

JACKSON TOWNSHIP PLANNING BOARD MEETING

Monday, July 17th, 2023

The July 17th, 2023 special meeting of the Jackson Township Planning Board was called to order at 7:00 p.m. by Board Attorney Mr. Shea with a salute to the flag by all present. The Planning Board attorney Me. Shea read the Open Public Meetings Act Statement noting that adequate notice has been provided and advertised in the manner prescribed by law.

Roll Call: Mr. Bressi-Mayoral Designee Mr. Riker
 Mr. Burnstein Mr. Heller -Alt II
 Dr. Flemming Mr. Wall-Administrator
 Mr. Sullivan Mrs. DeMarzo -Alt I
 Dr. Campbell

Absent: Herman.

Also Present is Robert Shea Planning Board Attorney, Ernie Peters, Board Planner, Doug Klee, Board Engineer, Anthony Jacob IT Department, Laura Morrison Planning Board Secretary, and Irina Darrar Planning Board Recording Secretary.

Motion to approve a voucher for Planning Board recording secretary Irina Darrar
Mr. Sullivan/ Burnstein All in favor among present.

Motion to approve the minutes from June 6th, 2023. Burnstein/ Haring Yes: Bressi, Mr. Riker, Burnstein, Heller, Flemming. Campbell.

Motion to approve minutes from June 19th, 2023 Burnstein/Sullivan Yes: Riker, Burnstein, Heller, Flemming, Campbell

RESOLUTION 2023-05A OF THE PLANNING BOARD OF THE TOWNSHIP OF JACKSON, COUNTY OF OCEAN, STATE OF NEW JERSEY, GRANTING AMENDED FINAL SUBDIVISION APPROVAL FOR YEREK JACKSON 46, LLC, BLOCK 19501, LOT 29.05

Motion to approve Burnstein/ Bressi Yes: Mr. Bressi, Burstein, Flemming, Haring, Heller, Wall, Campbell.

RESOLUTION 2023-19 OF THE PLANNING BOARD OF THE TOWNSHIP OF JACKSON, COUNTY OF OCEAN, STATE OF NEW JERSEY GRANTING PRELIMINARY & FINAL MAJOR SITE PLAN APPROVAL WITH REQUIRED VARIANCES AND DESIGN WAIVERS FOR THE CONSTRUCTION OF A TWO-STORY OFFICE BUILDING FOR 2111 DISCOVERY WAY, LLC, BLOCK 7310, LOT 1

Motion to approve Sullivan/ Burnstein Yes: Burnstein, Flemming, Haring, Riker, Sullivan, DeMarzo, Heller, Wall, Campbell

RESOLUTION 2023-20 OF THE PLANNING BOARD OF THE TOWNSHIP OF JACKSON, COUNTY OF OCEAN, STATE OF NEW JERSEY GRANTING FINAL MAJOR SITE PLAN APPROVAL FOR A NEW WAREHOUSE WITH A 2ND FLOOR NON-MEDICAL OFFICE BUILDING FOR HERMAN JACKSON, LLC, BLOCK 2201, LOT 54 WHEREAS

Motion Bressi/ Burnstein Yes: Bressi, Burnstein, Flemming, Haring, Riker, DeMarzo, Heller, Wall, Campbell

Application GM 425 Harmony LLC.

Mr. Shea stated that he has to recuse himself from this application since he has a conflict with it.

Attorney Melanie Appleby from the law firm of Rothstein, Mandell, Strohm, Halm & Cipriani on behalf of the application for MG 425 Harmony LLC. She stated that she is a conflict attorney for the application GM 425 Harmony LLC.

Mr. Alfieri, an attorney on behalf of the applicant. He stated that the applicant is here for preliminary and final site plan approval to construct an 11,000 sq. feet two-story professional office building.

Graham Macfarlane was sworn in. A professional engineer, Certified Municipal Engineer, will testify as a planner and engineer. He states that exhibit A1 is an aerial map, showing that the subject line is outlined in yellow. The property is known as Block 4901, Lot 13, and is located on Harmony Road, just north of County Line Road. The property sits across from Walgreens and next to Chase Bank, which is at the corner of County Line and Harmony Road. The property contains about 2.7 acres and is restricted by freshwater Wetlands and Wetlands buffers. There is only about 1 an acre of the property classified as uplands. The applicant is proposing to construct a new office building of about 11,000 sq. feet. It has a footprint of about 68x80. So we get about 5,500 sq. feet per story resulting in the 11,000 sq. feet building. The existing property does contain a single-family house in the southern corner, very close to Harmony Road. It contains a barn in the northern corner of the property. They will be demolished as part of the application.

