

Township of Manalapan

Department of Planning & Zoning

120 Route 522 & Taylors Mills Road

Manalapan, NJ 07726

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Planning Board Minutes

August 9, 2018

The meeting was called to order with the reading of the Open Public Meetings Act by Chairwoman Kathryn Kwaak at 7:30 p.m. followed by the salute to the flag.

Roll Call:

Secretary, Barry Jacobson

In attendance at the meeting:

John Castronovo, Daria D'Agostino, Alan Ginsberg, Barry Jacobson, Kathryn Kwaak, Jack McNaboe, Richard Hogan, Barry Fisher

Absent from the meeting:

Todd Brown, David Kane, Steven Kastell

Also present:

Ron Cucchiaro, Board Attorney
Brian Boccanfuso, Board Engineer
Peter Van den Kooy, Board Planner
Lisa Nosseir, Recording Secretary

Mr. Cucchiaro swore in Brian Boccanfuso, Professional Engineer and Peter Van den Kooy, Professional Planner, both of CME Associates.

Minutes:

A Motion was made by Chief Hogan, Seconded by Mr. Jacobson, to approve the Minutes of July 12, 2018 as written.

Yes:

Castronovo, Jacobson, D'Agostino, Kwaak, McNaboe, Hogan, Fisher

No:

None

Absent:

Kane, Kastell

Abstain:

None

Not Eligible:

Brown, Ginsberg

Resolution:

PAM0729

Ahl'e Baith Foundation, Inc.
Mount Vernon Road and Tracy Station Road
Block 51 / Lot 1
Amended Preliminary and Final Major Site Plan

Mr. Cucchiaro stated that he spoke to Mr. Sonnenblick regarding the above-mentioned Resolution and he anticipates having his comments within the next few weeks. Chairwoman Kwaak announced that this matter be carried to the August 23, 2018 Planning Board meeting.

PPS1720 **391 Route 33, LLC**
391 HWY 33 ~ Block 74 / Lot 24.01
Major Site Plan

Mr. Cucchiaro stated that he has not heard back yet from Mr. Sachs regarding the Resolution for application PPS1720. Chairwoman Kwaak stated that we will wait until the next meeting to vote on this matter. The Resolution will be carried to the next Planning Board meeting.

PMS1801 **Milford Estates, LLC**
196 Taylors Mills Road ~ Block 10 / Lots 47 and 48
Preliminary Major Subdivision

Mr. Cucchiaro stated he is still working on the Milford Estates Resolution along with their attorney. The Resolution will be carried to the next Planning Board meeting.

Applications: **PPM1441 ~ K. Hovnanian Shore Acquisitions, LLC**
Four Seasons at Manalapan Brook
Highway 33 West ~ Block 72 / Lot 6.01
Preliminary and Final Major Subdivision
Preliminary and Final Major Site Plan

Mr. Cucchiaro stated a few details are still being worked out that need to be resolved before they come back. Mr. Cucchiaro announced that PPM1441 will be carried to the Planning Board's meeting of August 23, 2018. There will be no further notice to property owners.

PMS1813 ~ Chris Sullivan
113 Gordons Corner Road ~ Block 15.01 / Lot 3
Minor Subdivision

Mark Vincent, Esq. represented the applicant, Chris Sullivan, this evening. This is an application for a minor subdivision approval for 113 Gordons Corner Road. There are two lots and there are some technical variances that are required.

Mr. Cucchiaro swore in John J. Ploskonka, PE, PP in the State of New Jersey since 1968 and has appeared before many Boards in the State of New Jersey. His credentials were acceptable.

Mr. Ploskonka handed out Exhibit A1, a color rendering of the grading and utility plan and Exhibit A2, an aerial photo of the property. The property consists of about 2.3 acres, or 100,000 sq ft. The property is triangular in shape between Westbrook Way and Chelsea Road. It is next to the Revere Estates Subdivision that was constructed in the 1990's and it is zoned R20. It is partially wooded and there is a ditch on the easterly side. The ditch has a drainage easement that was created in 1996 and dedicated to Manalapan Township.

The proposal is to construct two single family homes on the property that would match the R20 zone. We intend to remove the existing structure that is right next to the roadway as well as a small garage that is next to the stream. The two new lots would each have a four bedroom home facing Gordons Corner Road. The first lot, 3.01 would be a 20,000 sq ft lot, and lot 3.02 would be on a larger property. Lot 3.01 would have a front entry garage with a turnaround driveway. Lot 3.02 would have a side entry garage. Both houses will have two car garages along with a parking space in the driveway.

The ditch on the easterly side adjoining the homes on Revere Estates has wetlands associated with it. They have had NJ DEP obtain a LOI that defines the

wetlands along that stream corridor. They also had a flood hazard evaluation and in their report, the proposed construction activities are located outside the regulated area. A formal application for flood hazard verification is not necessary for this property. The ditch picks up less than 50 acres of drainage area as opposed to other streams in town such as Pinebrook or Milford Brook when during any major rainstorm, there are problems associated with it.

