

INDEPENDENCE TOWNSHIP LAND USE BOARD

Minutes – October 19, 2020

The Independence Township Land Use Board met for a regular meeting on Monday, October 19, 2020 via the Zoom virtual meeting service. The decision to hold the meeting via electronic means has been made in compliance with P.L. 2020, c.11 given the current circumstances surrounding the COVID-19 health situation, the limitations imposed under the Governor's Executive Orders, the physical limitations of the chambers, and the importance of social distancing. The meeting was called to order by Vice Chairman Engels at 7:32 p.m. and he stated that the meeting is being held in accordance to the Open Public Meetings Act by posting said notice of this meeting on the bulletin board in the Municipal Building, the Township Website, and notifying the Municipal Clerk. Advertisement of notice was placed in the NJ Herald and the Express Times.

ROLL CALL:

Present:	Carmen Feula	James Kelsey
	Donald Engels	Melissa Milano
	Geoffrey Cullen	Michael Pennington
	Mark Rafalko	Glenn Cogle
	Lucy Carvino	Robert Neumann (arriving at 7:43 p.m.)
Absent:	Robert Best	George Ulmer
	Ricardo Fernandez	
Also Present:	Eric Bernstein, Esq.	Michael Finelli, P.E.
	David Banisch, P.P.	

MINUTES:

The minutes from the September 21, 2020 meeting were distributed prior to the meeting. Mr. Cullen made the motion to adopt the minutes. Motion seconded by Ms. Carvino. Roll call vote:

Ayes: Mr. Feula, Mr. Kelsey, Mr. Cogle, Mr. Engels, Mr. Cullen, Ms. Carvino,
and Mr. Rafalko

Nays: None recorded

Abstain: Mr. Pennington and Ms. Milano.

OPEN TO THE PUBLIC:

Vice Chairman Engels opened the meeting to the public for non-agenda items. With there being none, the meeting was closed to the public.

OTHER BUSINESS:

Land Use Committee-Highlands Affordable Housing
Deferred

Master Plan-Discussion
Deferred

MEMORIALIZING RESOLUTION:

#17-002 Woodmont Independence Urban Renewal, LLC, Block 6.02, Lot 3

Mr. Cogle made the motion to approve the Resolution. Motion seconded by Mr. Feula. Roll call vote: Ayes: Mr. Feula, Mr. Kelsey, Mr. Engels, Mr. Cullen, Mr. Rafalko, Mr. Neumann,
and Mr. Cogle

Nays: Ms. Carvino

Abstain: Mr. Pennington and Ms. Milano

OLD BUSINESS:

#19-002 Pio Costa Enterprises, Block 21, Lot 38

Board Attorney Bernstein stated that the application has been amended and the notice reflects the modification. He reviewed that Mr. Pennington and Mr. Cogle are not eligible to vote on this matter. Mr. Neumann arrived.

Matthew Moench, Esq. was present on behalf of the Applicant and he stated that the tonight's application is for a Use Variance and they will have to apply for Site Plan approval if the Use Variance is granted. The Board reviewed: whether the application is a revised expanded application or a new application; the testimony that will be provided this evening; and which Board Members are eligible to vote on the matter. It was agreed that this is a continuation of the application presented last month and Ms Milano is ineligible to vote as she was not present as she did not hear last month's testimony.

Frank Matarazzo was sworn in and he and he provided his qualifications as a Professional Engineer. He noted the Finelli Engineering report of October 16, 2020. Mr. Matarazzo reviewed the Phase I and Phase II layout of the Plans, the underground wiring, evergreen landscaping, and the topographic map. The revised plans were displayed on the screen and marked as an Exhibit:

A-1 Plans, 2 pages, dated October 1, 2020

The Board discussed at great length the concept plan and the proposal, the location of the homes on Water Street, the screening, and the DEP buffer. The Applicant agreed that they will have to comply with the DEP and they may need to come back in the future if necessary. The Board discussed setbacks and buffering.

Carmen Pio Costa acknowledged that he was still under oath and he addressed the changes to the Plan.

The hearing was opened to the public for questions of Mr. Matarazzo. With there being no public comment, the hearing was closed to the public.

Mark Landgrebe of United Solar LLC acknowledged that he was still under oath. The following was displayed on the screen and marked as an Exhibit.

