

# JACKSON TOWNSHIP PLANNING BOARD MEETING

Monday, October 16, 2023

The October 16, 2023, regular meeting of the Jackson Township Planning Board was called to order at 7:00 p.m. by Board Chairman Mr. Herman 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	Mr. Heller
Mr. Burnstein	Mr Sullivan
Mr. Haring	Mr. Wall
Mr. Riker	Dr. Campbell
Mr. Flemming	Mr. Herman

Absent: Mrs. DeMarzo

Also, Present are Robert Shea Planning Board Attorney, Brent Polman, the RLUIPA 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 October 16th, 2023 Planning Board recording secretary Irina Darrar Riker/ Sullivan All in favor among present.

## Minutes

Approval of the Minutes for September 18<sup>th</sup>, 2023 Motion Burnstein/ Sullivan yes: Bressi Heller, Burnstein, Riker, Flemming, Campbell, Herman.

## Changes to the agenda schedule

Application Block 102; Lot 1 –Yosef Rothenberg was carried to January 8<sup>th</sup>, 2024 for the rescheduling purpose Riker/Burnstein are all in favor among the present.

Mr. Herman stated that the first order of business tonight is an amendment to the Township Master Plan. Mr. Herman said he would like to turn over to Mr. Peters to get the board going.

Mr. Peters said if the board recalls back in July the board amended the Master Plan to address some of the Ordinance issues that the Municipality had, along with some of the Litigation that the Municipality was involved. Mr. Peters said to speed up some time and went through a general amendment to the Master Plan. Which was dated July 19, 2023, and was approved under Resolution # 2023-21. Mr. Peters stated that he went through some of the backgrounds. The purpose of the document is to amend the Master plan, the objectives, and the Master plan recommendations. Mr. Peters said as he worked through back in July, having to do with the dorms, student residences, and faculty residences would be permitted. As Mr. Peters said they

would be only accessory uses. Mr. Peters said he came to find that there is a need to reconcile those uses as both conditional and Accessory uses. Here is a very straightforward reason for it. If someone comes with the track of land and a person owns one and B person owns the other one, then the students are put on the lot without a principal use. We have created a variance situation. You cannot have an accessory structure without a principal structure. If the board makes them conditional then we won't have an issue creating a non-conforming situation, once we go through the remainder of these documents and litigation matters. Mr. Peters stated one additional line in the document referencing the plan recommendations and that is to add where appropriate the dorms, and student residence as a conditional use in the zone, where the board had originally contemplated only as accessory uses, that is the meaning of the change.

Mr. Herman asked if a special Council had anything to say.

Special Council said that as Mr. Peters stated this change is the result of an ongoing evolution of the revisions that are going to take place and this particular change provides the town, I'll say it is a little more discretionary because it was initially reviewed and looked over it, the Township recognized that we could use the situation as Mr. Peters described where it would be an instance when a use would have to be now approved as an accessory with no related principle use and the frankly, one of the concerns is that once that variance is granted, now we have a variance history of granting that and Township and other Municipal can maintain greater control by having both accessories when it's on the same property and condition if it's not as opposed to granting variances for accessory uses, that doesn't have a related principle use on the property.

Dr. Campbell stated that she wants everyone to understand that the board is not voting about the dormitories, the board is voting about the semantics within the Resolution and the terms and conditions and amending the terms that is all we are doing tonight.

Special Council stated that this board does not have the Authority to enact Ordinances, so all this board is doing is voting on a modification to the Master Plan that would relate to any potential Ordinances in the future. This change tonight recognizes and acknowledges that there will be that there be both accessory and conditional use as opposed to just one or other, so I said having both provides the Township with greater control and avoids the instance in which you would have to grant a variant that you may not want to have granted.

Mr. Herman opened the meeting for the public discussion.

Resident Jennifer Cusinelli was sworn in. at 14 Blues Pruse Drive. The resident asked if it could be defined what the accessory structure would be, would that be a garage or attic?

Mr. Peters stated that from the Planning Board's perspective accessory uses something like that might be customarily incidental to what a principal uses without creating an entire school program of principal conditional and accessory uses Examples would be for the residential zones in RI or R20 zones principal use would be single-family detached houses. An accessory use would be detached sheds and garages. Conditional use depends on what road frontage you are on, and what zone you are in. Mr. Peters stated that in case both an accessory and conditional use

were created, depending on whether or not it would be on its lot or combined into one or larger lot.