Mr. Ploskonka continued and stated the Township requires a 100' buffer for the ditch that is shown on the plans. The buffer can be reduced to 75' as per the Ordinance. The buffer has been adjusted somewhat and they do not meet every criteria. They do provide a 60,000 sq ft conservation area between the ditch and the first house on lot 3.02. The conservation area will be dedicated and cannot be touched. Almost 60% of the lot would be part of the conservation easement.

The two waivers were that we have 57.5" to the conservation area, instead of 75'. There is about 1,600 sq ft less of a conservation area than what is required. Other waivers required are for ordinance 95-8.3(c)(4) where you cannot have more than 4' exposed up the side of the structure. They are asking for a waiver of 5' to make these two houses look better. The water table was also found to be about 3 ½' - 4' and that requires a waiver because of ordinance 95-8.3(c)(5) which is for 80,000 sq ft lots. Otherwise the lot conforms to the area, the front yard setback and the side yard setbacks. All the code requirements of the zone are met with these two lots.

Mr. Ploskonka distributed the easement that was filed in 1996 and has been marked as Exhibit A3. Mr. Ploskonka stated that the fire bureau had no issues with this subdivision. Mr. Ploskonka stated they have appeared before the Environmental Commission twice. They had a concern regarding contamination of the property. The test done on the property revealed that there was one hot spot of arsenic. They intend to do remedial action with the spot. They will provide the information to the Environmental Commission.

This is a small, two lot subdivision that is consistent with the zoning and it establishes the appropriate population densities, provides suffice space for all uses and it is a PA-2 suburban planning area. The houses will have city water and sewer that they intend to hook into. They do not plan on any sidewalks along the front of the property because there are no sidewalks on that side of the road. They will return to the Shade Tree Committee in order to save as many trees as possible.

Mr. Ploskonka referred to the CME Engineering report and stated that they will comply with the FAR requirement for the small lot. They will provide the drywells for stormwater management, even though they are less than the one acre of disturbance as per DEP regulations. The ditch is the responsibility of the Town. The County Mosquito Commission has taken part in cleaning out the ditch on occasion.

Mr. Ploskonka said there will be a shade tree easement along the front of the property as required by the ordinance. Mr. Vincent said there was a comment regarding marking of the conservation easement. Mr. Ploskonka said we could do that with signs along the line of the easement so people cannot go back and tamper with the easement. It will be shown on the survey for whomever buys the home.

Mr. Ploskonka distributed Exhibit A4 which was taken by Mr. Sullivan on May 27, 2018, a day that had extremely heavy rain. This is a photograph of the drainage ditch that runs at the edge of the property. Chairwoman Kwaak pointed out that that this picture was taken on May 27, however May 16, 2018 is handwritten on the bottom left hand side. Mr. Ploskonka stated he mixed up the photographs and apologized. Mr. Cucchiaro stated in terms of the picture that he did submit, is the correct date May 16? Mr. Ploskonka said yes Exhibit A4 should read May 16,

2018. The picture for May 27, 2018 shows a neighbor with an umbrella looking at the stream overflowing and hereinafter referred to as Exhibit A5.

Mr. Boccanfuso asked Mr. Ploskonka to give a little background as to the perspective from which these photos were taken. Mr. Ploskonka said it is close to Gordons Corner Road. Mr. Boccanfuso said in Exhibit A5, you can actually see the corner of the headwall. Mr. Boccanfuso stated whoever took the picture for Exhibit A4, it looks to him like they are on the west side of the drainage feature with their back to Gordon Corner Road. Mr. Ploskonka said that was correct.

Mr. Boccanfuso stated that the removal of the existing structure on the property that is within the Township stream corridor buffer is going to disturb the area and what is being proposed is less of an encroachment that what is there already. The stream corridor buffer waiver that is being requested is separate and apart from the variance that is necessary. The variance that appears to be necessary is for improvable area. The variance relief is a direct result of the stream corridor buffer. The granting of one waiver does not obviate the need for a variance. We need to touch on the variance as a separate matter, something separate and apart from the design waiver from the stream corridor.

Mr. Vincent asked Mr. Ploskonka to address the C variance requirements for the unique shape of the lot and the benefits of this property. Mr. Ploskonka said the lot is a triangular shape lot with environmental features along its east side of the ditch and the wetlands and wetlands buffer. It has the negative aspects of the house that is right on top of the road in very bad shape, as well as the shed that is next to the stream. The deficiency is about 170' sq ft on the improvable area.

