

Township of Hillsborough – PLANNING BOARD

Approved Public Meeting Minutes

February 9, 2023

Chairman Carl Suraci called the Planning Board Regular Public Meeting of February 9, 2023, to order at 7:30 pm. The meeting was held in the Courtroom of The Peter J. Biondi Building. All stood for the flag salute.

NOTICE OF MEETING

Chairman Suraci announced the meeting has been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 (“Sunshine Law”). Notice of the 2023 Annual Meeting Schedule has been provided to the officially designated newspapers, the Township Clerk, posted on the Township’s website and available at the Hillsborough Township Municipal Complex.

Application documents have been made available on the Township’s web site <https://hillsboroughnj.civicclerk.com/>. Complete applications files are available in the Planning and Zoning Department for inspection, in accordance with the public meeting notice.

ROLL CALL

Present - Robert Wagner, Jr	Present - Patricia Smith (Alt #2)
Present - Robert Peason	Absent - Committeeman John Ciccarelli
Absent - Frank DelCore	Present - Mayor Shawn Lipani
Present - Ron Skobo	Absent - Neil Julian, Vice Chairman
Absent - Kenneth Hesthag, Secretary	Present - Carl Suraci, Chairman
Present - Bruce Radowitz (Alt #1)	

Also in attendance: David Kois, PP, AICP, Township Planning Director; Eric Bernstein, Esq., Board Attorney (Eric M. Bernstein & Associates); Todd Hay, PE, CME, Board Engineer (Pennoni Associates); Michael Lombardozzi, CSR, CCR, Board Court Reporter.; Dylan Tollefson, Township Videographer (Fuerza Strategy Group)

CONSIDERATION OF MEETING MINUTES

- December 8, 2022, regular meeting minutes were reviewed.

Mr. Bernstein announces those eligible to vote.

A motion to approve as written was made by **Mr. Peason**, seconded by Mr. Skobo.

No comments.

Roll Call:

Yes - Mr. Wagner	Yes - Ms. Smith (Alt #2)
Yes - Mr. Peason	Yes - Mayor Lipani
Yes - Mr. Skobo	Yes - Chairman Suraci

Motion carries

CONSIDERATION OF RESOLUTIONS

None

PLANNING BOARD BUSINESS

None

CONSIDERATION OF ORDINANCES

None

BUSINESS FROM THE FLOOR (*public comment for matters not on the agenda*)

Chairman Suraci opens comments from the public; asks public to state their name and address and reminds there is a three-minute limit per person.

Chairman Suraci asks for no comments regarding warehouses as there will be plenty of time to comment during cross-examinations for each application.

Brian Tarantino – 235 Fairfield Lane

- Mr. Tarantino asks if the Board is able to respond to his previous public comments, December 7, 2022, and written submission regarding the Board Engineer's behavior, which Mr. Tarantino states was very biased, at the November 10, 2022 meeting. He states an appearance of impropriety by someone who is supposed to be representing the public is just as bad as actual bias and compromises the integrity of the entire process.

Chairman Suraci states yes they can respond; there was no bias.

Mr. Bernstein states it needs to be clarified the Board Engineer represents the Board not the public.

There is discussion regarding who the Board and its professionals represent and the concept of biased statements.

David Brook – 7 Winding Way

- Mr. Brook states his concern with Mr. Hay's statements at the November 10, 2022, meeting.
- Mr. Brook also expresses his thoughts on free speech stating he understands time limits but does not think any person on the Board can dictate content during public portion.

Chairman Suraci states he has a responsibility to conduct the Board in a manner which is fair and does not jeopardize applications.

Maria Janucik – 720 East Frech Ave., Manville (residence) / 2155 Camplain Road, Hillsborough (property owner)

- Ms. Janucik asks for some clarification on the responses recently given about the Planning Board and the Board Engineer. She asks if the Planning Board is a body separate from Hillsborough Township.

Mr. Bernstein states no but rather it is separate from the Township Committee and any other board; each has separate rules.

- Ms. Janucik asks whose responsibility is it to put out RFPs each year.

Mr. Bernstein states the RFPs are put out by the Township on behalf of the Board; the Board reviews them and makes the determination as to the hiring of professional which includes but is not limited to the Board Engineer, the Planner, the Videographer and Stenographer.

