merenich stated there was a provision in the resolution that the applicant would not use the garage in any way as a residential use. The board upheld the restriction, was improper and basically indicating that the purpose of the zone was for residential use. The Judge indicated that restriction would be excised from the resolution doesn’t mean the approval was granted so Mr. Leps has to come back to the board and make an application for an under sized lot and what is unusual is that it has a 3-bay garage on it. The prior owner was using it as residential by having an apartment above the garage, without the permission of the board. Mr. Merenich went on to explain Mr. Leps is here for 2 variances, the resolution form 2003 still stays in place in which the one property across the street, can still use the 3-bay garage. There is also a shared septic field across the street. At this point the applicant wants to use the upper part above the garage as a residential property. Now it needs to be approved to be used as a garage and for residency. Now, there are 2 uses for that lot and what makes this strange is that usually the garage would be an accessory use but not in this case. The applicant still wants the house by the river to be able to use the garages as they have been permitted to do under the approvals of 2003, and it must still use the septic which is on the other side. It is an under sized lot and there is no way to make it a conforming lot. Other variances will be required for lot frontage, lot width, front and side yard setback conditions. Mr. Merenich stated they are all C-1 variance. Mr. Merenich commented the prior owner had installed a kitchen and bath to make it residential. The Judge was struck during the appeal with a positive writ saying there is a structure on this undersized lot already that was approved now it must be approved for residential purposes. Another thing to consider on this under sized lot is; it’s not violating any traditional zoning purposes such as light, air and open space.

Mr. Merenich commented finally the board should evaluate the testimony to determine whether to elicit additional information, make specific finding and fact based on the record to support any conclusions. It should consider in lieu of denying the application it could improve it with reasonable conditions. A final consideration, He stated in most cases usually these types of variances are granted because there is a concern not to grant them would deny use of the property.

Mr. Merenich stated we have 6 voting members so we can start as the 7th member will not be coming.

Mr. Facenda asked for a brief recess to confer with his client.

The board members have requested to see the application/site plan/ and photographs of 2013, which was not included in the submitted application so, Mr. Facenda handed out copies for their review and consideration.
Mr. Facenda stated the garage lot was subject of an application made by a prior owner back in 2003. The owner of the property was Richard Stretton and he made an application for a use variance to permit a private detached garage to serve as the principle use on lot 1+2. The use variance was needed as the detached garage was not a permitted use as a principle structure. The use variance was granted and memorialized with the Decision/Resolution #2003-2. In addition to the use variance, an under sized lot variance was approved and variances for frontage, front and side yard setbacks were also approved. In 2003, it was determined the location of the structure was consistent with the general scheme of the neighborhood.

In 2013, Mr. Leps appeared before the board to excise the removal of a condition in the 2003 approval, which prohibited residential use of the garage structure. This matter was initially denied by the board by a 4-3 decision. The 2013 board’s decision was based on what the 2003 board had done. Mr. Facenda stated their position is that decision was contrary to the law because it is located in a residential zone.

Mr. Leps appealed the decision was heard by Judge Julio L. Mendez, who ultimately agreed that the 2003 board got it wrong and he excised the condition of 2003 prohibiting residential use. He found the condition prohibiting residential use to be non-essential to the 2003 variance approval and remanded the matter back to the board to hear Mr. Leps variance application on its merits and without consideration of a residential use prohibition. Judge Mendez found that the planned density for the riverfront residential district by allowing the development of permitted uses set forth in any ordinance and not by prohibiting that type of development.

Mr. Facenda stated they are asking this board to consider the Leps application to permit the garage lot to have (2) principal uses; the first use which has already been granted by the 2003 board a private detached garage to serve as a principle use on lots 1+2. Second use being requested is the use of that same structure as a residential purpose.