Mr. McFarland stated that A2 is a site plan that was prepared and submitted in support of the application, showing the access drive coming off of Harmony Road, as well as the parking spaces proposed. There are a total of 53 physical parking spaces proposed. The applicant is required to provide EV parking spaces by the statute, at least 2, 2 EV parking will be provided.

Mr. Alfieri asked if there is a basement.

Mr. Macfarlane said no. He stated this property does have some limitations with Wetland Buffer, leaving only the front portion of the property developable. Two variances are requested for the application, both deal with parking setbacks along the front yard. In the front yard, 25 feet are required, the applicant is proposing 10 feet parking setback to Harmony Road and along the side

yard 20 feet is required for the parking setback and 10 feet is proposed from the curb. Mr. McFarland stated that the deviation created by the request for these variances outweighs any detriment associated there which the resulting design provides for an 11,000 sq. feet office building designed in accordance with all other requirements of the ordinance. The applicant is proposing a building coverage of 9 percent, and impervious coverage of 46%, both of which are below the maximum permissible standards in the Ordinance. The maximum allowed building coverage is 25%, the applicant is proposing 9%. The maximum allowable impervious coverage is 60% & the applicant is proposing 46%. There are a few design waivers requested with the project. One is regarding the retaining wall. Based on the topography limitations, in order to make this site suitable for development, there is a retaining wall that runs basically from the south side of the property around the back of the property, it wraps around the corner of the parking lot a little bit. Because of the topography restriction, the wall has a maximum height of about 20 feet. The Ordinance has language that stipulates that there is a limitation for retaining walls relative to the setback of the building. Mr. McFarland stated that this project provides business opportunities for the town. For this reason, the variance and design waivers can be supported. Public sewer and water are available. A3 is a 3D rendering of the proposed building. The building height is 30 feet to the flat roof, complying with the ordinance.

Mr. Riker asked Mr. McFarland if the grade from Harmony Road to the front parking is lower because Harmony Road escalates there.

Mr. Macfarlane stated Harmony Road is at the front of the site, the middle of the site is about at elevation 123 or 124, and then the site drops to where the Wetlands corner is, the elevation is at about 100. There is about a 25-foot drop across the site from Harmony Road to the Wetlands.

Mr. Sullivan stated that he noticed that Jackson Township Police Department, concerned is that there are only two ADA-compliant spaces proposed when there should be three.

Mr. Macfarlane said the applicant will make that correction.

Mr. Flemming asked if you add an ADA spot will the applicant lose another spot.

Mr. Macfarlane stated no, that they will still have all the spots, but if slight adjustments will have to be made someplace, the applicant will make that slight adjustment to keep the 55 parking spaces.

Mr. Macfarlane stated that the application was below the threshold for a traffic report for this Board, but MRA did a traffic report for the Ocean County Planning Board and stated that the report shows a level of serve of B for both AM and PM. A very high level of service will be maintained. There is adequate site visibility along this piece of Harmony Road. The statement of operation states business hours are 8 AM to 6 PM.

Dr. Campbell asked if the applicant plans to have solar.

Mr. Macfarlane said that at minimum the applicant will do lighting for the outside, and there will be a minimal amount of solar to service the area.

Mr. Riker asked if there will be an elevator.

Mr. Alfieri said yes, the building has an elevator proposed.

Ms. Demarzo asked what the proposed use was and how many offices.

Mr. Macfarlane said it is office use, possibly 6 separate offices. The maximum would be 6 suites, it could go smaller.

Mr. Klee stated that they would agree with Mr. Macfarland that the site is somewhat constrained as far as environmental limitations. The applicant has provided a valid letter of interpretation, but the applicant also will need some Wetlands permits, the transition area, which has not been secured and that will be part of the condition of approval.

Mr. Alfieri said yes.

Mr. Klee asked if it is 20 feet high retaining wall can we get something more substantial than a chain link fence.

Mr. Macfarlane said he will provide whatever the Board and the professionals want.

Mr. Peters asked the applicant if they has their letter dated June 7th, 2023.