A resident Cusinelli asked what the exact reason for the Master Plan amendment is.

Mr. Peters stated as he took a July Master Plan and reconciled the issues that were brought up because of it, Mr. Peters said they came to the conclusion that there could be places or tracks of land where we could create the need for the board to grant variance relief we adopted Ordinances to effectuate part of the previous Master plan amendments we wanted to make sure we did not unavoidable cause board to have to grant a variance when it should not necessarily be granted.

Resident Cusinelli asked if there is a house that is less than a quarter acre, 1100sq feet, and purchased, it becomes 4,000 sq. feet with the addition, is that what it is allowed for, why there are no variances, why the property does not have to go in front of the Zoning board. It is taking the authority of the Zoning Board.

Mr. Councilman said he does not think this has anything to do with the Jurisdiction of the board. He stated there is a particular use, where it belongs and some standards apply to whatever that use may be. Mr. Counsel stated that this particular Master plan only reflects the school, so the issue that you are raising concerning variation or change in us of a single-family home, would be in any way regulated, modified, or changed by this Master plan.

The resident Cusinelli wants to put on the record that she finds it concerning that the Master Plan is being done in conjunction with the current lawsuits, and with energy going on in town right now with other lawsuits, there probably; will be an investigation, I think we should not change anything until that is concluded.

Resident Elenor Hannum was sworn in. She stated that she and most of the residents is that there is no confidence in this board to make appropriate decisions. She stated that the Master Plan is currently up for the developers and buildings. She stated that the decisions are made to satisfy lawsuits and settlements.

Dr. Campbell said she lived in this town since 1970. She raised children and served the community on this board and what you say is hurtful.

Public comments closed motion Sullivan/ Burnstein all in favor among present.

### **Application 19501 Lot 25 Whitesville Home LLC.**

Mr. Klee stated that the application seeks conditional use and Preliminary major site plan approval to establish 25 single-family residential building Lots and 1 lot for 8 affordable dwelling units in 2 buildings. The project is compliant with although the zoning requires, this is a conditional use in this zone, so need some testimony from the applicant as far as the compliance with those conditional use standards. Mr. Klee stated that the project provides 30 30-foot wide court way and a 50<sup>th</sup> way consists of the regulations of the Fire Bureau of Traffic Safety indicating no concerns. Some testimony is needed regarding the mailboxes and affordable housing units. In regards to waste storage units and recreation amenities.

Mr. Peters stated that his office has a report date of October 6<sup>th</sup>, 2023. The application is in the RG2 Zone, where single-family developments are affordable housing, and lots less than an acre are permitted. Conditional uses. The applicant appears through these revised plans to meet all conditional use requirements for the RG2 regional growth Zone. Mr. Peters asked Mr. Macfarlane to review his report and place it on the record.

Mr. Ian Goldman on behalf of the applicant. 54 Whitesville Road LLC. He stated that the applicant is seeking preliminary and final major subdivision approval for 27 lot subdivisions. The lot consists of 25 new single-family housing. One affordable housing lot and one stormwater basin lot.

Mr. Macfarlane was sworn in. A professional Engineer, professional Planner, and Certified Municipal Engineer. Testifying on both Engineering and planning matters. He stated that this is an application for 25 single-family homes and affordable housing components by the Township zoning regulations. The property is located in the RG2 zone. Exhibit A -1 shows the subject property. Mr. Macfarlane wanted to note that because of this project, Pine Rock will be connected to the sewer system. Mr. MacFarlane stated that RG2 Zone allows for conditional use of single-family lots with a lot minimum of 10, 000 sq. feet. The A-2 exhibit is an overall development plan for the application. It shows two affordable housing unit buildings located on the right side of the property. There are six affordable housing units in total, which is consistent with the obligation of affordable housing units. The applicant also provides the recreation components for the project located here. Mr. Macfarlane stated that the applicant is property of a public street, that loop road is a public street, that would be dedicated to the Municipality, designed and constructed by RSI's requirements. This street should be 30 feet wide with urban sidewalks on both sides for the affordable housing, the applicant is providing it. Mr. Macfarlane stated that exhibits A-4 and A-5 are Architectural plans for affordable housing. A-6 exhibit shows the improvements to Whitesville Road to County standards, the curb sidewalk along the site frontage, connection to the curb sidewalk, and road widening that has been approved by the County. Mr. MacFarlane stated that the application does meet all the conditions required. The applicant is providing public sewer and water. It is one on =e of the conditional use requirements. Mr. Macfarlane stated that Mr. Klee has some landscaping comments, and technical comments, which the applicant would agree to comply with.

