

## MINUTES OF JACKSON ZONING BOARD MARCH 1, 2023

The March 1, 2023 Jackson Township Board of Adjustment **regular** meeting was called to order at 7:00 p.m. with a salute to the flag by all present in person and via Zoom. Ryan Murphy, Esq. read the Open Public Meetings Act Statement and announced that adequate notice has been provided for this meeting.

**ROLL CALL:** Scott Najarian, Chairman; Lynne Bradley, Vice Chairman; Stephen Costanzo; Carl Book, Jr., Secretary; Jeanine Fritch, Acting Secretary; James Hurley; Joseph Riccardi, Alt #1 (ABSENT); Raymond Lovacco, Alt #2 (ABSENT)

Also Present: Ryan Murphy, Board Attorney; Evan Hill, Board Engineer; Ernest Peters, Board Planner/Traffic consultant; Jeffrey Purpuro, Zoning Officer; Anthony Jacob, I.T. Representative; Fran DiBella, King Reporting and Zoning Board Recording Secretary

### **ANNOUNCEMENTS**

Mr. Murphy announced that the board only has six members tonight.

2) BMH Properties, 1, LLC, Use Variance 3430, Applicant's attorney Adam Pfeffer stated he would like to carry because the application needs seven members. New date: March 22, 2023. No additional notice required.

5) John and Tracy Derouville, Preliminary and Final Site Plan 862, carried to May 3, 2023 with no additional notice required.

**Payment of (2) Vouchers:** Fran DiBella, recording secretary and King Reporting, court reporting services, for 03/01/23 as well as 03/01/23 Reporter invoice. Motion/Book. Second/Bradley. Voted Yes: Book, Fritch, Hurley, Costanzo, Bradley, Najarian

### **APPROVAL OF RESOLUTIONS:**

- 1) 2023-01, Appointment to the Board of Adjustment January 1, 2023 through December 31, 2023. Motion/Book. Second/Bradley. Voted Yes: Book, Fritch, Hurly, Costanzo, Bradley, Najarian
- 2) 2023-02, Simon and Agnes Wachslar, Bloock 7806, Lot 34. Motion to approve/Book. Second/Bradley. Voted Yes: Book, Hurley, Costanzo, Bradley, Najarian
- 3) 2023-03, Nicholas and Kenneth Piper, Block 11404, Lot 91, Motion to approve/Book. Second/Bradley. Voted Yes: Book, Hurly, Costanzo, Bradley, Najarian
- 4) 2023-04, Adopting Meeting Schedule for July 2, 2022 through June 30, 2023. Motion to approve/Book. Second/Bradley. Voted Yes: Book, Fritch, Hurley, Costanzo, Bradley, Najarian

### **APPROVAL OF MINUTES:**

01/25/2023 executive minutes and 02/15/2023 regular minutes. Motion/Book. Second/Bradley. Yes Vote: Book, Fritch, Hurley, Costanzo, Bradley, Najarian

Board professionals sworn in by Mr. Murphy.

**APPLICATIONS:**

**1: Marcellus and Alyssa Brandon** , Variance 3447, Block 10002, Lot 24, Zone R-3, 445 Freehold Road. Both applicants duly sworn by the board. Seeking a variance for pool equipment installed at 13' to side yard property line where 20' minimum is required. The applicants stated that they're selling their home and were their pool filter would have to be moved to 20' off the property line. This was discovered by their engineer. Permits were left opened by the pool company (Nicholas Pools). Final inspection was left to the homeowners. Mr. Purporo stated in the paperwork there's an approval for the pool and the equipment, but he had crossed out the 10 foot setback that the pool company had first submitted and he placed the filter on the other side of the pool with the pool company's consent and then apparently the pool company put it in the spot where it was first on the plans and it's very common that these pool companies don't always follow the rules with their final inspections. The survey is 2013, but the installation started/ended in 2014. Mr. Book asked the applicants if they raised this point to Nicholas Pools and asked if they filed suit against Nicholas Pools if they got denied here for the cost of moving the pool equipment to the other side of the pool. Mr. Book also asked if they put in a complaint with the Better Business Bureau or the Consumer Fraud Division in Trenton. Public portion opened/closed. Motion/Costanzo. Second/Bradley. Yes Vote: Book, Fritch, Hurley, Costanzo, Bradley, Najarian.