- Ms. Janucik points out the videographer is the same for the Township Committee

Mr. Bernstein explains it does not have to be and there are separate contracts for each position within each board. He states in Hillsborough the Planner is an in-house individual rather than a consultant.

- Ms. Janucik asks who signs the contracts.

Mr. Bernstein states the Chairman and Chairman Suraci confirms.

- Ms. Janucik asks who pays Mr. Bernstein.

Mr. Bernstein explains the Township pays him a certain amount of money to do non-escrow related items. He states generally the other attorneys and applicants who come before the board pay for his and the engineer's services via an escrow account. He states a very limited amount of money is paid to him by the Township from tax dollars.

- Ms. Janucik asks if he and the engineer are paid by the applicant.

Mr. Bernstein clarifies stating no, they are paid by the Township from monies the applicant pays to the Township to an escrow account for that application. He states this is no different from any other Planning or Zoning Board in the state of New Jersey.

- Ms. Janucik clarifies saying the Township is the middleman for the payments made by the applicant to Mr. Bernstein and the engineer.

Mr. Bernstein states correct.

Discussion continues further explaining escrow accounts and discussing contracts.

Chairman Suraci informs Ms. Janucik she is out of time as it has been six minutes.

Deborah Lemoire – 238 Amwell Road

- Ms. Lemoire expressed the potential negative impact of warehouses on Amwell Road with regards exiting her driveway.

Chairman Suraci reminds Ms. Lemoire they are not accepting statements regarding warehouses during this public section.

APPLICATIONS – PUBLIC HEARING

- **Jennifer Bryson (PRL) – File 22-PB-S** – (TOD: 03-30-23 w/Ext.) – Block 169, Lots 3 & 3.01 – Wertsville Road & 145 Wertsville Road. Applicant seeking minor subdivision /lot line adjustment and waivers, to subdivide 5 acres from Lot 3 (Existing 80.247 acres) to Lot 3.01 (existing 10.903 acres) to make Lot 3.01 a conforming lot, on Property in the MZ, Mountain Conservation District. Revised plan submitted 01-13-23. (PB agendas: 12-08-22; 01-12-23 – NO testimony – for scheduling only). ***Applicant requested to be adjourned to the March 02, 2023, agenda without further notice. Extension of time submitted through March 30, 2023.***

Chairman Suraci announces the applicant has request to be adjourned to March 2, 2023, without further notice.

Mayor Lipani motions to carry the application to March 2, 2023, without notice, seconded by Mr. Skobo

No additional comments

Roll Call:

Yes - Mr. Wagner

Yes - Ms. Smith (*Alt #2*)

Yes - Mr. Peason

Yes - Mayor Lipani

Yes - Mr. Skobo

Yes - Chairman Suraci

Yes - Mr. Radowitz (*Alt #1*)

Motion carries

- **Homestead 279 LLC – File 22-PB-05-S/MSPV** (TOD: 06-30-23 w/Ext.) - Block 200.02, Lot 12 (Formerly Block 200.B, Lot 28) – 279 Homestead Road. Applicant seeking minor subdivision approval; preliminary and final major site plan approval; ‘c’ bulk variances; and waivers, to subdivide 17.11 acres into two lots: Proposed Lot A to front on Homestead Road and contain 5.41 acres to retain the existing commercial use and improvement; and Proposed Lot B to contain 11.7 acres and the subject of the major site plan application, to construct a 137,413 sf. warehouse with internal office space, associated parking, lighting, stormwater, and improvements, on Property in the LI, Light Industrial Zoning District. Revised plans / reports submitted 08-08-22. *REVISED plans/documents dated October 2022. (EC Review: 07-25-22 / Revised packet routed 09-19-22) (PB agendas: 09-01-22; 11-03-22 – adjourned without further notice; 01-12-23 – NO testimony – for scheduling only).* ***Application continued from the January 12, 2023 agenda (for scheduling only) WITH re-notice.***

Participating for the Applicant: Michael O’Grodnick, Esq., Savo, Schalk, Corsini, Warner, Gillespie, O’Grodnick & Fisher, P.A.; Joshua Tiner, PE of Redcom Design & Construction LLC (Civil Engineer); Roberto Martinez, RA, Redcom Design & Construction LLC (Architect); John McDonough, PE of John McDonough Associates, LLC; and Greg Redington Managing Member of Homestead 279, LLC and Redcom Design & Construction LLC, Applicant Representative.