Mr. Peters asked about the top lot, who can use the top lot, and the maintenance, as previously testifying Mr. Macfarlane said that the top lot would be available to the affordable housing unit.

Mr. Macfarlane believes maintenance would be provided by the homeowners association for the top lot, so no obligation to the Municipality and them of course.

Mr. Klee wants Mr. Macfarlane to confirm that the HOA is also going to cover the drainage basin, correct?

Mr. MacFarlane said yes.

Mr. Peters wants to know for the record, who will be a member of the HOA.

Mr. MacFarlane stated that they would be maintaining both the stormwater management basin and the TOT.

Mr. Flemming asked if the affordable units would be for sale or rental.

Mr. Macfarlane stated that he believes it will be rentals.

Public comments are open.

Resident Mary Duke, 62 Whitesville Road was sworn in. She stated that she was in the lot right in front of the applicant. She commented on the concrete pad, she said it is a wetland, and she had water coming up through her basement floor on a wet day. She would suggest instead of a further impervious surface, maybe to put something that will allow groundwater, so kids don't get wet. A resident asked if there is a plan to put any fencing between the development and the lot that she is currently living in.

Mr. MacFarlane said NO.

The Resident asked if there was any way to discuss that option.

Mr. Macfarlane stated that this plan was presented to Ocean County as well and the applicant has to provide road improvements by the County Master Plan. It says you have to widen the road 25 feet and we have a lane, we have a shoulder, we have a curb, and a sidewalk. Mr. Macfarlane said that his client is well aware, that he needs to buy some or azure some right away from both Mrs. Duke and the adjoining property owner.

The resident is also concerned about the traffic. She said it was going to be a traffic nightmare.

Resident Eleanor Hanno was sworn in. She asked for the names of owners besides the Whitesville LLC.

Mr. Goldman said that the stockholder was Joseph Rabinowitz, who owns 62% of, Eisenberg Family Trust and Neman Homes.

Mrs. Hunnam stated that the reason why she is asking for this is to cross-check the political contributions that have been made by those investors and land developers in the amount of \$30,000 and \$ 7, 800.

Resident Tona Lwalaski was sworn in. She stated that the applicant said that the arrangements were made for this application. Her question is what happens if the resident does not want to sell, do you just take it anyway? You are free to do whatever?

Mr. Shea said that the resident was talking about the imminent Domain.

He said if somebody intentionally or unintentionally goes into your property, maybe the surveyor messed it up or something, you bring something like that to equity Court. They have a jurisdiction to handle that and they will go down title and surveys or third-party independent surveys to take a look at it and they'll enforce that law. The equity county will determine whether this is your property or not.

Mr. Shea said unless the Township and County have the Imminent Doman Act they cannot.

Resident Kim Rale, 547 West Commodore Blvd. She stated that she was under the impression that the building was supposed to have a 25-foot buffer of trees between the properties.

Mr. Macfarlane stated that the local ordinance does not require buffers for residential use. On the application, it does require a buffer around the affordable housing unit, so the applicant does have a buggering housing unit, but around the main premier of that track, it is all surrounded by residential zoning, so there is no buffer required.

Public comment closed motion Sullivan/ Burnstein all in favor among present.

Motion to approve the application Riker/Campbell yes: Bressi, Burnstein, Haring, Riker, Flemming, Heller, Sullivan, Wall, Campbell, Herman.