A-2 Project Overview, dated October 5, 2020

Mr. Landgrebe gave an overview of the materials that he submitted, which was discussed with the Board. The Board questioned the timing of a future site plan, the height of the panels (no higher than 10 feet), visual screening, possible glare, and fencing.

The hearing was then opened to the public for comments of Mr. Landgrebe. With there being no public comment, the hearing was closed to the public.

Ken Nelson acknowledged that he was still under oath and he provided his qualifications as a Professional Planner. He reviewed the positive and negative criteria. The following was displayed and marked as an Exhibit:

A-3 Memo dated October 5, 2020

Mr. Nelson continued to present the proposal and he stated that he feels that they have complied with the necessary requirements and have provided the necessary proofs for the use variance approval. The Board questioned future development.

The hearing was then opened to the public for questions for Mr. Nelson. With there being no public comment, the hearing was closed to the public.

Attorney Moench summarized the proposal and the proofs provided for a use variance approval. Board Attorney Bernstein reviewed possible conditions of an approval: the submission of a site plan; establishment of a tract/designation/buffer line; buffering; panel height not to exceed 10 feet; screening; subject to Mr. Finelli and Mr. Banisch's reports; fencing; local, state, and federal obligations; and phasing. He reviewed the proofs provided and the Board Professional's findings.

Mr. Feula made the motion to grant the use variance as presented and discussed and per the conditions as agreed upon this evening. Motion seconded by Ms. Carvino. Roll call vote:

- Ayes: Mr. Feula, Mr. Kelsey, Mr. Engels, Mr. Cullen, Mr. Neumann, Mr. Rafalko and Ms. Carvino
- Nays: None recorded
- Abstain: Ms. Milano, who did not hear the September testimony
- Recused: Mr. Cogle and Mr. Pennington

Attorney Moench thanked the Board. The Board expressed their condolences to Mr. Pio Costa and his family.

DISCUSSION:

Highlands/Master Plan/Redevelopment Discussion

Deferred

Budget for 2021

Due to the lateness of the evening, this topic was deferred to the Board's November meeting. Board Planner Banisch stated that he was advised, by the Highlands Council, that \$15,500.00 could be available to the Township and he reviewed the conditions of the work. Mr. Cogle questioned the Board Committee's recommendations being presented to the entire Board XXXX and the financing of a more complex Plan, which was briefly discussed by Board Planner Banisch, Mr. Engels, and Mr. Rafalko. Mr. Engels asked that Board Planner Banisch prepare a memo outlining the funding, the options, and possible conditions.

BILLS:

	Finelli	
Re: General		195.00
Re: Pio Costa		455.00
Re: Top of the Hill		525.00
	Eric Bernstein	
Re: General		105.00
Re: Woodmont		270.00
Re: General		90.00
Re: Pio Costa		1230.00
	Banisch	
Re: General		1328.80
Re: Pio Costa		1366.55
	Times Herald Record	
Re: Notice		24.90
	NJ Advance Media	
Re: Notice		173.25

The bills were presented and reviewed. Mr. Kelsey made the motion to pay the bills. Motion seconded by Ms. Carvino. Roll call vote:

Ayes: Mr. Feula, Mr. Kelsey, Mr. Engels, Mr. Cullen, Mr. Milano, Mr. Rafalko, Ms. Carvino, and Mr. Pennington

Nays: None recorded

Abstain: Alt #4 Mr. Neumann and Mr. Cogle

OTHER:

Board Planner Banisch updated the Board on his conversation with Zoning Officer Diehl in regards to the RDJ Shell Gas Station issue that was discussed at last month's meeting.

Board Secretary Schemm also stated that Ms. DeYong had submitted an application, after the September meeting, but then withdrew it. She stated that she does not believe any Board Professional costs were incurred and she is going to return Ms. DeYong's fee and escrow.

ADJOURNMENT

In a motion made and seconded the meeting was adjourned at 11:00 p.m. Voice vote:

Ayes: Mr. Feula, Mr. Kelsey, Mr. Engels, Mr. Cullen, Mr. Rafalko, Ms. Carvino, Ms. Milano, Mr. Cogle and Mr. Pennington.

Nays: None recorded

Abstain: Alt #4 Mr. Neumann

Respectfully submitted,

Alfia Schemm
Board Secretary
11/16/20