

## JACKSON TOWNSHIP PLANNING BOARD MEETING

Monday, November 21<sup>th</sup>, 2022

The November 21<sup>th</sup>, 2022 meeting of the Jackson Township Planning Board was called to order at 7:30 p.m. by Board Chairman Robert Hudak with a salute to the flag by all present. Attorney Sean Gertner read the Open Public Meetings Act Statement noting that adequate notice has been provided and advertised in the manner prescribed by law.

**Roll Call:**

Dr. Campbell	Mr. Canderozzi-Alt # 2
Mr. Flemming, Councilman	Mr. Haring, Board Vice Chairman
Mr. Burnstein	Mr. Hudak, Board Chairman
Mr. Hernman –Alt # 1	Ms. Demarzo –Mayor’s Designee

Absent: Mr. Wall-Municipal Representative and Mr. Riker

**Also Present:** Sean Gertner, Planning Board Attorney, Ernie Peters, Board Planner, Doug Klee, Board Engineer, Anthony Jacob, Township I.T. Representative, and Irina Darrar, Planning Board Recording Secretary, Laura Morrison Planning Board Secretary.

**Payment of Recording Secretary, Irina Darrar for the November 21<sup>th</sup>, 2022 meeting.**

**Motioned by Dr. Campbell/Burnstein Yes:** All in favor among present.

Minutes to be approved.

Planning board meeting minutes for August 15<sup>th</sup>, 2022

Motion by Flemming/Burnstein Yes: Mr. Flemming, Me. Canderozzi, Mr. Burnstein, Dr. Campbell, Mr. Hudak

Planning Board meeting minutes for September 19<sup>th</sup>, 2022

Motion by Burnstein/Haring Yes: Mr. Flemming, Mr. Burnstein, Mr. Haring, Ms. Demarzo, Mr. Hudak

Planning Board meeting minutes for October 3, 2022

Motion by Burnstein/Flemming Yes: Mr. Flemming, Mr. Burnstein, Dr. Campbell, Mr. Haring, Ms. Demarzo, Mr. Hudak

## **Resolution 2022-24**

**Resolution of the Planning Board Of Township Of Jackson, County of Ocean, State of New Jersey Granting Preliminary and Final Major Site plan approval with variance relief for a two-story office building for R&K Jordan Realty, LLC Block 84, Lot 8**

Motion by Burnstein/Haring Yes: Dr. Campbell, Mr. Burstein, Mr. Haring, Mr. Hudak

## **Resolution 2022-25**

Resolution of the Planning Board of the Township of Jackson, County of Ocean, State of New Jersey Granting Amended Administrative approval after second courtesy review to Add a 19.09 sq. ft. addition to the existing Technical School, Block 18401, Lot 4

Motion by Flemming/Burnstein Yes: Mr. Burnstein, Mr. Herman, Mr. Flemming, Ms. Demarzo, Mr. Haring, Mr. Hudak.

## **Application Block 401, Lot 9, White Debow Road**

**Mr. Klee** stated that this application related to the March 2022 approval for approximately 680,000 sq feet of development involving a warehouse and office. There was an issue that arose during the preliminary approval about access easement along the Southern property line. The Board initially thought that everything was worked out with the adjoining property easement, turns out it wasn't. The applicant has made some revisions to the plans to accommodate the adjacent property of the easement, as well as the fire people on board with an engineering perspective, Mr. Klee has no problem with the amendment.

**Mr. Peters** stated that their office has a report date is October 7<sup>th</sup>, 2022. From a planning perspective, the property still is in the same zone, so it still is permitted use. From the traffic perspective, the applicant is accommodating the adjacent property owners' concern with a revised circulation plan, which the township professionals have some comments on and Mr. Peters believes the applicant is ready to testify as to the reasons for the amendment to the circulation plan.

**Attorney Salvatore Alfieri** on behalf of the applicant. Final approval was granted by the Board but the resolution was never adopted because after that approval was granted Mr. Bevino stepped up and advised the applicant and the board that he had concerns and that his company has a 30-foot-wide exclusive access easement to the rear property and the applicant did not accommodate for that on the plans. The applicant renegotiated with Mr. Bevino and came up with the plan that they can share the access if and when that backpiece is ever developed. For tonight the applicant

seeking simple final approval again as an amendment. This approval when granted required the applicant to realign the road because it comes in at the angle when it intersects.

