

**MINUTES OF REGULAR MEETING OF THE
JACKSON TOWNSHIP BOARD OF ADJUSTMENT JUNE 17, 2020**

The June 17, 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	Kathryn McIlhinney, Board Secretary
James Hurley	Stephen Costanzo, Board Vice Chairman
Scott Najarian	Carl Book, Board Chairman
Jeanine Fritch - Alt #1	
Nino Borrelli – Alt #2	

Absent: *Garry Miller,*

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

RESOLUTIONS: **Resolution 2020-20: Eco-Site II, LLC/ Pyramid Network Services LLC, Block 17302, Lot 3, 624 E. Veterans Highway-** approving a one year time extension for a 150' monopole that received preliminary and final site plan approval by Resolution 2019-23 dated May 1, 2019 **Motion to approve by MCILHINNEY/ Costanzo. Yes:** Maher, McIlhinney, Hurley, Fritch, Borrelli, Costanzo, Book.

APPROVAL OF MINUTES: **Approval of May 20, 2020 Meeting Minutes by MCILHINNEY/ Costanzo. Yes:** Maher, McIlhinney, Hurley, Fritch, Borrelli, Costanzo, Book.

APPROVAL OF VOUCHERS: **Motion to approve a voucher for Torro Reporting Secretary Fran DiBella in the amount of \$250.00 and for Danielle Sinowitz in the amount of \$150.00 for the meeting of June 17, 2020 by MCILHINNEY/ Costanzo. Yes:** Maher, McIlhinney, Najarian, Hurley, Fritch, Costanzo, Book.

Mr. Book announced that matters for discussion will be done after the applications are addressed, and moving onto the applications, applications 1. **Yaakov Salomon, Block 20201, Lot 32, 6 Bear Trail,** and 2. **Emanuel Esteves, Block 15805, Lot 1, 1 Morning star lane,** have both been requested to have their matters carried to another date. Mr. Purpuro noted that is correct. Mr. Book asked if there is new date that has been set up. Mr. Gertner noted that is part of this evening's discussion. Mr. Gertner then stated for members of the public applications 1. **Yaakov Salomon, Block 20201, Lot 32, 6 Bear Trail,** and 2. **Emanuel Esteves, Block 15805, Lot 1, 1 Morning star lane** will be carried after conclusion of the variance remand, and that is when the Board will discuss future meeting dates.

Applications: 3. **White Oak Center LLC, Block 11501, Lot 7.02, 130 Pushkin Road- Peter Vandyke- attorney for the applicant-** stated this application is before the Board for a remand by the court, and based on the remand the 15th exhibit was provided via PDF, and the reasonable conditions are here for approval and a resolution. Mr. Gertner noted there are several new board members between the first hearing and the application process, and stated for the record that all members are eligible and qualified. Mr. Vandyke stated that the application has already discussed the reasonable conditions and during the past meetings, items have been gone through that were previously approved with regards to the operations of the Center if the decision is approved. Mr. Gertner asked for a brief background of the application. Mr. Vandyke stated this is an application for a post detox rehab center, and mentioned that there will be no detox going on, as it is a residential rehab and it is for adults and non-criminal defendants. The center will not be for people from the court system to go through the rehab process, and it is typically for a month period which is the standard at this point and time and there will be counseling for both substance abuse, and re intergrading to get the residents released without risk of going back to past habits to avoid going back to rehab again. Mr. Book noted that it is up to attorney to determine if the background provided is enough for the Board, and the transcripts have been read and after hearing the context, the Board should move forward and the information provided is satisfying, however if there needs to be more information, it can be provided or you can proceed accordingly. Mr. Vandyke mentioned if all transcripts were read, then what was said is satisfying, and what is considered personally for reasonable conditions, it would be assumed to have on site supervision 24/7 which would include security and medical personal to monitor the activity of the residents and there will be medical and criminal back ground checks for everyone admitted into the program and psychiatric background checks will also be done, and as typical it is mandatory for substance testing while the residents are in program, and the person would not be allowed to use their personal vehicle and once someone is dropped off, that person will not be allowed to leave in their own vehicle, and there will be an upraise and addition to the fence that is existing now, and there would have to be a sprinkler systems. Mr. Vandyke mentioned that there would be electric, and mechanical upgrades and there would be upgrades to the parking area, and seeing as there was a lot of discussion based on security, and the applicant will be willing to put up fencing and gates and there was a plan purposed which was sheet 2 in the exhibits that were downloaded in PDF form showing the fenced in back yard area which would also include vegetation for screening and fencing in front of the building along with the area in the front, and the gate would be at the flag which would encompass the entire residential area. Mr. Book stated there is a sheet "number 2" that was referred too which was not a part of the plan prior, can that sheet be brought out in front of the camera so the public can view that sheet, and it may not be able to be done however if it can be attempted, that would be appreciated. Mr. Gertner stated that the Township I.T. person is going through the link and the screen will be showed and shared with the public that is tuned into zoom, and there were 15 Exhibits which were provided to the municipality, and if possible, can those exhibits be confirmed is available for the record. Mr. Vandyke stated there are only a handful that are going to be used this evening and some exhibits were from the original application, and **Exhibit 2** shows the proposal where there would be fencing to the rear of the building and fencing with a gated entrance. Mr. Peters noted while there is a new exhibit, this is the time to remind the Board that this is a use variance and the Board is not hearing site plan information, and the Board is not tied to the specifics. Mr. Book added that the Board is really focusing on this application as a concept, and the judge did address some conditions, and the Board is focusing on where and how high the fence will be. Mr. Vandyke stated there are the items that would be reasonable conditions, which are the egress and ingress