Mr. Facenda called for Mr. Leps to be sworn in by Mr. Merenich. He gave the following testimony—he has lived in Corbin City for 5 years and is the owner of 508 and 509 Beach Drive. When he purchased the (2) properties he planned to use the river front lot for his residency and use the garage for his personal property as storage. Mr. Facenda asked Mr. Leps to describe the upstairs, he said there is a kitchen as you walk in, and there is a living room and a bedroom. He calculated it to be 300 square feet. Mr. Leps stated when he purchased the property it already had the kitchen with cabinets, living room, bathroom and bedroom. Mr. Facenda asked if it was completely finished and he replied yes, completely finished. At this time, Mr. Leps has made no changes to the upstairs. Mr. Facenda asked who could live up there comfortably; Mr. Leps replied a husband and wife at best but more like a single person. When he purchased the home, he was not aware of the situation of not being able to use it for residential use; which brings him in front of the board as he is trying to do the right thing. He stated I did not buy it as an investment property or for resale but for his girlfriend and family to have a place to stay. Mr. Merenich asked Mr. Leps if there are one or two septic systems or is there a septic system attached to the use of the garage. Mr. Leps replied he went through that with the State and the septic inspection but he is not aware of the outcome of it. Mr. Facenda commented then you don’t know. Mr. Leps stated he did not know but it is all fine. He has to issues with the septic at all, and has never given him any problems.
Ms. Cuviello stated she is familiar with the following- the site, the surrounding and neighboring properties, the town’s zoning ordinances and the applications and plans that are on file with the board. She described the garage lot as it is currently configured, noting the location size, pre-existing non-conformity and the exacerbation of that pre-existing non-conformity.

She continued to say the property is in the riverfront residential zone and has (3) street frontages, the lot itself is 20, 254 sq. ft. (.047 acres). There is frontage on Aetna Drive, (2) access on Beach Drive and it is surrounded by residential development. The existing property on block 108, lots 1+2 has a 1.5 story garage and small shed, there is a fenced yard area shown on the plan, a concrete driveway in the front of the garage structure and above the garage structure is a 1-bedroom apartment. She described the site plan to the board and indicated there are no physical changes proposed to this application; stating it is driven by an existing condition from the way it was purchased and Mr. Leps has made some landscaping improvements but nothing relating to this application. She reviewed the required bulk regulations for what is required in that zone noting this property is severely constrained by having the (3) street frontages. There is a small buildable envelope of this property. These are the unique circumstances that have impacted this property; it’s not just that it is an undersized lot it also has the (3) street frontages which further reduces is availability to be developed. It does conform to the height and coverage requirement.

Mr. Facenda asked Ms. Cuviello what variances are needed for this property, she replied lot area, adding residential and front yard setback. The shed that is on the property is not changing. It was moved in 2003 to the present location, which the previous board did approve.

Mr. Facenda asked Ms. Cuviello about the D variance that is requested related to the (2) principal uses on the property. Typically, this property is appropriately suited for residential development as an undersized lot because there is no additional land available, the lot next door is development even if you combine the two lots together it would still be under the 2-acre requirement. It’s isolated and undersized lot and that makes it a hardship to allow residential development. John Peterson commented then basically what we have given our existing zoning which is 2 acres, we have essentially a lot of per-existing non-conforming uses along on Beach Drive. Ms. Cuviello stated yes and most of these homes were built in the 1950’s and making zoning with 2 acre lots was not very practical.

Ms. Cuviello continued by stating they believe we can find an undersized lot variance appropriate for a hardship because there is no other possible way for it to conform. In terms of setbacks of the property they believe is as well as there is a severe restriction with the front yard setback requirement and they think it is more appropriate to have a structure closer to Beach Drive as it is than to set it back closer to Aetna Drive; either way there will be an encroachment on setback requirements and they feel it is more appropriate to have a similar setback that’s on Beach Drive than to change that and reduce it into a different direction. In fact, he (3) car garage is setback somewhat further than others on that street.