**Application Block 6501, Lot 42.02 my address LLC - 2156 W. County Line Road.**

Mr. Klee stated that the application is in addition to the existing one-story Commercial building which is presently occupied by the daycare facility. The project maintains existing site circulation, and a few recreation areas are proposed at the rear of the site, so testimony from the applicant regarding the amenities that are going on in that recreation area is needed. There are several existing variances, as well as 2-3 proposed variances. Mr. Klee thinks the Board should have some testimony from the applicant in support of it. Not really any environmental concerns based on the developed nature of the site and based on the square footage that's proposed. No environmental impact statements are required. The project will connect to public sewer and water. Testimony regarding operations is needed, there are two waivers required for a minimum aisle width. One-way 18 feet is required and 15 feet proposed and the parallel parking 10 by 23 is required and 9 by 23 is proposed, so some testimony from the applicant is required. From an engineering perspective, there is one parking space that is located within the public right away, it is a professional recommendation that the parking gets put back on the site versus in the right way.

Mr. Peters stated that his office has a report dated July 26<sup>th</sup>, 2023. The project is in the ACHC Commercial zone. In the report, it said that daycares are not specifically listed in HC zones. However, per land use Law, child care centers located in non-residential Municipal districts are permitted subject to several items, so he would ask Mr. Borden to give the Board some background on that. Mr. Peters noted several existing condition variances Mr. Borden should indicate if any of those existing condition variances are being exacerbated.

Mr. Doyle on behalf of the applicant. He states that this is the site that has existed for 20 years as a home for the daycare center. Trying to expand the building. There are some variances noted by the professionals. Mr. Doyle would like Mr. Borden to be sworn in.

Mr. Ian Borden was sworn in. A present of professional Design service, Lakewood, NJ. Testifying as a professional planner. Licensed in NJ. A president of PDS for 25 years. Mr. Borden stated that Exhibit A1 shows an aerial map of the site, taken in May 2023. A2 is a photograph of the frontage of the site. A3 is the site plan. A4 is the colored rendering of the

building taken from the Architectural plans that were submitted to the Board. The site is Block 6501, Lot 4202 it is located along County Line Road. The site contains .41 acres in the highway Commercial Zone, containing 3,000 sq. feet. The applicant proposes to expand it to the rear by another 2,000 square feet. Mr. Borden stated that the parking is in the front, and there are driveways down either side, but they do not connect in the back, so Mr. Borden proposed to connect the driveways in a loop fashion around the building. The two existing driveways will be connected across the rear of the building and that allows the circulation for parents to be able to pick up and drop off as well as refuse enclosure and for emergency vehicles. Childcare centers are permitted under the municipal land use law. Childcare centers located in non-residential Municipal districts are permitted. A license is required from the Department of Human Services. The facility does have a child care center license issued to the name of Little Cuties North at this location. The facility serves preschool for 6 months to 5 years. The existing school has 11 staff members and 60 students. The proposed expanded facility will have 17 staff members and 96 students. The school days are Monday through Friday from 8:45 am to until 3:30 p.m. All the students are dropped off by parents with drop off between 8:00 am and 8:30 am and pick-ups between 3:00 pm and 3:30 pm. Early drop-offs are available at 7:30 a.m. and late pickup at 3:45 pm. No buses are used for the facility. Mr. Borden stated that the strategy allows a better traffic flow. The staff members carpooled and no school activities were held at the site. The building is secure with an entry only operated by staff opening a locked door. Mr. Borden stated that A2 shows the existing parking in the front of the building.

Mr. Borden said when the projects are done on County Line Road normally the road needs to be widened, in this case, Mr. Borden said he does not need to widen the road, because it was already improved by the County as part of this large project for County Line Road. Mr. Borden said that he contacted the County Engineer John Ernest and asked him, when developing the site plan, if the application could leave those existing improvements in place and they responded affirmatively. Mr. Borden wants to put this on the record by email dated August 23<sup>rd</sup>, 2022.

Mr. Borden said “The existing daycare will not require changes to the existing parking or access drive within the County right away and that’s an email received from John’s office, which is the County Engineering office, so frankly that gave us the comfort of that design. Mr. Stated that Mr. Klee has asked the applicant to relocate the parking space outside of the right of way, Mr. Boden stated the applicant would be happy to explore that as a condition of any approval. The driveways and aprons will remain unchanged. Mr. Borden stated that the addition is 2,000 sq. feet. It requires 10 parking spots under the Township Ordinances, the applicant is proposing 10 spaces and one ADA space directly in front of the building. Mr. Borden stated that parents will stack on these internal driveways around the building. They’re going to park while their kids wait in the stroller and walk back. Mr. Borden confirmed that the entire driveway will be a fire lane.