Mr. Cucchiario said that Mr. Ploskonka is stating that this could be designed to be compliant, but it would lack the aesthetic appeal that his plan has. Mr. Ploskonka said that is correct. If both houses were facing Gordons Corner Road with front entry garages, then that variance would go away and the waivers for the flood plain area would go away and be fully conforming except for the two waivers that are under the section 95-83(4) and 95-83(c)(5). Mr. Ploskonka said we could modify the plan and provide a revised drawing that meet the code in all respects except for those two other elements. Mr. Boccanfuso said he agrees partially. He believes the plan can be redesigned to comply with the stream corridor buffer requirement for which they are requesting a design waiver. However, he still believes that they would need the improvable area variance. That is a function of the lot, the design of the house and driveway and the proposed layout of the property does not impact the need for variance relief. The only way you could eliminate the need for the variance relief for improvable area would require modifying lot lines.

Mr. Ploskonka said at this point we are asking for the variance and the waivers for this plan because we believe this is a better plan. Mr. Cucchiario stated that Mr. Vincent was asking about the C1 criteria being based upon the size of the lot and the constraints associated with the ditch and other features. That has nothing to do with superior design, that is just the topographic conditions of that lot. You have also testified to the C2 criteria, which is that this is a superior plan than that which would comply with the ordinance although we haven't seen that you have a compliant plan.

Mr. Boccanfuso stated that Mr. Ploskonka discussed the comment that was received from the Township Environmental Commission relative to an exceedance of arsenic that was on the property. Mr. Boccanfuso stated that anytime you have a property that historical aerial images show has been farmed in the past, our ordinance requires a preliminary investigation in the form of soil sampling. The applicant has done that and they identified some exceedances in one spot only of arsenic, which is a common element that is found in fertilizer in the past. The subsequent investigation is going to involve finding out whether or not that was the result of farming activity, or whether or not it is naturally occurring. If it natural,

nothing more has to be done under the regulations. If it is something that the subsequent investigation shows is the result of farming activity, corrective work is required.

Mr. Boccanfuso said this is not a major development from a stormwater management standpoint and that it does not disturb greater than one acre and it does not create more than ¼ acre of impervious coverage. The DEP requirements do not come into play. With that said, the Township has its own requirement that is applicable to non-major stormwater developments, those that are less than one acre of disturbance and less than ¼ acre of new pervious coverage. The applicant will need to perform drainage analysis to show that the proposed conditions are no worse than the existing conditions. Those have not been done yet, they will need to be done before the applicant obtains building permits. Mr. Boccanfuso asked if it is the intent to perfect the subdivision by deed, or by plat? Mr. Ploskonka said by plat.

Mr. Van den Kooy said he agrees with Mr. Boccanfuso's position regarding the variance. He asked if there was a discussion regarding sidewalk along Gordons Corner Road? Mr. Ploskonka said we asked for waiver because there is no sidewalk as you go the east. Mr. Van den Kooy asked if the existing home has ever flooded. Mr. Ploskonka said the home has been there 50 years and right next to the road. He is not sure if it ever has been flooded.

Mr. Boccanfuso asked about the masonry garage that is going to be removed. Will that area naturally re-vegetate with no further disturbance to that area? Mr. Ploskonka said that is correct.

Chief Hogan asked about the retaining wall indicated on lot 3.02 adjacent to the driveway and questioned the height of the wall. Mr. Ploskonka said it would probably be about 2' - 3'. Chief Hogan asked about the 24" RCP that appears to be connected to the four storm drains. Is there any other drainage from the road that presently goes into the stream now? Mr. Ploskonka said that pipe goes across Gordons Corner Road and picks up an area up to St. Thomas Moore Church. As you go the west past our second proposed lot, there is another pipe there and another ditch that runs down to the Milford Brook. Chief Hogan asked if there is any water shedding off the properties on Westbrook Way going into that stream? Mr. Ploskonka said looking at the aerial photo, he believes that the backyards of those homes where there are pools basically drain to street from the front of the house into the back of the house towards the stream.

Mr. McNaboe said he has great concern regarding the water. There is no testimony as to time on the photo from May 27, 2018. We all agree that this ditch drains back to the Pinebrook where it crosses Commack, is that correct? Mr. Ploskonka said this ditch drains to the Milford Brook, not the Pinebrook. Mr. McNaboe asked for the direction of travel that the water will move. Mr. Ploskonka said it runs from Gordons Corner Road to the south to the back of the property and then down a ditch to Milford Brook. The Milford Brook runs down Commack and eventually ties up to Matchaponix. Mr. McNaboe asked if at any point any of this water comes into the Pinebrook where it will recross at Birmingham. Mr. Ploskonka said they are different drainage areas. Mr. McNaboe asked if Mr. Sullivan is going to speak about the time of the May 27, 2018 photo? Mr. Ploskonka said Mr. Sullivan is ready to be sworn in to speak.