Ms. Cuviello went on to say in term of the C-1 variance criteria there is a clear hardship given the fact there is no additional land and that there (3) street frontages that impact this property and how it can be developed. Under the C-1 criteria they will demonstrate proof of hardship, is that you can grant the hardship variance without substantial impairment to the zoning ordinances or zoning plan or substantial impairment to the public good. This is not inconsistent with the zoning ordinances or zoning plan; it is
designed as residential use in a residential community. They are maintaining an appropriate population density that is consistent with the existing population density and lot sizes in this area and there is no substantial change to the character of the community by adding this use that is similar to other uses in the area, and combination of uses on Beach Drive.

Ms. Cuviello commented that the variance is warranted for the undersized lot for residential, there are hardship conditions that outweigh the detriment that when you balance them; it comes together. The next thing is, does this property having a residential use makes sense to continue with the secondary accessory use (which is the principal use) of the garage for the neighbor across the street. They feel it continues to be appropriate as well.

She went on to explain for the D variance, we have a different burden to prove; they have to demonstrate to the board that they meet the purposes of zoning having these (2) principal uses on the property. You need to look at the contexts of the secondary principal use (which is the primary use that exists today) that is to serve as a residential use that exist in the neighborhood, it operates the same as it does whether or not it is used by the neighbor next door or the person living in the garage or on that property. It becomes a residential nature in the fact it is in a residential area. The lot and the use become particularly suited to one another and then promotes the general welfare given the characteristics of this portion of the municipality on Beach Drive. Some of the property already have detached garages and the ability to store equipment. Mr. Leps property on block 107 is one of the smaller lots in the community. Because this is a residential area and this lot is small it allows for a shared use with the neighbor. It continues to supply adequate air, light and open space.

In terms of the negative criteria-they don’t believe that granting these variances for the 2 uses on this lot would impair the zoning ordinances or zoning plan. These 2 uses are what you would normally see on any other residential property on this street and throughout this community. The only difference is the Mr. Leps is going to walk across the street to get into his garage. They don’t believe there is no substantial detriment to the public good.

Ms. Cuviello recognizes there are other outside agency’s approvals that will be dealt with i.e. septic. Any approvals that would be necessary in order to have that residential unit there will have to be granted and will be a condition this approval. They will have to meet the requirements of the Atlantic County Board of Health in regards to the septic issues. Ms. Cuviello stated this issue has to be satisfied and they have to get the approvals before they can go to the next step.

Mr. Merenich asked for questions from the board- Mrs. Bennis if this approved by the board she would like to see the septic approvals for both units and a CO for apartment.

John Peterson asked for questions from Paul Dietrich, (acting engineer)- He stated regarding the septic he feels there should be (2) separate septic systems and the Board of Health would more than likely require it. For the one-bedroom apartment it would require a 300.2-square foot disposal bed, for the three-bedroom house that would need an 805-square foot septic bed. The yard area next to the garage would be more than ample to put 2 septic beds, with the proper disposal fields and septic beds with the proper setbacks. They would have the proper distance from wells in the area and have the proper size septic systems. He would note that the septic tank that is there, is in an inappropriate location and he
finds it hard to believe it was approved by the health department. He stated it would be a positive benefit to have the septic for the river front lot on this side of Beach Drive because the further away you can get from the river the better. He recommended an easement be crafted such that if ownership is ever separated there would be some tie with the septic usage and royalty improvements, so that the owner of the river front lot would be the easement to the septic to maintain it; if the two lots were ever separated.

John Peterson asked Mr. Facenda if they would accept that as a condition of the approvals? Mr. Facenda replied absolutely.

Mr. Merenich asked about the location of the off-street parking and use of 2 spaces, is it going to be the garage spaces or somewhere else on the driveway? Ms. Cuviello stated there are at least 3 off-street parking spaces available. Mr. Merenich clarified the concrete portion will be dedicated to off-street parking serving the residential use. Ms. Cuviello replied; correct and Mr. Facenda added you will have 2 dedicated spaces on the river front lot and at least 3 on the garage lot. The off-street parking will be noted on the plans.