Participating for the Objector: Joseph C. Tauriello, Esq. of The Law Offices of Joseph C. Tauriello, Esq., P.C. (Opposing Counsel); Christopher P. Melick, PLS, PP (Opposing Witness).

Mr. Bernstein states for the record he has received Certifications of Absent Board Member Examination of Records and Eligibility to Vote from Mr. Radowitz for September and November 3, 2022, and Mr. Wagner for November 3, 2022.

Michael O’Grodnick, attorney to the applicant, introduces himself and the application. He gives a description of the application, the property and surrounding area, summarizes the last two Planning Board meetings and reviews this evening’s witness list.

Mr. Bernstein adds his summary of the two previous meetings.

Joseph Tauriello, attorney for the Objector, introduces himself.

John McDonough, project Planner for the applicant, is sworn in. He reviews his credentials

for the Board.

The Board accepts Mr. McDonough as a witness.

Mr. McDonough gives an explanation of the layout of the lot and submits a six-page visual entitled 'Planning Exhibits for Homestead' which is marked as Exhibit A-3. He gives a brief summary of pages one through four.

There is some disruption from the public regarding limited handouts and absence of Exhibit A-3 on the monitors.

Chairman Suraci calls a brief recess.

Chairman Suraci calls the meeting back into session. Exhibit A-3 is now visible on the monitors. Chairman Suraci reminds the public not to shout from their seats and there will be ample time for the public to comment and question the witness.

Mr. McDonough begins again with his summary of all pages of Exhibit A-3.

Mr. McDonough next reviews the letter dated October 22, 2022, walking through the nine-points of planning rational being the justifications for the proposed subdivision relief the applicant is seeking. He states they identified the relief as Section 188-58B which requires each lot to front on a public street. The points, in summary, include but are not limited to:

1. The project is going to deliver a permitted use.
2. Nature of Use is beneficial.
3. Land Use is an "economic engine"
4. Project does advance the fundamental planning goal for a balanced Land Use Supply and a stable Rate-able Base.
5. Project promotes the planning goal to provide for the safe efficient and free flow of traffic and the location of transportation routes that prevent congestion.
6. Better zoning alternative for the property.
7. Project promotes a desirable visual environment with an attractive building.
8. Project promotes efficient land use with an infill development on a large tract of land.
9. Several Purposes of Use of the NJ Land Use Law under NJSA 40:55D-2.

Mr. McDonough states his planning conclusion is that on balancing the benefits of the application substantially out weight the detriments and he believes there is enough for the Board to move favorable on the minor subdivision aspect of this application.

Mr. O'Grodnick has no further questions for Mr. McDonough.

Chairman Suraci calls a brief recess.

Chairman Suraci calls the meeting back into order at approximately 8:25 p.m.

Mr. Tauriello introduces himself and explains he represents a resident whom owns two residential properties which abut lot in question. He asks Mr. McDonough if he references relief under MLUL specifically Section 455D-35 under the 'Identification of Relief' section of his report.

Mr. McDonough confirms he does not.

Mr. Tauriello questions Mr. McDonough on his use and details of Pullen vs Township of South Plainfield in the Justification of Relief section of his report.

Mr. Tauriello next questions his use of Kaufman vs Planning Board for Warren Township. He states Mr. McDonough is grossly misstating what Kaufman stands for and submits a copy of Kaufman vs Planning Board opinion to the Board. He states he will rely on that to show the inaccuracies of the testimony given tonight.

Mr. Bernstein announces for the record Exhibit O-1 is a copy of a case decision 'Richard and Laura Kaufman vs Planning Board for the Township of Warren' 110 NJ 551, decided June 21, 1988. He states when he cites 'NJ' he is referring to the decision of the New Jersey Supreme Court. Copies will be made and distributed to the Board and a copy will be uploaded to Civic Clerk.

Mr. Tauriello continues his cross-examination with questions about the area highlighted as residential in Exhibit 3.

Mr. O'Grodnick objects stating Mr. Tauriello is misstating the record, that the Use is Mixed Use and there is a Landscaping-type business in the area.

Mr. Tauriello states it is a Residential Zone.

Mr. O'Grodnick disagrees.

Mr. Tauriello has no further questions.

Chairman Suraci asks if any of the Board Members have questions.

Mayor Lipani asks if the lot in question an R Zone or a residence is built on a Commercial Zone.

Mr. Tauriello states it is two Uses on one lot.