Mr. Macfarlane said yes.

Mr. Peters stated that the applicant is in a conservation overlay zone. So at some point, there is supposed to be a calculation for building coverage and impervious coverage netting out the wetlands.

Mr. Macfarlane said that he did testify to those numbers early in the year and said that it's about 1-acre uplands and 9 % building coverage proposed. Mr. McFarland said he will provide the calculation.

Mr. Peters said that he does not have the architectural plans.

Mr. Peters asked if there is any signage proposed.

Mr. Macfarlane said there is one free-standing, ground-mounted sign proposed.

Mr. Peters stated that Mr. Macfarlane says that there are variances due to the exceptional topography of the site. Mr. Peters said he does not disagree with that as it relates to the setback from Harmony Road, because the property drops off from Harmony Road West to East. Mr. Peters said that he is not sure if he agrees that there is a hardship for the setback to the North. Mr. Peters does not see an exceptional condition that would limit the ability to provide the buffer to the North, either by moving the site to the South. Mr. Peters asked Mr. McFarland to expand on the testimony to the buffer of the side yard.

Mr. Macfarlane stated that Ordinance requires buffering based on the gross floor area of the building that is being proposed. 10 feet buffer is required and the applicant does have a 10 feet buffer proposed.

Mr. Peters also asked for some vehicle circulation diagrams to be provided. The biggest vehicle we expect other than emergency service, is a garbage truck, a box truck.

Mr. Macfarlane stated yes. Curb and sidewalk proposed along Harmony Road.

Lawrence Schreiber was sworn in. Senior Architect, partner of BF Design Association, NJ. Licensed Architect in NJ. Mr. Schreiber state stated this is a two-story office building, divided into several suites. Suites 101, 102, 103, first floor, and suites 201, 202, 203. Both suits will have common restrooms on the first and second floors, an elevator and two staircases, and two entrances. The main entrance is from Harmony Road and a side entrance.

Public comments are open.

Edward Bannon, 22 Abercorn Court was sworn in. The resident wants to know why the property line cannot be shifted. It would allow the fire department to access the right side of the building.

Mr. Macfarlane said that the wetlands are located on the East side of the property line. The applicant will not be able to move the wall any further or provide any fire access through that area.

Sean Kenny was sworn in. He stated he lives north of the project, next door and his bedroom is directly looking at the building, he just wants to assure that the lighting will take care of itself.

Mr. Alfieri asked the resident if he is okay with a fence to shield any cars that are parked, along with the extra trees.

The resident didn't want to say yes or no. He is also concerned about the traffic.

Mr. Alfieri said that traffic studies are not always conducted.

Resident Patricia Robinson, 437 Harmony Road was sworn in. The resident is concerned about the traffic situation on Harmony Road.

Resident Cynthia Renschler, 3 Barwin Lane was sworn in. She thinks the driveway should be shifted over.

Motion to close public comments: Riker/Sullivan All in favor among present.

Mr. Alfieri stated that he would respectfully ask the Board to carry the application until September 18th, 2023. In that time frame the applicant will look to see if they can either shift the building down so more buffering can be provided for the neighbors, as well as the entrance issue, and reach out to the County so they can get their input.

The application was carried out until September 18th, 2023 with no further notice.

Motion Bressi/ Sullivan Yes: All in favor among present.

Application Block 20501, Lot 27, Casey Hunter

Adam Pfeffer on behalf of the applicant. He stated that the applicant is seeking an extension of the approval. Mr. Pfeffer said that Mr. Borden will walk the Board through where the delays are. The specific reason why the applicant needs an extension.

Mr. Ian Borden was sworn in. The president of the professional design services, Lakewood, New Jersey. A licensed professional planner. Graduate of Rutgers University. He states that the applicant is seeking a third one-year extension. This major subdivision was originally approved in 2006. The third one-year will carry from July 2023 to July 2024. The project is 18 lots in the RG -2 zone located on Whitesville Road. The project has not changed at all since its original approval date. The reason the applicant is seeking the extension is that the applicant has received the resolution compliance letter from Mr. Klee and the applicant is prepared to file the plat, however, one of those items that is requested to file the plat which the applicant has received is a no further review letter from the Pinelands. They have issued, however, they have added a condition, that this site is a public sewer. The sewer for the site is connected to adjacent property across the street known as Pine Rock. The Pine Rock project has been filed and is currently under construction and part of that project is constructing a regional pump station called the Pine Rock regional pump station. The Pinelands have added a condition to the Hunter no further review stating that no building permit may be issued until that pump Station is operational. For this, Mr. Borden is asking for the extension approval to be continued upon the fact. The applicant is asking that a statement in the Resolution that the applicant agrees that a construction permit can be issued for 18 of the proposed lots, it is acknowledged none of the certificates of occupancy can be issued unless the pump station is completed.