monitoring and if one door opens there would be warning that a door was open and an outdoor sensor and video monitoring, and monitoring of each resident at the facility. Mr. Vandyke advised that those items have been discussed and are conditions of approval that the client will consider reasonable. Mr. Hurley stated he read the transcripts and noted there is an architect who testified, and there will be patients on 3 different levels which turned out to be 58 beds and the testimony was to a max of 59 patients. Mr. Vandyke stated that document 4 was the plans that have been produced.

Daniel Condatore- engineer- sworn- to clarify, there are 49 beds and that is what will be provided and that has been double checked. Mr. Hurley stated there are some conditions that the Board may want to consider, and the residents testimony was heard and it was un sure if the residents there are being subsidized, and it was not part of the record and judge ford wouldn't consider that, and if they are subsidized, there are then homeless, and the Board is trading one use for another and these people should have to be relocated. Mr. Gertner stated that is a landlord tenant law, and there is an obligation to relocate those residents, and if there is a consecration of any sort, and there are long termed tenants the landlord should have to relocate. Mr. Hurley mentioned that if it's a beneficial use as it exists, there should be mitigation. Mr. Gertner asked if there is objection for use variance approval, is there objection to the tenants receiving relocation assistance. Mr. Vandyke stated the applicant will follow the law, and the current tenants cannot be evicted. Mr. Hurley asked if this is a county or state program, and if there is assistance to the occupants. Mr. Vandyke stated this is private enterprise that rents to individuals. Mr. Gertner advised there was some research done with the affordable housing, and this site is not included in the Jackson Township affordable housing aspect and this site would not count towards COAH credits because of the short term rentals, and some folks may receive section 8, however the current owner did not apply to obtain assistance and credits to prude low income housing, and the law should be followed and it should be on the record. Mr. Vandyke agreed. Ms. McIlhinney asked since this facility is private, is there public funding. Mr. Vandyke stated there is not. Ms. McIlhinney asked if the requirements are different then the publicly funded facilities, or are there certain regulations. Mr. Vandyke stated the facility will follow state guidelines, and it will be licensed by the state. Mr. Gertner mentioned another condition that was agreed to and once the license is obtained, the license would be provided to the Township. Ms. McIlhinney asked when patients come they will checked, however what about employees. Mr. Vandyke stated employees will be checked the same as the patients. Ms. McIlhinney asked if that includes criminal background checks and drug tests, and will be they ongoing, and with regards to the counseling, there is 2 tiers of counseling. Mr. Vandyke stated the testing will be on going, and yes there is 2 tiers of counseling. Mr. Najarian advised he was present at the original hearing, and the concern is safety, is there only going to be 1 RN dispensing medication.