Mr. Burnstein states that he tries to understand that parents will be parked while dropping the kids off.

Mr. Wall had a follow-up question, he said if a woman is driving and let’s say she is pregnant and her water breaks, how she is getting out? Looks like she is stuck in the tunnel.

Mr. Hermann said whatever the Board heard so far, does not sound safer.

The Board Counsel asked if there was a traffic expert.

Mr. Borden said no. He said it is not required because of the building size. The Township Ordinance requires a traffic study when 20,000 is proposed. In this case, the Ordinance does not require a traffic study. Mr. Borden said that if the Board wants the applicant to get a traffic expert involved. The impervious coverage will increase to a number higher than the Ordinance, the ordinance permits 75% impervious coverage. This proposal has 83%, which is a new C variance required for lot coverage as noted by the professionals. A new refuse enclosure is proposed for the rear of the property, which will contain adequate space for trash and recycling. Mr. Borden stated that the traffic safety department issued some minor recommendations which the applicant agreed to follow. They simply asked for signage on County Line Road as well as a crosswalk at the back of the site. The applicant agreed to that. One c2 variance is required, which is the impervious lot coverage, a maximum of 75%, proposing 83%. Mr. Borden said there are several design waivers. Mr. Borden stated the parallel parking spaces proposed along the west side of the building, are existing additions, now getting into some design things, the parallel parking spaces are proposed along the west side of the building. The minimum size is 10 feet by 23 feet. The applicant is proposing 9 by 23, so the applicant is proposing 1 foot less of the width.

Mr. Herman stated he didn't hear anything about recreation space.

Mr. Borden stated that there is recreation, there is a recreational area in the rear of the site.

Mr. Herman wanted to know if it meets ordinance requirements.

Mr. Borden said that is not a requirement, that there is a requirement in the operating conditions of the license.

Mr. Peters wants to make sure the record is clear, that the applicant is taking the existing recreation and making it smaller, so you can increase the development of the existing building and that for this to be a permitted use, you have to get a license from Human Services including a statement that the recreation is sufficient.

Mr. Borden said this is not just a statement, there are empirical requirements Mr. Borden said he testifies that the applicant will meet those requirements.

Mr. Peters asked if this would be a condition of Resolution compliance that you have to obtain a license.

Mr. Herman asked if Zones in Jackson has a recreation requirement for the daycares.

Mr. Borden said that the daycare use is listed as a conditional use in some zones and the conditional use requirements contain do, Mr. Borden, thinks 10 of them. One of those conditions is recreational size, but those conditional use requirements don't apply because in his opinion the superseded Municipal Land Use Law allows a daycare in any non-residential zone.



Mr. Doyle wanted to add from the Legal perspective, that the importance of the daycare centers is witnessed by the fact that the State law says, you cannot stop it, you cannot prohibit it, and they are allowed to the degree that there are conditions by the Township placed upon it that impairs that, the fact that State mandates in the Bethlehem Township case made clear, the importance of the statutory requirement mandated to municipalities to allow it, so to the degree that one would try to use the limitations it impairs the purpose of the State Law and I don't think it has to be required to get a C variance from that the State has encouraged.

Mr. Peters addressed to Mr. Borden, he said he had the pleasure to work with Mr. Doyle for years, as it relates to the required side yard setback, the existing side yard setback is indicated as 17.1 feet and it appears the proposed sideyard setback is less than required than 17 feet is that correct?

Mr. Borden stated that he thought that the proposed would stay at 17 feet and he believes Mr. Doyle asked Mr. Borden a leading question, the building addition was going to be consistent with the existing building setback.

Mr. Peters said he does not know if the buildings are parallel to the property line, In Mt. Peters he does not have specific dimensions, so he takes no exceptions to the idea that it's consistent. If it needs a variance, it needs a variance and it should be specific as to what the variance appears, it's more intense than what exists.

Mr. Borden said that Mr. Peters might be correct because the side yard setback in the front corner setback in the front of the building is noted as 18 feet, the side yard setback at the rear of the existing building is noted as 17.1 feet and Mr. Borden said he believes Mr. Peters comment in fact that means this building is not parallel to the sideline and thereby the setback does reduce as it extends rearward, so Mr. Borden said he would agree with Mr. Peters statement, so where Mr. Borden testified 17.1 feet, it would be 16 feet at the new rear corner of the building, so we are exacerbating that side yard setback by one foot.