Motion to approve Riker/Sullivan Yes: Bressi, Burstein, Riker, Flemming, Sullivan, Wall, DeMarzo, Campbell.

Application Block 102, Lot 1

Mr. Shea stated that there is an interested party who wants to put some testimony on the record. First Adam Pfeffer will present the client and then the interested party will testify.

Adam Pfeffer on behalf of the applicant. He stated that this is an application for Block 102, Lot 1. The applicant received preliminary approval from this Board a few years back. Since that time the applicant finalized a few of the items and addressed some of the Board's concerns. The applicant has submitted a final application for approval to this Board. It is in full compliance with what the Board had previously approved. It is a permitted use for contractor warehousing, which is permitted in the zone. That is why the applicant is here to finalize.

Sandra Imateo was sworn in, as counsel for Area Properties, who is an objector and owns the adjacent property. She said Matthew Wilder is here, who is an expert and is prepared to testify. Preliminarily she would ask Mr. Wilder to be heard on Jurisdiction issues, mainly improper notice, and Jurisdiction before the application moves forward if the Board would permit that.

Mr. Shea said that his office and Mr. Pfeffer's office received a letter from Mr. Wilder's office dated July 17, 2023, identifying a number of issues that needs to be addressed Jurisdictionally

before any content that Mr. Wilder is also challenging. Mr. Shea asked to identify any Jurisdiction issues that he may want to present.

Mr. Matthew Wilder was sworn in. He stated that he works for Morgan Engineering, 130 Central Ave, Island Heights, New Jersey. Licensed professional engineer and planner in the State of New Jersey.

Mr. Shea told Mr. Wilder if any Jurisdictional issues you want to address, now it is the time.

Mr. Wilder stated that he is representing an adjacent property owner. They are the ones developing what is known as Pinewood Estate, which is 8 lot residential subdivision off of Woodland Drive. Mr. Wilder stated that he reviewed the documents, the plans, and the notice, that were submitted as part of the application. He stated that jurisdictionally he has questions about whether the Board can even hear the application as all of the documentation was submitted for a warehouse. This is the first time Mr. Wilder said he is hearing about a contractor warehouse. He looked at the plans, he saw the loading docks, 5,000 sq. foot tenant space, that is not a contractor warehouse. This is a warehouse. Furthermore, when Mr. Wilder reviewed the notice itself, the notice indicates that the applicant is seeking the construction of three multi-tenant warehouses. It does not reference contractor warehouses. It states that this is a permitted use within the HD Zone, but that's not the case. Additionally, the notice indicates that the application meets or exceeds all area and bulk zoning standards. The issue with the notice is that the notice indicates that bulk zoning requirements are met. Mr. Wilder's office took a look at the minor subdivision that was proposed and pertained to this site plan application.

Mr. Pfeffer said that he has to object at this moment talking about the previous subdivision that the applicant already received from the Board as the time to appeal to that subdivision Mr. Pfeffer said it was just preliminary and would have been within 45 days of that approval. So now argue that the applicant only got preliminary that being said the time to appeal has already passed.

Mr. Shea said it is about of the notice was appropriate from the beginning. Whether or not the notice was appropriate from the letter that was sent in. If there were supposed to be any waivers or any variances or anything like that notice would have had to contain them which I'm assuming that what Mr. Wilder is getting to, so it is more than just a random use issue.

Mr. Wilder stated that the site plan proposed for Lot 1.02 was proposing impervious coverage of 78.2%. The HD Zone only permits an impervious coverage of 75% which is the bulk variance that should have been listed within the notice. Mr. Wilder stated since the notice inaccurately indicated no variances are needed for the proposed development, he feels to believe the notice is deficient and at a minimum, the application should be adjourned, so the proper notice can be issued to all adjacent property owners and published in the newspaper. Mr. Wilder stated that he did submit a letter to the Board and he provided a copy to the applicant's counsel as well. Mr. Wilder said that he does have a copy of the letter and can hand it out to each of the Board members if needed.