**2: White Oak Properties**, Preliminary/Final Site Plan 875, Block 11501, Lot 7.02, 130 Pushkin Lane. Applicant is seeking p/f for inpatient drug and alcohol treatment facility which already received use variance per resolution 2020-21. Applicant's Attorney, Peter Van Dyke called **his first witness Matthew Wilder, PP, PE**, Morgan Engineering, sworn by board attorney, presented three exhibits. A-1, site plan; A-2, blown-up site plan; A-3, lighting plan. Mr. Wilder testified that the lot is just over 3.3 acres in area and it is an irregularly shaped flag. The site previously housed a preexisting nonconforming use which was the Pushkin Memorial Home (boarding house). In 2017, lot 7.01 which is sort of the horseshoe that surrounds this property, received approval from this board for a major subdivision. That included the construction of 16 homes and two stormwater basins. That lot was subsequently bought by the township of Jackson for preserved open space so the property that we're here discussing tonight is surrounded by woods and will continue to be surrounded by woods. It's 390 feet to the nearest home. The site has an access driveway of 18 to 21' wide feet out to Thompson Bridge Road. Our proposal is to widen that to 24 feet to allow for two-way traffic operation. We're currently showing a concrete apron that extends back from Thompson Bridge Road about 15 feet followed by 90 feet of asphalt before the gravel driveway exists. That gravel driveway is in rough shape so we will be re-grading the driveway, putting down a semipermeable stable base to allow vehicular traffic. As you approach the building, there is an asphalt circular driveway that wraps around in front of the structure. We're going to eliminate the north part of that because it doesn't really serve any purpose for our application so what we're proposing to do is to remove that northern half, replace it with our blended semipermeable base for emergency vehicles. The parking is all situated on the south side of the site so anywhere where we can

eliminate asphalt we like to do so just to reduce the stormwater runoff. The existing site does not currently provide any handicapped accessible parking or handicapped. We're proposing two accessible parking spaces that are fully compliant. The plan currently depicts 21 parking spaces. Mr. Peters in his letter indicates a different standard for the determination of parking for convalescent homes, resting homes, and mental hospitals that requires 24 spaces, so we'll add three spaces. There will be low-level 6' tall lights with dark shields along the access drive. We have provided trees along the entire perimeter of the outdoor area, to the west of the building as well as plantings around the proposed trash enclosure. Exhibit 3 depicts the location for the proposed septic fields and proposed water well. We have calculated the sewer demand for this use as just under 11,000 gallon per day. Remington & Vernick review letters, page five, section 4, mentions the conservation overlay. We did previously have an LOI on this property for freshwater wetlands. That has since expired. We are in the process of obtaining a new LOI. There will be a total of 48 beds. The program will only accept adult patients who have already gone through at least the first stage of detoxification. There will be no court-ordered placements although patients can voluntarily agree to certain mandated in-house treatment at the facility. Generally, the stay will be around 28 days. The basement, which will have rooms, will have individual windows and exits to the building will be sprinklered. We have depicted an underground water tank in our plans and that's for the fire suppression system. There will be full time 24 hours a day/seven hours on site supervision with security, medical staff and monitoring of residents as well as visitors. There will be multiple security officers on staff including during the overnight hours. Background checks will be conducted on staff and patients along with substance abuse testing for patients during their time at the facility. Registered nurses will be on staff full time and a doctor will be available to the residents during their stay at the facility. The resolution also required that we have 100 to 150 foot paved portion of the driveway extending from the rear, back from Thompson River Road and right now we are proposing 105 feet of concrete and asphalt. We are proposing one small sign at the Thompson Bridge Road driveway. The township ordinance is silent on commercial signage in residential zone. Section 2446-B states that ground signs are permitted up to 30 square feet so while we've not yet determined the actual design of the sign we will respect the 30 square feet. I've expected to be around seven feet wide by four feet tall. It will be a monument style sign with an external illumination element and complementary plantings at the base of the sign. Mr. Hill stated it's typically 25 feet from the roadway line and Mr. Purporo stated it's no less than five feet from a property line. We are not proposing a dedicated loading zone. The largest delivery vehicle that will visit the property would be a standard box truck mainly with office supplies. Buzzer entry system where the gate is controlled inside by a security officer to eliminate noise pollution associated with a call box so as not to cause a nuisance to adjacent homeowners. By setting the gate in excess of 500 feet from the road, the operation of the gate can be conducted safely and without detrimental impacts to any neighbors. Directional signage for handicapped parking and emergency vehicles only. We will add a six foot shade tree and shade utility easement. There will be one elevator. 10 foot vegetation along both sides of the rear property lines. There are some areas where it's a little bit bare so what we'll do is we'll do selective plantings in those bare areas to really ensure that we have a continuous and full screen. This will ensure that there is no visibility for any adjacent residential properties of the subject property operation. No irrigation system for the lawn is proposed; rather, providing a