Mr. Merenich asked if there should be an easement to allow for storage in place of cars in the river front lot in the event the ownership is separated; considering it could be a river quality issue? John Peterson comment this would be strictly for the protection of the applicant. John replied there would be conditions as part of the motion; if granted. Mr. Facenda said he agrees the septic easement is completely appropriate but he is not sure about the storage easement as Mr. Leps plans on living there for quite a while but it would be beneficial if he sell it in the future.

John Peterson open the floor to the public-

1. Steven Tyska of 511 Beach Drive was sworn in. He is the next-door neighbor of Mr. Leps. Steve stated he has been a very good neighbor to him and he is improving the property so you can actually tell he will be staying there long term. He has increased the value of the entire neighborhood. Steve supports the application.

2. Dale Platt of 505 Beach Drive was sworn in. He lives across the street from Mr. Leps and he is in support of the application

John Peterson closed the floor to the public.

Mr. Merenich asked Mr. Facenda is there anything else he would like to say? Mr. Facenda replied; no. Mr. Merenich commented the application hearing of 2014 would be entered into evidence, which includes the plot plan, survey, pictures, application and the complete contents of the 2013 and 2017 applications. (evidence will be labeled as A-1). Mr. Merenich stated there was a prior review in 2014 by Mr. Joe Maffei, and asked Mr. Facenda if he had seen it, Mr. Facenda replied he had not reviewed it. Mr. Merenich asked if there was any objection to having that as part of the evidence. Mr. Facenda replied; the applicant takes no issue with any of the review comments 1-10.

John Peterson called for a motion-
A motion was made by Ed Kenney and seconded by Carol Bennis for the D variance as discussed.
RCV: Beverly Totten-yes, because he met all the requirements.
Carol Bennis-yes, for all the reasons the planner had stated.
John Peterson—yes, it is consistent with a normal residential use, with the garage being the primary use.
Ed Kenney—yes, because it is a residential zone and should have been one in the first place.
Janice Peterson—yes
Denise Kane—yes
Motion carried.

John Peterson called for a motion for the C-1 Variance.
A motion was made by Carol Bennis and seconded by Ed Kenney for the C-1 variance as discussed with all of the conditions as stated above.
RCV: Beverly Totten—yes.
Carol Bennis—yes.
John Peterson—yes.
Ed Kenney—yes.
Janice Peterson—yes, with the easement in case he sells the property later on.
Denise Kane—yes
Motion carried.

- **Update on reexamination of the Master Plan for 2017 was done in Executive Session.**

**FYI:**
- Ordinance #3-2017 was passed at the meeting of March 13, 2017 to modify the membership of the Corbin City Planning Board in accordance with statutory changes.
- Ordinance #5-2017 was passed at the meeting of March 13, 2017 making technical amendments to Chapter 102 of the city code.
- Resolution #52-2017 was passed at the meeting of March 13, 2017 clarifying the appointments and reappointments of the members of the Planning Board.
  1. Waterfront development & Costal Wetlands Permit for 101 Aetna Drive, block 406; lot 13.
  2. Affordable Housing-Order directing payment to escrow.
  3. NJDEP Letter of Interpretation for 119 Aetna Drive.
  4. Waterfront development permit application -modification for 200 Carl Road, block 109; lot 1.

**Next Regular Meeting:** will be September 19, 2017 at 7:00 p.m.

**Meeting Adjourned:**
A motion was made by Janice Peterson seconded by Ed Kenney to adjourn the meeting at 9:39pm.
RCV: all ayes.

Respectfully submitted,

_______________________
Joanne Siedlecki
Planning/Zoning Secretary
Corbin City Planning Board
Regular Meeting
Minutes of August 15, 2017