Kevin Stewart- sworn- noted there will be 2 RN's on a shift. Mr. Najarian asked if there will be LPN's. Mr. Stewart advised there will be 1 or 2, however there will be most likely 1 and 1 on 12 hours shifts. Mr. Najarian asked if there is a patient to go to the hospital, will a RN go with the patient. Mr. Stewart said no. Mr. Najarian asked with regards to the security team, will there be someone there securing the site. Mr. Stewart stated there will be 24 hour alarms on all doors. Ms. McIlhinney asked if the patients are allowed to have visitors. Mr. Stewart stated visitors will be allowed 2 days a week, on Tuesday's and Sunday's. Ms. McIlhinney asked if the visitors will be checked. Mr. Stewart advised visitors will be checked and will not be left alone with patients yes and never left alone, and visits will be done in group rooms. Mr. Najarian asked how disabled visitors will get to the third floor. Mr. Condatore stated the 1st level is ADA accessible, and those patients will be on the first floor, and a ramp will be added, and that is where the dining is and the group rooms as well. Mr. Borrelli asked if there will be a metal detector at the door. Mr. Stewart said no. Mr. Borrelli asked if security will be armed. Mr. Stewart said no. Mr. Borrelli noted there are concerns from residents about how far the closest residence is to the application. Mr. Vandyke stated that slide number 3 can be showed.

Matthew Wilder- engineer- sworn- referred to slide 3, and stated that this slide shows there is a line across the building to the roadway, and that shows near the closet purposed lot, and to the nearest newest residential dwelling there is approximately 641' to the rear property line and another 80-90' to the home, and the existing dwellings are further to the right across the street and that is excess of 1000' away. Mr. Borrelli stated it was mentioned that there is renovations being done, and asked if the noise levels can be spoken on. Mr. Condatore stated there will be no heavy construction, the most is the old doorways coming off. Mr. Peters noted there will be handicapped bathrooms installed. Mr. Condatore stated 90% of the modification will be done inside and the rest will be done outside so there should be no issues with sound. Ms. McIlhinney asked with regards to the testing of employees, are all employees tested, security and all. Mr. Stewart stated everyone will be included in the testing. Ms. McIlhinney asked how often testing will be done. Mr. Stewart advised tests will be done quarterly. Ms. McIlhinney asked what would happen should an employee need to be terminated and they are licensed, would that get reported. Mr. Stewart advised that whatever the states requires is what will be done. Mr. Book asked Mr. Miskovich if there are concerns, comments or questions with anything on this application. Mr. Miskovich mentioned that the general answer is no, basically there has been a traffic report and a report was done during peak hour traffic, and it was comparable to the site as it is now, and there is adequate parking, and there is more things during site plan that will need to be looked at, and there will be fencing and security during site plan. Mr. Book stated there is an issue and it would like to be addressed, and that concerns how the residents actually get here, is there a drop off/ pick up area. Mr. Miskovich mentioned that it was addressed that they would be dropped off by their own vehicle. Mr. Stewart stated patients will be picked up by the facility or dropped off. Mr. Gertner asked if all patients will be picked up and drop off onsite, and visitors will have enough space, and there is no need for on street parking to function as a facility. Mr. Wilder stated all guests have to give notification that they are coming into the facility, and the guests would be staggered. Mr. Gertner noted that relates to some of the neighbors' concerns, and that would create on street activity in a residential area, and as long as someone can park and everything can be done onsite it appears that would be a reasonable condition. Mr. Miskovich advised that is a concern to address, and the driveway from Thompson Bridge is about 500-600' and the fencing will be towards the back of the building not closer to the road. Mr. Wilder stated that was correct, because the

applicant did not want people coming to the gate to be waiting, they would have 500-600' of driveway and should someone come UN announce they would be away from the street. Mr. Miskovich stated during site plan the driveway needs to be addressed and there should be some traffic talk during the site plan stage of the application. Mr. Wilder stated what was agreed to prior was 50-100' nearest the road would be paved and the rest would be gravel and there would be widening to accommodate 2 way traffic, and gravel isn't treated like a strip and that would accommodate any driving measures. Mr. Hill stated nothing site approval is being done, and what is being agreed to be to back up the variance and what is purposed is 150' of asphalt and this approval is not accepting that, it is not a part of the approval and when a site plan is presented this can be gone through again for additional measures.

Mr. Gertner appreciate everyone's patience, and through the chair this matter is now open to the public for comment, and asked that everyone in zoom either use the "raise your hand" feature, or in the chat type in your question.

Opened Public Comment; Mr. Gertner noted that the Jackson I.T. is directly connected, to address if there are comments or questions to come through.

Mr. Book announced there is no one from the public trying to get in, that being said, the public portion is closed.