Mayor Lipani asks what the Zoning of the Lot is.

Mr. McDonough states it is Gateway B and that the colors shown in the report are reflective of how the lot is taxed and it is taxed as a Non-Residential Lot.

Chairman Suraci calls for a motion to open to the public. Mr. Wagner moves to open to the public, Mr. Peason seconds. All are in favor, none opposed.

Maria Janucik – 720 East Frech Ave., Manville (residence) / 2155 Camplain Road, Hillsborough (property owner)

- Ms. Janucik asks if this is one lot.

Mr. McDonough states it is one taxed lot.

- Ms. Janucik asks if the lot can only be accessed from one area.

Mr. McDonough states that is correct and points out the access road on A-3, Sheet 2.

- Ms. Janucik asks if right now it is a conforming lot and what the purpose is of subdividing it into two lots.

Mr. McDonough states the applicant is proposing a second building on the back portion of the property and the subdivision would keep each building situated on its own lot. The back lot, though conforming in all other areas, would have to get its access through the front lot in the form of an access easement. NJ Land Use Law and the local municipal ordinance require that any created lot front on a public street so the applicant is asking the Board to move on the creation of a lot that does not front a public street.

- Ms. Janucik asks if the purpose is to be able to access the back lot.

Mr. McDonough states correct and explains his single industrial-park-like-driveway plan which gives one access point to the road vs two.

- Ms. Janucik asks if this eliminates the need for a waiver or variance for not having access to the proposed back lot and if this now creates a need to apply for a non-conforming lot.

Mr. McDonough states he believes this is why he was called the stand, to give reasons from his professional opinion if there is enough there for the Board to move favorably.

- Ms. Janucik asks if, once divided, both lots would be non-conforming.

Mr. McDonough states no, only the back lot would be non-conforming; the front lot would still be conforming in terms of dimension and access. Only the back lot would require relief.

- Ms. Janucik asks what reason would make it non-conforming.

Mr. McDonough explains how the lot would not touch or front a street and that every single lot in the municipality is supposed to touch a street or have direct access. This proposed lot will have access but through the other lot.

Susan Gulliford - 7 Hunt Club Road

- Ms. Gulliford asks if the property is currently owned by Mr. McNally

Mr. McDonough states he does not know the owner's name or entity but is sure it is in the file records.

- Ms. Gulliford asks if Mr. Tauriello stated that had the owner placed several small commercial/industrial buildings in the back it would have been good use without going through frontage and such.

Mr. McDonough clarifies his original statement by referring to the aerial photo on Sheet 2 of

exhibit A-3 and explains from his view the ordinance would allow for multiple building on one piece of property.

- Ms. Gulliford asks if Strykr Botanica will have an impervious coverage problem with the subdivision.

Mr. McDonough cannot speak to Strykr but states the physical aspect of the development is going to be the same either way.

- Ms. Gulliford asks if the applicant offered to purchase a strip of land from Strykr Botanica which would give them access to the road.

Mr. McDonough states he does not know. He can only attest to the application before him, not what went on around it.

- Ms. Gulliford asks if he said infield development is a plus for planning and if landlocked lots are considered good planning.

Mr. McDonough states they are good planning if they hit the criteria and explains they will be hearing testimony to this point.

Brian Tarantino – 235 Fairfield Lane

- Mr. Tarantino asks, in Mr. Tauriello's opinion, why the Municipal Land Use Law requires road frontage for every lot.

Mr. McDonough states safety and access but if an applicant can prove safety and access are adequate notwithstanding the lack of frontage, it passes the test.

- Mr. Tarantino asks Mr. Tauriello's rationale for overcoming needing road frontage.

Mr. McDonough states the statute establishes the criteria that the law requires lots that front on a public street, but the law does not foreclose to create a lot that does not front on the street. He reviewed the relief; he reviewed the criteria for the relief and so believes this application stacks up.

- Mr. Tarantino states he noticed none of Mr. Tauriello's reasons actually address the issue of having road access; they didn't address the concerns that would come up for a lot without road access.

Mr. McDonough agrees with Mr. Tarantino's statement but reiterates the criteria for relief are safe and efficient access for emergency vehicles to the lot that does not front on the street.

- Mr. Tarantino asks if it is just about emergency vehicle access and if the general truck access does not matter.