Mr. Flemming stated that the applicant's attorney said that the applicant complies with the fire requirements, but as far as Mr. Flemming knows fire lane, to park in a fire lane is offensive and yet you are using it in your operations statement. You are going to have people stop, discharging passengers and queueing in a fire lane that fire inspection would not allow. Mr. Flemming said that Mr. Borden stated that he has 10 spaces and 17 staff members. Mr. Flemming is concerned that doubling the size of the building will cause an overlay of the parking lot. Mr. Flemming stated that cars would be wrapped around the building. If there is a problem on the left side, you will trap 20 cars. If the last car breaks down and goes to the fire lane, where is everyone going? They are stuck.

Mr. Riker says that he is disappointed, the building needs a facelift and he would like to see this whole corridor take the next step. Mr. Riker stated that the applicant is trying to do with the existing property regardless of the variances is too much. We couldn't get those people who thought a double line at Dunkin Donuts. There is no area of refuge so when something goes wrong like a fire you have nowhere to put these people, they are trapped. Mr. Riker said maybe Mr. Doyle wants to advocate to your client to use a different use for this parcel as other projects

along the way have those constraints, they put a second floor on the building and they've made it an office building.

Mr. Herman asked if there was an engineering testimony about the circulation pattern and safety.

Mr. Borden said the traffic engineer is not required for the Ordinance but looks like the Board will be carrying the application, so we'll bring back some testimony on that.

Mosha Burnstein the owner of the LLC was sworn in.

Mr. Doyle asked Mr. Burnstein to respond as to what he sees as a current operator what led to making this application and why he thinks it would operate safely.

Mr. Burnstein stated that he does not know if it was presented correctly but as of now we have 2 centers, one in Lakewood and one in Jackson. Parents drop off, they go into the parking lot, they drop off, other parents wait in their car until there is a parking space open, then they park, they bring out their kids, so there are never cars parked not in the fire lane, not anything. It runs perfectly. Enough staff to control traffic. Mr. Mosha Bitnstein stated that would alleviate the traffic from County Line Road since there would be a much bigger area that they could go around the building and there wouldn't be any traffic on County Line.

Mr. Riker stated that when fire trucks pull up and park, what happens is nothing, nothing moves or goes anywhere for 45 minutes on a great day.

Mr. Shea stated that the Board has an applicant essentially testifying on traffic circulation issues instead of the statement of opinion and it's also contradicting what the applicant's professional planner has also been putting on the record. So if you want to continue down this path, I would advise you to get the pointer and identify on the map what you are describing.

Mr. Doyle asked for a hearing to continue and a determination made on the present evidence limited as it is in terms of traffic expertise or just to withdraw it, which after the expense of the applicant would be a difficult one. Mr. Doyle asked to suspend the hearing, he said to let the applicant come back.

Motion to carry the application until January 8<sup>th</sup>, 2024 for the scheduling purpose only.  
Campbell/ Riker are all in favor of the present.

Mr. Herman said before the Board adjourns, we will open the master plan amendment to the public one more time. If anyone wants to come forward from the public. No one came forward.

Motion to close Public session. Burnstein/Sullivan all in favor of the present.

### **Resolution # 2023-29**

Resolution of the Planning Board Of The Township Of Jackson, County Of Ocean, State Of New Jersey adopting Amendment to the Master Plan. The Recording Secretary stated that all the Board members were eligible to vote on this resolution.

Motion Burnstein/ Bressi Yes: Bressi, Burnstein. The voting has stopped. Mr. Flemming asked why the Board was voting now when everyone left, He asked what the Board was voting for.

Mr. Herman stated that the Board is voting on a Resolution. He said it was open to the public, it closed and now the Board has to proceed since the motion is made.

Mr. Riker stated that this is precarious.

Mr. Sullivan asked if the Board already voted on this item.

Mr. Herman stated that the Board voted for the Resolution and this is a memorialization of what the Board voted for earlier.

Dr. Campbell stated that she thought the Board already voted.

Mr. Flemming asked when the Board voted on the same day and adopted a Resolution as well.

