

**MINUTES OF REGULAR MEETING OF THE
JACKSON TOWNSHIP BOARD OF ADJUSTMENT MAY 20, 2020**

The May 20, 2020 Jackson Township Board of Adjustment Meeting was called to order at 7:02 p.m. with a salute to the flag by all present. Attorney Sean Gertner read the Open Public Meetings Act Statement and announced that adequate notice has been provided for this meeting.

ROLL CALL: Peter Maher
James Hurley
Jeanine Fritch - Alt #1
Nino Borrelli – Alt #2
Kathryn McIlhinney, Board Secretary
Stephen Costanzo, Board Vice Chairman
Carl Book, Board Chairman

Absent: *Garry Miller, Scott Najarian*

Also Present: Sean Gertner, Board Attorney, Evan Hill, Board Engineer, Ernie Peters, Board Planner, Frank Miskovich, Traffic Engineer, Jeffrey Purpuro, Zoning Officer, and Danielle Sinowitz, Zoning Board Recording Secretary.

RESOLUTIONS: 2020-12: Hyson Estates, LLC, Block 4801, Lots 5-10, Harmony Road- Granting variances to construct 25 Townhouse Buildings (202 units), and a clubhouse. **Motion to approve by MAHER/ Costanzo. Yes:** Maher, Najarian, Miller, Fritch, Costanzo, Book.

2020-13: Zolty, Block 13601, Lot 23, 8 Denmark Lane- granting administrative approval to remove the condition to relocate an on-site easement and for architectural plans submitted. **Motion to approve by MCILHINNEY/ Borrelli. Yes:** Maher, McIlhinney, Fritch, Borrelli, Costanzo, Book.

2020-14: Dulowski, Block 7302, Lot 4, 8 Bryant Drive- granting approval of a variance to maintain a deck. **Motion to approve by MCILHINNEY/ Costanzo. Yes:** Maher, McIlhinney, Fritch, Borrelli, Costanzo, Book.

2020-15: Hannemann, Block 3601, Lot 146, 55 Anita Drive- granting approval of a variance to construct an addition and a deck. **Motion to approve by COSTANZO/ Maher. Yes:** Maher, Hurley, Fritch, Costanzo, Book.

2020-16: Royal Grove Realty, LLC, Block 16005, Lot 36, 14 Knight Drive- denying an interpretation of purposed uncovered rear deck/ terrace. **Motion to approve by BORRELLI/ Maher. Yes:** Maher, Fitch, Borrelli, Costanzo, Book.

2020-17: Kennedy Ventures, LLC, Block 11404, Lot 82, Willy's Lane- withdrawing the variance request to construct a single family dwelling on a lot that does not meet the required lot depth. **Motion to approve by MCILHINNEY/ Costanzo Yes:** Maher, McIlhinney, Hurley, Fritch, Borrelli, Costanzo, Book.

2020-18: Whalepond Development, LP, Block 7301, Lot 10, 741 Brewers Bridge Road- approving a variance for freestanding sign. **Motion to approve by MAHER/ Hurley. Yes:** Maher, Hurley, Fritch, Costanzo, Book.

APPROVAL OF MINUTES: Approval of March 4, 2020 Meeting Minutes by COSTANZO/ Maher. Yes: Maher, Hurley, Fritch, Borrelli, Costanzo, Book.

APPROVAL OF VOUCHERS: Motion to approve a voucher for Danielle Sinowitz in the amount of \$150.00 for the meeting of May 20, 2020 by MCILHINNEY/ Maher. Yes: Maher, McIlhinney, Hurley, Fritch, Borrelli, Costanzo, Book.

Mr. Book advised there are no announcements, and there is an area for discussion which there is a hold, and there is an application for this evening. Mr. Gertner noted it may be easier to handle that matter first, and asked if the attorney could be UN muted in case there is discussion.

Mr. Gertner swore in the boards professionals

Applications: 1. Eco Site II, LLC/ Lessee, Block 17302, Lot 6, 624 West Veterans Highway- Mr. Peters stated if the Board recalls an applicant was Before the Board for 2 cell tower sites and through litigation each of them was approved for development and the one before us is here for a time extension, and this is on Township property which means the Township is collecting rent from the site, and the applicant has gone to the DEP for wetland permits, and with this being owned by the town and tax payers, the engineer sent a letter to the applicants attorney explaining the delay in moving the project forward, and the applicants attorney submitted a formal request for time extension on May 13, 2020, and the applicant has to prove with reasonable satisfaction, and since this is still pending approval from the DEP, this is favorable. Mr. Book asked if there are any questions about this request. **David Kenny- attorney for the applicant-** advised the request before the Board is for a 1 year time extension, and the applicant is also asking the Board for consent for an additional 6 months for the DEP approvals. Mr. Peters noted that would seem reasonable. Mr. Book agree that would seem reasonable and with reading some of the comments, it was the second extension that was not heard clearly enough, and asked if that can please be further explained. Mr. Gertner stated the Board may recall that the settlement and the application as it is now before the Board, it is a settlement that was sent forward for an applicant to be able to be on a Township owned lot, and there are environmental constraints, and the applicant needs to ask for permission to have an extension, and the Board would recommend that be done as it is beneficial to the Township. Ms. McIlhinney asked if the applicant is asking for the 6 months extension for the DEP permits and 1 year extension also. Mr. Kenny advised the applicant

is looking for a 1 year time extension for the variance plus an additional 6 months to obtain the necessary DEP permits. Ms. McIlhinney made a motion to approve a 1 year variance time extension, and the 6 months additional for DEP permits.