Mr. McDonough states counsel had asked him a similar question and he refers to and reads a quote from section 36 of his report stating the criteria are set forth and requiring a showing of "conditions that will provide adequate access for firefighting equipment, ambulances, and

other emergency vehicles necessary for the protection of health and safety.”

- Mr. Tarantino asks if that is specifically for logistical facilities.

Mr. McDonough says no.

- Mr. Tarantino asks if this is a warehouse which will require access by trucks.

Mr. O’Grodnick states that is a question for, in-part, the civil engineer, in-part the traffic engineer and for fire issues the architect.

- Mr. Tarantino respectfully disagrees and asks if Mr. McDonough address in his report anything to do with ensuring access for trucks through someone else’s property.

Mr. O’Grodnick states this is not appropriate question for the Planner.

Mr. Bernstein says Mr. McDonough can address the question.

Mr. McDonough states from the planning standpoint what the applicant is doing is not atypical of any industrial park.

- Mr. Tarantino asks if he is saying if this is common and if so where else in Hillsborough or Somerset County has, he seen this.

Mr. McDonough says yes, it is common and while he cannot offer examples in Hillsborough he states industrial parks, office complex, regional malls or shopping centers are a Use comparison.

- Mr. Tarantino asks if he addressed it specifically in his report.

Mr. McDonough states he did not; he raised that it met the criteria of Section 36.

Thuy Anh Le - 4 Ivy Lane

- Ms. Le asks if in point number two he suggested the facility could be used for the Office of Emergency Management (OEM).

Mr. McDonough says no and explains he said the project delivers a beneficial Use. He said he did not suggested OEM use the facility but rather the Office of Emergency Management, which comes out of Homeland Security, and the Center for Disease Control, another governmental branch, categorize it as “critical infrastructure”. He believes there are 16 sectors which those agencies classify as critical infrastructure.

- Ms. Le asks if he is saying the applicant would be trying to attach that sort of industry to use the facility.

Mr. McDonough states what he was saying was Land Use is important because it delivers products, services, wares to the public. These facilities provide opportunity to have product readily available to the public.

- Ms. Le asks the validity of the benefit if they do not know for sure who will inhabit the space.

Mr. McDonough says they do not know the end user, but it will be products, supplies, medicine of that broad category.

- Ms. Le asks him to clarify his earlier statement that the two lots would be interconnected.

Mr. McDonough uses Sheet-2 of exhibit A-3 to explain showing where the lot divide and connector road would be which would physically integrate them as one in terms of circulation and access.

- Ms. Le asks if that means they need approval of the first segment for access.

Mr. McDonough states yes and explains whether the subdivision is there or not the zoning still allows another building on the property or one big building on the property that can function as one. He states “functioning as one” does not mean one business; there could be multiple business or different ownership entities. He clarifies that physically they can be interconnected.

Bill Martin – 237 Hillsborough Rd.

- Mr. Martin asks if industrial parks are an allowed Use in the LI District.

Mr. McDonough states he would have to go back and check his notes.

- Mr. Martin asks if he can check and if the Zoning officer knows.

Mr. Bernstein states it is not for the Zoning Officer to testify to.

Chairman Suraci asks Mr. Martin to clarify his point.

- Mr. Martin states Mr. McDonough had said it is basically an industrial park when done this way with a shared driveway.

Chairman Suraci asks Mr. McDonough if he is referring to this as an industrial park.

Mr. McDonough states he was not but clarifies he was saying it is not atypical for planned industrial developments that have multiple buildings on them to have lot lines that divide the buildings.

- Mr. Martin states he heard him say industrial park and thought that would be CDZ not LI.

Mr. McDonough clarifies that the applicant is not asking the Board to move on a non-permitted use here.

Carmel Meyer – 266 Fairfield Lane

- Ms. Meyer asks what is currently next to the white building, earlier referred to as Strykr.

Mr. McDonough clarifies to the west it appears to be a field.

- Ms. Meyer asks if that is a parking lot right now.

Mr. McDonough agrees it is paved surface he believes to the edge.

- Ms. Meyer asks how the proposed subdivision affects impervious surface coverage and if it means the front lot would no longer comply with regulations.

Mr. McDonough states he does not recall it being released in what the applicant is seeking. He would have to refer back to his list. He does not believe the subdivision lot line is creating an impervious coverage issue on the front lot.

- Ms. Meyer says if it is all building and parking lot, she does not see how it is not getting close to 100% impervious.