Mr. Shea asked the Board secretary to submit a letter as evidence.

Mr. Alfieri said he would like to address a few of the comments. First in regards to the use again as he mentioned to the Board the applicant was before the Board for a permitted warehouse use, a permitted warehouse use in this zone is a construction warehouse, which is all that the applicant sought when they came before the Board. Mr. Alfieri understood that the word contractor may or may not have been in the Resolution of the approval but obviously, if the applicant is seeking something different than a warehouse, the applicant would not have been before this Board. The objector indicates that the amount of Bays doesn't make sense for contractor warehousing.

Mr. Pfeffer said he has done many of these applications before this Board in Jackson and actually when you have a contractor's warehouse, many times you have more bays because the spaces are smaller and that would be a reason why there is approximately 9 Bays, as opposed to having one large 30,000 sq. feet space for a general warehouse. Mr. Alfieri said he did not seek a general warehouse that is not a permitted use. Mr. Alfieri said he was not seeking anything that was not permitted in the zone. Regarding 78 or 75% I'd have to get into the testimonies as far as that, there is a catch-all variance that again if something came up, that was like 78% or 75%, and that's what the catch-all is for.

Mr. Shea stated that he needs to determine whether or not the lead question exists is whether or not the Board can even hear this application. He stated that Jackson Ordinances differentiate significantly between warehouse use and contractor warehouse use. He said if we go back into the codes, there is an industrial zone, which specifically identifies contractor warehouse and then warehousing in general, the contractor warehousing, industrial zones 244-63 A1, the warehousing of storage of goods and products is 244-63 A6. So if we go back in time when the legislator put Ordinances and adopted them. You have to have some kind of inference they believe that there were two different types of uses within this, so then you go to the HC zone and it specifically just identifies contractor warehousing. So based upon just the Ordinance itself at first glance and upon deep diving into it a little bit, there are two different uses. Now when it comes down to the notice itself. Going back in history, there is about 11 different public documents going back to 2021. Every single one of these documents including notices and review letters and plans, everything says warehouse with office space.

Mr. Shea referenced County Line Holdings which happened Mr. Shea thinks roughly 2020-2021 where there was a significant amount of testimony put on the records by all parties that warehouse use was substantially different from contractor warehouse use. Based on that we at least have to identify that the notice to the public is different from that of a contractor warehouse, so when the general public is getting their documents they can OPRA request, they can go to the files, and take a look at everything that encompasses what's happening at the Board, they would see the warehouse, not a contractor's warehouse. Mr. Shea is requesting that as of right now the public notice needs to get redone so that the contractor warehousing is 100 % in there. As of right now, the Board has no jurisdiction simply based on the notice itself, and without even getting into the use aspect which is a can of worms, I don't want to open it at this time. Mr. Shea is requesting that the applicant re-notice to the contractor warehouse, and determine whether or

not the interested party has any value to what they were talking about when it comes down to any variances or waivers that may be required, all this needs to be cleaned up.

Mr. Alfieri stated that he wants to be clear that he is adding the word contractor warehousing.

Mr. Shea said Mr. Alfieri will be amending it to represent what you're indicating it was.

Mr. Alfieri said that as far as this application, the applicant sought the permitted use of whatever warehouse was permitted in this zone. This Board approved. Nobody. There was a publication of that notice of that approval, but nobody filed an appeal and the appeal period has not passed. Mr. Alfieri has no problem sending a new notice out and adding the word contact warehouse

To what we already received. His concern is now by saying that am I opening myself up now to something different.

Mr. Shea stated that at this point he requests a re-notice and plans to be redone to incorporate a contractor on it.

Mr. Alfieri said he is not agreeing at this time with that, he said he is not agreeing to amend any plans on it.

Mr. Shea suggested carrying this application with the request of notice and discussing the issue with the Board members experts and yourselves and possibly with the interested party.

The application was carried to October 16th, 2023 with notice.

Motion to carry by Martin Riker/ Sullivan Yes: Bressi, Burnstein, Flemming abstain, Haring, Riker, Sullivan, Wall, Campbell.

Motion to Adjourn Riker/ Sullivan all in favor among present.

Respectfully submitted by

Irina Darrar

Planning Board Recording Secretary