Mr. Herman said the Board did it last time in July.

Mr. Riker recommended voting some other time.

Mr. Flemming left the meeting at 9:43 p.m.

Mr. Bressi withdraws his second motion.

Mr. Herman noted once we have a motion, the Board has to vote.

Motion Burnstein. Sullivan Yes: Bressi- not voting, Burnstein-yes, Flemming left, Haring –not voting, Riker- not voting, Sullivan-yes, Heller –yes, Wall-voting has stopped. Mr. Wall asked to take a 5-minute break and try to determine what my understanding was already approved. Mr. Wall thinks there is a technical area here and that is his view.

Mr. Herman stated, that this was good advice, and the Board went on a 5-minute break. Mr. Riker left the meeting at 9:48 p.m.

The meeting was resumed at 10:05 p.m. Mr. Wall stated that this would be his request. Clearly articulate precisely what the Board did earlier today, and clearly describe the work the planning Board thought was performed in terms of approving the item that is now additional before the Board and reconcile that dialogue and that conversation and that approval with perhaps moving technical aspects of this Resolution and dovetail those things together to ensure that the Board retaining the integrity of the Board in the voting process, so every member who remains on the Board this everyone is comfortable with the initial actions earlier and the legitimate public comments and disclosure that the Board was engaged with the approval earlier that evening to the extent that it ties to the technical Resolution that Mr. Wall's assumes was not approved earlier for a reason that we should also articulate it that's the case.

Mr. Bressi stated that one thing is correct is, no offense to Mr. Shey should articulate all that.

Mr. Shea stated that what the Board did today was that the Board voted on the amendment to the Mater Plan, so that was the conditionally used language that the Board incorporated to make sure that somebody who has two pieces of property and has one principal use and accessory use. It is contradicting to the ML and quite frankly Mr. Peters did an exceptional job of reconciling that with the Master Plan, so that is what the Board approved. The public comment, everyone spoke,

people stopped speaking, we closed. The Board voted. Right now this is the adoption of the Resolution of that. So it's just the Resolution, the representation that was approved.

Mr. Bressi asked if the Board normally opens the Resolution for public comments.

Mr. Shea said normally no.

Mr. Burnstein stated that it got so chaotic for a second, so if a motion was made to open what was an error because usually it's just a Resolution at the beginning of the meeting.

Dr. Campbell stated that the Board has never voted on a Resolution immediately after taking a vote, to her knowledge. Dr. Campbell stated that this is different than voting on the Resolution and application in July. She stated that there are two components here. The biggest component is how the Board looks at the public and this was an ugly meeting as it was, so I could move to cancel the vote, which Dr. Campbell can do in the middle of the vote, as far as Robert's Rules are concerned. Dr. Campbell moved to cancel the vote, she asked if there was a second, Mr. Bressi's second. Dr. Campbell stated that the vote was for the cancellation vote.

Mr. Wall asked if there is a special meeting next week.

Mr. Shea responded yes.

The recording secretary clarified that the motion was a cross-motion to cancel the previous vote.  
Bressi-Yes

Burnstein-No

Haring-Yes

Sullivan –No

Heller-No

Wall –Abstain

Campbell-Yes

Herman-No

Dr. Campbell stated that the Board will continue to vote on the motion. Dr. Campbell stated now the Board has to have a motion and second.

Mr. Herman said the Board already has it on the floor.

The recording secretary asked if there was a quorum. Dr. Campbell said yes.

Motion to approve the Burnstein/Sullivan

Bressi- Not voting

Burnstein-Yes

Haring-Abstain

Sullivan-Yes

Heller-Yes

Wall- Abstain

Campbell-Abstain

Herman-Yes

Mr. Hermans said he believes that abstaining and not voting is the same thing.

Dr. Campbell said that before Mr. Flemming left he said he would not vote.

Mr. Shea stated that Mr. Flemming was not present

Dr. Campbell stated that she was under the impression that abstaining was No.

Mr. Shea said that abstaining is under Robert's Rule of conduct. Abstain is not a yes or no.

Mr. Wall wanted to know what was the results of the voting.

Dr. Campbell said that the vote passed.

Motion to close Bressi/ Bursnein all in favor among present.

Respectfully submitted by

Irina Darrar

Planning Board Recording Secretary