Chairman Suraci states the engineer will be able to address this question.

Chairman Suraci asks, in regard to point number five of which he reads an excerpt, if he can define 'regional transportation network' and answer why he feels Hillsborough's accessibility is excellent.

Mr. McDonough state Hillsborough's accessibility is excellent due to the easy or close proximity to the ports, the turnpike, I-78, I-287 roadway systems and the site itself is approximate to Routes 202 and 206 which have connectivity to the arterial roadways. He states the good and the bad of New Jersey is its densification. The roads are, by virtue of the size of NJ, within reasonable proximity to provide for excellent accessibility to the Regional Road Network.

Chairman Suraci asks how he defines the excellent accessibility; is it about proximity or time?

Mr. McDonough states by virtue of the fact those major roadways are nearby.

Chairman Suraci asks to define "nearby"

Mr. McDonough states within a half-hour.

Chairman Suraci asks if there is any supporting reference material which provides that definition or is it Mr. McDonough's opinion.

Mr. McDonough states currently it is his opinion and feels he should leave the rest of the questioning to the Traffic Engineer to expound on.

Chairman Suraci asks if the Traffic Engineer is a co-author on his report.

Mr. McDonough state he is not but his planning conclusions are going to certainly rely on the predicate of the witnesses who usually testify before him but in this case will come after. He reserves the right to come back and strike the comment or refine it for the record if the Traffic Engineer concludes there is not excellent accessibility.

Mr. Bernstein asks Mr. McDonough to state for the purpose of the record how close the site is to I-287, I-78 and the NJ Turnpike specifically in miles.

Mr. McDonough takes a moment to pull the information. He states he is checking via Google Maps which estimates:

- I-287 North is seven miles via Rt. 206 to Rt. 202.
- I-78 is 11.6 miles beyond the I-287 access point.

Chairman Suraci asks for an I-287 South estimate also since it has a separate access point.

Mr. O'Grodnick states the proximity to make roadway intersections is a traffic question so he recommends passing the question to the Traffic Engineer.

Chairman Suraci states if it is in Mr. McDonough report he needs to substantiate it. He continues that M. McDonough gave a qualitative description and he would like a quantitative definition.

Mr. O'Grodnick states then they would like to make more certain measurements and supplement when closing testimony.

Mr. Bernstein states they ask Mr. McDonough would provide the information at least 10 days in advance of final testimony.

Mr. Bernstein asked for confirmation on prior testimony that Mr. McDonough does not know who may or may not occupy the proposed building. And he has not been provided such information.

Mr. McDonough states correct.

Mr. Bernstein clarifies his report and testimony is based on the hypothetical in terms of the potential use of the site.

Mr. McDonough states correct.

Mr. Bernstein asks for a short recess.

Chairman Suraci calls for a five-minute recess.

Chairman Suraci calls the meeting back into order at approximately 9:25.

Mr. Bernstein asks if anyone else any other questions for Mr. McDonough.

John Lanahan – 43 Winding Way

- Mr. Lanahan asks in regard to point number four what his source was for the percentage occupancy.

Mr. McDonough states he can provide it.

- Mr. Lanahan states the Bade Report for the New York Federal Reserve Bank and

Commercial Real Estate Edge, an “industry rag”, are reporting the warehouse commercial space need is cooling off as the supply chain issues are easing up. He points out a currently available and large warehouse space in Hillsborough near Dougherty Park.

Mr. Lanahan asks if Mr. McDonough has seen anything in his research showing the warehousing market is cooling off.

Mr. McDonough states he has not.

Mr. O’Grodnick states he was able to speak with his client during the recess and if a flag lot is something the Board, Planner and Engineer would prefer they could accommodate with a redesigned plan. He states this was something Mr. Maski and Mr. Hay insinuated in the September 2022 meeting.

Mr. Bernstein states he is not sure of the appropriateness for the Board or the Board Engineer to comment on what they think is appropriate but if Mr. Grodnick’s client wants to submit a revised site plan for the project they are more than welcome to do so.

Mr. O’Grodnick states he adamantly disagrees that it is inappropriate for the Planner and the Engineer to give advice to the Board on a preferred design. He states it is common practice across the state and that they are getting no feedback from the court professionals. If they can accommodate a reasonable redesign, they will do it. Many aspects of their application will have to be redone but it something that can be done.