**Mr. Gram MacFarlane** was sworn in. Professional Engineer, Certified Municipal Engineer. Licensed in the State of New Jersey. Mr. MacFarlane stated that Exhibit A1 shows the site Block 401 Lot 9 with the frontage on Write Debow Road and Kolendorski Road. There was an easement from Lot 9 to one of the adjoining properties which are Lot 3, which sits behind lot 9. Lot 3 is a landlocked parcel that does not have any direct street frontage or street access. The applicant easement benefits Lot 3. When the site plan was designed that was not accommodated in the original design. It was uncovered a little bit later. Exhibit A2 shows the site plan that was originally approved by the Board. It did not provide any direct access to Lot 3. Exhibit A3 shows the revised plan. The applicant is proposing a driveway from Kolendorski Road along the perimeter of the site to adjoining Lot 3. Mr. MacFarlane does not know what will be proposed on Lot 3, the intersection may need to be wider or something along those lines, but the applicant's proposal will be conditioned in the Resolution. The Board would have an opportunity to review both of the street intersection designs when contemplating a development for that subject lot. Exhibit A4 shows which entity would be responsible for which portion of the driveway to be constructed. What's shown in green would be required as part of this application, the development of Block 401, Lot 9 would provide full access to the project. The second part is a yellow part, which would be the extension of that access driveway to service Lot 3. The agreement between the property owners is that the owner of Lot 9 would construct the improvements that service this site plan that the Board's considering. The owner of Lot 3 would be required to construct the extension from its terminus about at the end of the first building back to service Lot 3 so that would be a private agreement between the two owners. It should be spelled out in line with the Resolution. The Ordinance requires 10 feet buffer along the property line and the curb. The plan does provide that 10 feet buffer. The applicant had several meetings with the County and has submitted design plans to the County for the intersection improvement. Significant progress is made.

**Open to public comments.**

**Public comments closed. Motion by Burnstein/Flemming** is all in favor of the present.

Mr. Hudak said looks like minor changes need to be done.

**Motion to approve** amended approval: Burnstein/.Flemming yes: Dr. Campbell, Mr. Burnstein, Mr. Herman, Mr. Canderozzi, Mr. Flemming, Ms. Demarzo, Mr. Haring, Mr. Hudak

**Application Block 5101, 5201, 5301, Lots 52 and 53, Hampshire Hills**

**Mr. Klee** stated that the application is pretty simple. The applicant is looking to amend a prior approval associated with the Hampshire Hills development to eliminate fencing around the drainage basins.

**Mr. Peters** said the existing housing development which has been there for close to 20 years, is still permitted use in the Zone which is why they are here.

**Christopher Lugar** on behalf of the applicant is the attorney for the association. Has a witness, Donna Prada

Donna Prada was sworn in, with executive property management, which is the managing agent for Hampshire Hills.

**Mr. Lugar** asked Ms. Prada to explain why the fence was removed.

**Ms. Prada** said that they received numerous complaints from the residents of the community that the fences were continuously being broken; they felt they served no purpose because they were not a deterrent, they were a slip rail fence. It was costing the association quite a lot of money to continue to have to repair them, they did not want to continue to spend this money on the fencing.

**Mr. Lugar** stated beside the money, there were safety concerns and asked Ms. Prada to elaborate a little bit more on that.

**Ms. Prada** stated with the fencing being continuously broken and slats laying there and posts, they felt children could get hurt if they were playing in that area.

**Mr. Lugar** asked Ms. Prada in her experience as property manager would you say the removal of the fence increased safety around the basins.

**Ms. Prada** said she would.

**Mr. Lugar** stated that it was Ms. Prada's opinion is that the fence prevented any unwanted desirables from entering the basin.

**Ms. Prada** stated that she didn't feel it was a deterrent at all.

**Mr. Lugar** asked Ms. Prada if she would give an estimate of how deep these basins were throughout the association, roughly.

**Ms. Prada** stated not very deep.

**Mr. Lugar** asked if the Association has any intention to replace the fence.

**Ms. Prada** said not to her knowledge.

**Mr. Gertner** asked if the Association now knows that it was a requirement of the approval to have the fence.

**Ms. Prada** said yes and they apologize for that.

**Mr. Gertner** asked Mr. Klee and Mr. Peters why the fence was put there.

**Mr. Klee** said that they typically see all the time, drainage basins in development and there is a fence around it. Typically it's 4 feet and there is some wire on it. The reason for it is typically safety. Unless the applicant can testify that the side slopes are so shallow that people can walk up easily, that the basin doesn't hold water, it's not designed as a wetland, but there's a variety of reasons why it wasn't included in the original approval, he thinks safety was the biggest one.

**Mr. Peters** stated that the owner of the property now or the HOA is the developer, so they cannot claim they did not know about it. They got it approved, they built it. Mr. Peters said that it was always required to have a fence and to be maintained.

**Dr. Campbell** asked if there is a liability issue here that they should be concerned about.

**Mr. Peters** said that they didn't bring any witnesses to answer that question. The Homeowners Association is petitioning this Board to remove something that was required on the original plans, and they set forth their reasons whether the Township of Jackson or the Planning Board retains any liability for granting a design waiver for something that was properly noticed and brought before the Board, Mr. Peters thinks the liability might lie with the HOA.