native low maintenance vegetation. We will add sidewalk along the frontage. We will double the width of the trash enclosure; one dumpster for trash and one dumpster for recyclable material. Trash to be picked up one time per week and it will be by a private hauler. Mr. Peters inquired about the private garage on the property. That will be eliminated. We are requesting a waiver to permit a parking improvement site driveway. We're proposing about 105 feet of concrete and asphalt. Use variance approval required 100 to 150. So we are requesting a partial waiver to allow the majority of that driveway to remain as gravel. We will incorporate a dry well into the design to manage the roof runoff to ensure that we are reducing the amount of runoff generated by the site. During deliberations, Mr. Book and Mr. Hurley agreed that driving on the driveway was difficult due to the gravel, so a compacted stone layer of four inches will be used. Public portion opened/closed.

Motion/Book. Second/Hurley. Voted Yes: Book, Fritch, Hurley, Costanzo, Bradley, Najarian.

3: **Dubin Contracting,LLC/Abraham Jacobs**, Block 7501, Lot 4, 283 Metedeconk Trail, Variance 3394. Dante Alfieri, Esq. said they are only seeking one variance: lot width (C-1 bulk variance). **Witness No. 1, Brian Flannery PP**, sworn by the Board attorney, credentials accepted, testified that the lot is in the R-1 zone. It requires 150' and the existing lot is 131'. The lots on both sides have no additional land that this applicant can purchase. The applicant is proposing five bedrooms on the second floor; one-car garage; two guest bedrooms in the finished basement with a playroom, and a bathroom. In terms of parking and septic, it would be a 7 bedroom house with 5 baths. They are complying with the density. The intensity is 6500 SF house and they are providing a house that's less than that and it's less than the building coverage allowed by ordinance. Mr. Book asked if there is something in our ordinance or something in the case law that allows the board to say that there's some maximum occupancy that would be allowed in a house. Mr. Peters replied that the JT Land Use Ordinance does not deal with occupancy in detached single-family homes. Mr. Hurley asked about the parking. The driveway will hold four vehicles, and will be 36' long and 18' to 20' wide. Mr. Book didn't think realistically the stacking concept would work well. Ms. Bradley asked if there was a bathroom on the first floor. Mr. Flannery stated a half bath. The only relief we're asking for is with respect to the lot width which is an existing situation with an existing home built on this lot that is deficient in lot width. But with respect to minimal lot area, 43,560 is required and we have 59,620. The minimum lot depth 200 is required. The front setback 40 is required and we're going with the 40 feet. The minimum rear yard setback 50 is required; we have 244. The minimum side yard setback is 20 feet is required. We have 33.59. The maximum building coverage that's allowed is 15 percent and we're only at 4.4 percent. Ms. Fritch inquired about the additional 670 SF finished space in the attic. Mr. Alfieri stated that the finished portion will be eliminated. Ms. Fritch inquired about access to the basement from the outside. Mr. Flannery testified you'd have to walk into the foyer and then once you get into the foyer you can go down to the basement. Public portion opened: **Anthony Verzella**, 278 Metedeconk, sworn by Board attorney, testified that this property is impacted under the Clean Water Act. Section 40:55 states that all applications must have a DEP letter prior to being submitted for consideration, so if that letter hasn't been received why are we here? He also stated that the Supreme Court ruling on the Bricktown water shed, that ruling banned septic systems from all properties that are impacted by the Clean Water Act. **No new constructions, no repairs. Why are we here?**