Mr. Bernstein states his concern is preference is perceived as approval. He does not think it is appropriate for the Board professionals to be asked in a vacuum whether they find a proposed flag lot to be more acceptable than this application.

Chairman Suraci states he is inclined to agree and tells Mr. O’Grodnick whether to redesign is going to be his client’s call.

Mayor Lipani reminds Mr. O’Grodnick there was an option from the beginning to come for a variance, but he chose to present as is his clients prerogative.

Mr. O’Grodnick states he would first ask Mr. Kois if flag lots are permitted in the I2 Zone because if they are not that would mean different relief. He states it would be very unusual if the Board and the Board professionals would not entertain options for a site plan design.

Mr. Bernstein states his concern that Mr. O’Grodnick seems to be looking for the Board and the Board professions to go on record as indicating whether one application is better than another especially since one is before the Board and one is in a vacuum. He states it is up to Mr. Kois to address the question regarding the flag lot being permissible in the zone.

Mr. Kois cites and reads into the record 188-49 Flag Lots of the Hillsborough Development Regulations Ordinance. He summarizes that essentially there is no standard for the LI District to allow for Flag Lots.

Mr. O’Grodnick asks if it would be a Bulk Variance.

Mr. Kois states he would have to evaluate that.

Mr. O'Grodnick states one option is that they can give the Board options and states it would be a very sad day if this Board and its professionals did not give applications advice on changes to site plans and does not believe that is historically how the Board operates.

Mr. Bernstein suggests to Chairman Suraci that if this is what Mr. O'Grodnick and the Board are seeking then Mr. Hoyt and Mr. Kois should provide written opinions as to the issue of applicability of Flag Lots in general in this district. It will then be up to Mr. O'Grodnick as to what to do in relation to that opinion.

Mr. O'Grodnick asks to add one more request, stating this could also be done with no subdivision and two buildings which as mentioned earlier are permitted and they will do a HOA.

Mr. Bernstein suggests to Mr. O'Grodnick he reduce that to writing for confirmation and so it may be uploaded to Civic Clerk.

Mr. Bernstein asks Mr. Tauriello if he has any comments.

Mr. Tauriello states he sure he will at some point but not at this moment.

Mr. Bernstein states it is his understanding Mr. Tauriello was going to call Mr. Melick in opposition of Mr. McDonough's testimony.

Mr. Tauriello states that is correct.

Mr. Bernstein states Mr. Melick is to be held to the same standard as Mr. McDonough was meaning he need to provide at least 10 days in advance of his testimony a proposed report for review by the Board and applicant.

Mr. Tauriello states he did submit a report and it is up on Civic Clerk.

Chairman Suraci reminds with the new time of these meetings and their hard stop at 10:00 p.m. they are now past the time for new testimony.

There is discussion regarding the next meeting, who will be testifying and possible Board actions.

Mr. O'Grodnick states his concern over the mandatory procedural due process requirement and reminds this is not bifurcated application, it's an application as it stands today, which may change, for a subdivision in a preliminary and final major site plan.

Mr. Bernstein states to Chairman Suraci, in answer to the question "what will the Board do?" which he was asked before this meeting, they will see what happens when the application gets to the end of that piece.

Mr. Bernstein states on the Boards rules the appropriate motion is to motion to continue the application to Thursday, March 9, 2023 at 7:00 p.m. or soon thereafter without further notice.

Chairman Suraci calls for a motion.

Mayor Lipani motions with a second by Mr. Peason. All were in favor, none opposed.

Chairman Suraci calls for a motion to cancel the Business meeting on February 23, 2023.

Mr. Skobo motions to cancel the February 23, 2023, meeting, seconded by Mr. Peason. All were in favor, none opposed.

Mr. Kois asks who Chairman Suraci is appointing to the Master Plan Subcommittee. He explains it was not established at the Reorganization meeting and the bylaws state before the subcommittee can move forward a chairman needs to be appointed by the Chairman of the Planning Board. The bylaws also state the Chairman of the Planning Board cannot serve as a subcommittee person.

Chairman Suraci appoints Mr. Peason as Chairman of the Master Plan Subcommittee.

ADJOURNMENT

A motion to adjourn was made by Mr. Radowitz, seconded by Mayor Lipani. Motion carries unanimously.

The meeting adjourns at 9:42p.m.

*Submitted by Robyn Bittle-Abramo
Recording Secretary*