Mr. Vandyke stated there is nothing really to sum up, and there are conditions that will be agreed to should the Board vote favorably. Mr. Book stated the Board is here to consider the application as a remand and the primary issue to consider reasonable conditions. Ms. McIlhinney stated the conditions are good and this goes a long way towards the concerns of the Board and residents' concerns, and there wasn't just concerns about the residents, but the patients and the staff, and it is great to here there will be testing quarterly because the last thing the Board wants is someone with a problem treating someone with a problem. Mr. Hurley asked for the list of conditions that will be opposed. Mr. Gertner stated most important to the mitigation issues is that there will be on site supervision 24/7 and there is representation to security, and there will be multiple folks during the day with a minimum of 3 licensed guards on site overnight, and there will be licensed nurses and a doctor there during the day. There will be 1 LPN and 1 RN on site 24/7 so there will be 2 additional staff there monitoring as required by law, and the background checks of resident and staff and there will be visiting twice a week, and there was testimony that there were some conditions about how long someone can stay and that 30 days with 1- 30 day extension, and there will be no personal vehicles left on site, and there will be no commercial activity on the street. There will be a fence as depicted on the exhibit that is an addition, and further detail will be done during the site plan aspect, and the limit is 48 beds, and the ingress and egress will be monitored through the security system which will be further discussed during site plan and the applicant has agreed to present at site plan for the proper road widening and traffic commenting on the ingress and egress, and possible paving to the roadway, and the applicant cannot obtain a certificate of occupancy. The applicant has agreed to relocate with state law, and with regard to any potential law suit raised by a current tenant the Township will be advised. The tenants have to be treated a certain way according to the law. Mr. Book mentioned that the concern is understood however at this stage when considering the remand and Judge Ford is seeking to have reasonable conditions placed on the use, and a leap is being taken to ask the applicant to be responsible for the people inside this facility, and that issue isn't relevant to this application that has been framed.

Motion to approve subject to the conditions placed on the record by NAJARIAN/Maher. Yes: Maher, McIlhinney, Najarian, Hurley, Fritch, Costanzo, Book.

Board mattes for discussion: Mr. Gertner stated this is a Board determination and the un known is being addressed and the un known is how the opening will continue to flow, the Board was struggling with balancing the direct and simple bulk variances where folks in all likely hood don't have the resources or the full capacity to uploading documents, and the count on the room is 43 people, and it may make sense to allow the applicants to proceed as if this was completely open meeting so the residents who would potentially come to object would then be allowed to come into the room, and the applicant would have to understand that if that application brings in more people then allowed to adjourn, and the application would have a different type of notice where the public can only participate during zoom, and the applicants documents be uploaded. Mr. Book asked if other towns are doing that. Mr. Gertner mentioned that there has been both on zoom and not on zoom, and now that the rooms have opened, what was done tonight will be the normal. Mr. Peters noted there are 2 ways, one is everyone is person and the other is everyone remote the in between meetings are UN perfect, and the public is UN sure how to cross examine. Mr. Gertner stated for smaller applications it's worth taking the risk that there is no restriction to having the applicant come in, and if there is a formal objector the Board can come to that determination. Mr. Gertner mentioned that there was a council meeting that was zoom bombed and while there is notice and while there is public watching, the I.T. admin opens the door to allow the public to chat. Mr. Peters noted that both sides have been met, the public and the Board. Mr. Purpuro asked if there is a need for further notice. Mr. Gertner advised it may be proper that they do re notice as the last notice that was received was in March at best. Mr. Costanzo suggested that with the use variances, shouldn't 2 or 3 of those applications have a time limit, and once the time is up the application would be carried. Mr. Gertner mentioned that it can be done, however the Board would be buying into carrying the application. Mr. Purpuro stated that if this is an hour application the application should be completed. Mr. Gertner stated the only application is the Sebbag application, and one reason is because they have the Lakewood approval, and the Board should try to resolve the resident applications, and many of these bulks are for the uses in the summer, and Mr. Purpuro will reach out to the bulks that can be heard on the July 15, 2020 and there will be an agenda and there will be contact with the folks on the use variance side to start those hearings in August, and most will be represented and there will conversations to choice a full meeting and if the application brings more than 46 people they would have to adjourn.

Motion to adjourn at 8:46 p.m. by NAJRARIAN. Yes: Among those present.

Respectfully submitted,

Danielle Sinowitz,
Zoning Board Recording Secretary