**Mr. Gertner** agreed with that. They didn't bring any witnesses. He asked if there was a concern that they no longer hold water, what does that mean, do their function was.

**Mr. Klee** said some designs have it, it's a wet pond. There is an impervious being put into the Basin on purpose to make it hold water, he doesn't think that is the case there, but over time if the basin is not maintained, it will stilt up and tend to hold water. Mr. Klee is not sure if that is the case here.

**Ms. Prada** does not believe that there is ever been any, water flowing out. She said she is not the property manager. She that they have the landscaper go through and ensure that it's cleaned out and also check for silt build-up.

**Ms. Demarzo** asked how often they do that.

**Ms. Prada** said she does not know. She thinks the landscapers went in 2021 to clear out.

**Ms. Demarzo** asked so it hasn't been cleared out in a year?

**Ms. Prada** didn't believe so.

**Ms. Demarzo** asked what they do when they clear it out?

**Ms. Prada** said that they take out any weeds, any vegetation, and any growth.

**Ms. Demarzo** asked if it is dramatically overgrown.

**Ms. Prada** said no.

**Ms. Demarzo** asked if that was the only one.

**Ms. Prada** said that there are 3 basins.

**Ms. Prada** stated that the homeowners were concerned that the fence constantly needed repair.

**Mr. Hudak** said that a wood railing fence would normally not last a decade. It is an unrealistic expectation that the wood fence would not need a repair or replacement after a dozen years.

**Mr. Hudak** worries that the rest of the property there is left out and not being taken care of. How can the Board prevent this?

**Ms. Prada** said HOA has put a maintenance plan together to ensure that the basins are cleaned out and functioning properly. They have a landscaping company that if there is any vegetation or growth, they come in and clean it out.

**Mr. Flemming** said that without the fencing it will be used as a play area.

**Ms. Prada** said that there is no Board of Trustees. It is a trusteeship. The developer was the person who would make the decisions on behalf of the community.

**Mr. Gertner** said the developer is still there making this decision, so it's the developer looking to save this money, not the residents.

**Ms. Prada** said no because the residents pay an annual fee to the Association.

**Mr. Gertner** thinks that at some point all communities get turned to homeowners, why after 20 years, is this taking so long?

**Mr. Lugara** is not sure if that is a requirement.

**Ms. Prada** said the developer is the trustee, of the Kaplan Organization.

**Dr. Campbell** asked who took down the fencing.

**Ms. Prada** said the trusteeship.

**Dr. Campbell** thinks that the Board will open a Pandora's Box if the Board allow the applicant not to have the secure area that was required as part of the building, then anyone in town who decided they don't want to fence around their ponds, the Board cannot maintain that as a rule. The fence was not taken down yesterday. She sees no evidence that there were split rail fences here. Everything is gone without any permission from the Township or consideration for safety as a general rule. Dr. Campbell said she is not crazy about having all these taken down. They

should be replaced. If the applicant is not happy with the type of fencing that was there, then find a way to put up longer-lasting fencing.

**Mr. Haring** stated that the fence should be there because of the safety issue. It keeps children out.

**Mr. Gertner** stated that each application stands on its own. So the argument Dr. Campbell is making is that the applicant did not present sufficient evidence to support the design waiver that they seek.

**Ms. Demarzo** asked how long have the fences been taken down.

**Ms. Prada** said approximately a little bit over 1 year.

**Mr. Hudak** asked how it was discovered. What brought the application here?

**Mr. Lugara** thinks it was just a consensus after the fact that it was removed, and that it should go in front of the planning board. This was when his office was contacted.

#### **Open to the public comments**

**Resident Ed Bannon**, 22 Abercorn Ct. was sworn in. The resident is concerned that if there is no fence, it will become a nuisance for kids using it.

**Motion to close public comments** Flemming/Burnstein all in favor among present.

**Mr. Hudak** stated that 20 years ago this Board saw a need for this fence. Somebody decided not to maintain it, it's falling, it's in disrepair, and so it's going to be removed, it is not okay.

**Dr. Campbell** asked if the application is denied and if the Association will be required to put the fence up.

**Mr. Hudak** said yes.

Burnstein made a Motion to deny the application base on the condition of being a safety issue.

**Mr. Gertner** said the vote is for the denial.

Application to be denied. **Motion by** Flemming/Burnstein yes: Dr. Campbell, Mr. Burnstein, Mr. Herman, Mr. Canderozzi, Mr. Flemming, MS. Demarzo, Mr.Haring, and Mr. Hudak

**Motion to** adjourn the meeting.

**Motion by** Burnstein/Herman all in favor among present.

Respectfully submitted by

Irina Darrar

Planning Board Recording Secretary