Mr. Book asked if that was correct. Mr. Flannery indicated that the MLUL clearly gives the board the power, it gives the applicant the availability to submit, get approval subject to those approvals, and it is contrary to his professional opinion. The ordinance indicates when you're in this conservation-only zone to submit to the DEP and submit that information to the board. Ms. Bradley inquired about the second point, that no septic system is allowed. Mr. Hill said the Clean Water Act does not say that and the State of New Jersey has never at any point said this lot or any of the lots around it cannot be developed with septic. That's considered adverse possession. **Amy Howells**, 277 Metedeconk trail, sworn by the Board attorney and testified that she's to the left of the property if you're facing it. She did her own research on the homes being built and being kept with the character of the development. As the planner mentioned, there are 28 homes on the Metedeconk Trail and 25 of those homes are under 2500 square feet. There are only three homes above 2500 square feet and they are both between 3,000 and 3,169 being the max for the street. The average of those 28 homes is 1824 square feet. I have grave concerns with the size of this home that's being requested for this lot. We're talking about over 6,300 square feet. It is three and a half times the size of the average home on Metedeconk Trail. Our street is very rural like, very quiet, a lot of wildlife. We have the river behind us. There's a lot of different little houses on the street. This does not fit into the character of the neighborhood. Also concerned about the parking on the street and not enough parking spaces. There are already excessive cars parking on Metedeconk Trail as it is. They park directly in front of my house. They park on my property. They leave trash behind. My husband has had to repair and replace our mailbox twice in the last five years. I don't see cars being moved in and out. They are just going to line the street and the street is not a wide street. There are no sidewalks. We did have concern with the septic system and the well and the drainage and we were talking about the drain and where it was going to be placed in between my lot on their property, not the property that he also owns on the other side because this person who owns Lot 4 also owns Lot 3. So we said can't we put it on that side. He owns both properties, but we were told it had to be on the lot closer to our house. Mr. Line said it was far enough away from their well that we will not impact their well at all. I went back and listened to all the testimony. I'm not sure how they can say it's not going to impact my well when they don't know where my well is. My well is within 20 feet of the property line. **Timothy Howells**, 277 Metedeconk Trail, Jackson, sworn by Board attorney, testified that part of the issue that he has is with the conservation overlay. Section C of 244-45 of that conservation overlay states "that all wetlands as identified pursuant to the letter of LOI, which we do not have, require for the application to be complete as stated in Subsection 1 above shall be excluded from gross acreage for the purpose of calculating gross density, residential density, and for calculating maximum lot coverage. In the very first meeting the engineer for the township said he believed that more than half of this lot was wetlands. Well if we're if to exclude that, the testimony that was given earlier where they said they provided 59,620 square feet and only required to have 43,560 square feet isn't valid testimony because they don't have that land if it needs to be excluded. Also in section C it states specifically that all required setbacks shall be taken from the wetlands limits pursuant to that LOI required before the application can be deemed complete as stated in subsection C-1(a) above. Not the property line as otherwise noted. Said the rear setback 50 feet and that he provided 244. He didn't provide 244 because we don't have the letter so therefore we can not establish where it

actually needs to be. And if you look at his plans, he's developing right up to the wetlands they've identified, not allowing setback. **Avraham Rozsansky**, 226 Lenape trail. That's on the corner of Metedeconk and Lenape Trail, testified that he hopes the Board approves this application because it's going to enhance the neighborhood. Motion to approve/Hurley. Second/Book. Voted Yes: Book, Fritch, Hurley, Costanzo, Bradley, Najarian.

Motion to adjourn at 9:52 p.m. by all. All voted unanimously

Respectfully submitted by,  
Fran DiBella  
Zoning Board Recording Secretary