Motion to approve by MCILHINNEY/ Maher. Yes: Maher, McIlhinney, Hurley, Fritch, Borrelli, Costanzo, Book

Matters for discussion- Mr. Book advised there are no other matters for discussion now that the ECO site has been addressed, and the Board will get to the pending applications and meetings, and asked how this would be desired to go through. Mr. Gertner shared the ideas from the DCA's provided guidelines to have boards function during the pandemic, and the governor has waived time frames for application and the Board are being asked to function as normal as possible, and for applications where there is at least the conception of potential public participation, and there should be communication with the applicants to see if they can carry their matters to avoid large public comment as there has been no executive order, and most of the applications that come before the Board do not have professionals, they come for fences, and in order for the questions from the Board, the applicants have to make certain that their documents are submitted in a form where they can be uploaded on the Township website, and there is only one application that is seeking a hearing and that is the White Oak Center which was carried from April 1, 2020 and there was request for public participation, and as the Board is aware from general knowledge, Ocean County has been enforcing a strict 10 persons policy, and because of notice requirements that couldn't be assigned until June 17, 2020. Mr. Book advised there needs to be clarification, and if there is a worst case scenario of no relief, or participation of applicants, what happens if the Board does not make a decision and then is pressed by an applicant, and there is also question as to which application could have that potential danger. Mr. Gertner stated that Dawn is in the process of obtaining a list applications that have a time extensions, and the only application that there is concern over is the White Oak application, as there has already been a letter made by Judge Ford which was able to be pushed off due to this meeting today, it would be asked that, that matter be scheduled for June 17, 2020, and it's the applicant who has the obligation to have notices set up and exhibits available to the public, pre-marked. Mr. Book mentioned that those comments make sense, however it would be well served to hear the White Oak Center on the June 17, 2020. Mr. Gertner recommended adding at least 2 bulk applications. Mr. Book asked if it would be up to the public members to upload their items. Mr. Purpuro stated this could be done by the Planning and Zoning office, as just about anything can be scanned. Mr. Gertner added after the scans were complete the I.T. department in Jackson would have to set up a link for the particular applications and in the applicants notice it would have to list where the link can be found. Mr. Purpuro stated that out of the 12 applications that have been carried, there are only 4 basic bulks, so hearing 2 at a time would be best. Mr. Hurley raised concern with these types of meetings, as there needs to be public involvement, and it's UN sure how that can happen, if every effort is made and if the applicant will not consent and there isn't the availability to address the public. Mr. Gertner advised there is also the risk to set forth conditions. Mr. Borrelli asked if there will be notice. Ms. McIlhinney mentioned that the Board's obligation is to allow the applicant and the public, and there is a fine line, and we need to see what the line comes down too, and there needs to be assurance that the Board can have all public comment, the last thing anyone wants is the public to come down on the Board. Mr. Gertner stated unfortunately for reasons that are un known the legislature is that of the governor and chief justice, and these times of application requirements have not been waived, building and construction are to continue so the easy answer is to do the best possible, and because this is a narrow issue the denial has been reversed and that is because the Board is going to lay out conditions, and if the Board feels the public participation isn't being done, it can be stopped and carried. Mr. Book noted the Board is essentially in UN chartered waters, but there are certain rules in play right now, and the members can make a good faith attempt, and there is a path that shows and exhibits that we as the Board are complying with. Mr. Maher asked if there are there any lawsuits against Board's regarding meetings. Mr. Gertner advised there is no suits that he is aware of. Mr. Costanzo stated the Board needs to proceed under the circumstances however under the circumstances if the public isn't being properly heard, the Board will step up and make comment to that effect, and hopefully the state will open up, and the Board needs to proceed with what can be proceeded with. Mr. Gertner mentioned there has been recommendation that the 10 person requirement should be adhered too, and the Board should approve carrying what was discussed. Mr. Hurley asked if there can only be so many participants tuning into zoom. Mr. Gertner stated the municipality has a max of 100 people, and there is unlimited time, so that is why if you are looking at the notice there is a backup system to at least view the meeting, and if there are more than 100 participant, they can at least view the meeting on Facebook live.

Motion to carry White Oak Center LLC, Yaakov Salomon, and Emanuel Esteves applications to June 17, 2020 by MCILHINNEY/ Maher.

Yes: Maher, McIlhinney, Hurley, Borrelli, Costanzo, Book. **Abstain:** Fritch

Motion to adjourn at 8:01 p.m. by BOOK. Yes: Among those present.

Respectfully submitted,

Danielle Sinowitz,
Zoning Board Recording Secretary