Mr. Jacobson asked if there is no sidewalk, will a contribution be made to the sidewalk fund? Mr. Ploskonka said yes.

Chairwoman Kwaak stated that looking at the plan, lot 3.01 she sees that the property is going into lot 3.02. Are there going to be some type of markers separating the lots? Mr. Ploskonka said there will be markers on the filed map. Chairwoman Kwaak also pointed out the iron pipe on the plan. Mr. Ploskonka said an iron pipe would be a marker or surveying point. It is currently on the property.

Ms. D'Agostino asked about the conservation easement. Is that separate from the drainage easement? Mr. Ploskonka pointed out on the Exhibit Board where the conservation easement would be located. It is about 60,000 sq ft in total. Ms. D'Agostino asked if this will affect any of the properties regarding drainage. Mr. Ploskonka said it actually helps because you can't develop that area at all; conservation areas must remain untouched.

Mr. Fisher noted that the one house has a turnaround in the driveway; the other house does not. Could you possibly make a nook that the cars could turn around in so they do not have to back out onto Gordons Corner Road. Mr. Ploskonka said the side entry garage gives enough space to back out of, turn around and go out. Mr. Fisher asked how deep is the ditch? Mr. Ploskonka said it is about 2' deep. Mr. Fisher asked could it be dug deeper? Mr. Ploskonka said it can only be deeper if it is done by the County Mosquito Commission. It is wetlands in the area. Mr. Fisher asked how many trees are going to be removed? Mr. Ploskonka said they have to go back to the Shade Tree Commission and work out a shade tree plan.

Mr. Cucchiaro swore in Chris Sullivan, the applicant. Mr. Sullivan stated that the time of the May 27, 2018 photo was taken at 10:57 am. The Englishtown Auction Road photo was taken at 12:17 pm. The Board stated that the Englishtown Auction Road photo was not introduced and reviewed. Mr. Vincent found the picture and distributed it the Board.

Chairwoman Kwaak opened the floor to the public regarding this application.

Mr. Cucchiaro swore in Phillip Siniscalchi, 56 Westbrook Way. He had concerns regarding the water that comes over the ditch. His home has been subject to significant flooding and damage. The ditch has only been maintained once in over 30 years, and that was within the past month. He asked for further clarification regarding the conservation area. Mr. Vincent said a conservation easement means that the property must be left in its natural state. Mr. Siniscalchi asked where the drywells will be located. Mr. Ploskonka said they will be behind the proposed homes; he pointed it out on the plans. Mr. Siniscalchi asked about the remediation plans for the arsenic. Mr. Ploskonka stated there are two options, first is to do more testing and to provide documentation that this is naturally occurring arsenic. The alternate is to remove the area that was impacted to an appropriate location approved by the DEP. Mr. Ploskonka stated the easement was created in 1996 given to the Town to maintain the ditch line along with the Mosquito Commission. Mr. Ploskonka spoke about the other waterway that is further to the west. There is a pipe and headwall at that location and that goes straight down to Milford Brook. Mr. Siniscalchi said there is in fact another ditch that does cut across the property and he would like to better understand what will happen since that does introduce additional water flow into the easement which causes some of the problems. The easement significantly narrows and it causes erosion along the properties on Westbrook Way. He stated that the easement was eating into his property, under his fence causing potential concern for his children falling underneath the fence. Mr. Ploskonka offered to meet with him in the field, along with the Township engineer and see how we could implement a helpful situation to make things easier.

Mr. Cucchiaro swore in Marvin Rosenberg, 54 Westbrook Way. He stated that Mr. Ploskonka was the original surveyor for the development, Manalapan Oaks. Some of our lots had water issues going back to the original construction dates of 1985. The water table was so high and there have been issues from day one. He would like confirmation that it is the Town's responsibility regarding the maintenance of the runoff. There has been no maintenance of the runoff up until July 9, 2018. That was the first time that anyone has gone back to look at this. He said Ron Boyce from the County came out to look at his lot. Mr. Rosenberg said he has been calling the Town complaining about standing water within the runoff

for years. His backyard has been intolerable due to the mosquitos. Also on July 9, 2018, the Mosquito Commission was removing large truck tires that were thrown throughout the property and doing a general clean up. The ditch was the focus of the work they were doing. Mr. Boccanfuso said the easement is dedicated to the Town. The easement does not encumber the entire ditch all the way along its length down to the Milford Brook. It is shown on the plan that submitted to the Board. It extends parallel to that easterly property line which is Mr. Rosenberg's rear property line up to about 1/2 way through lot 41. Mr. Rosenberg said if there is a blockage, it is going to flood all over again. Mr. Rosenberg added that the ditch is a solid 3', maybe even more in places. Mr. Ploskonka said by putting in the conservation easement to preserve most of the trees and putting in the two homes with the driveways and drywells, there will be no increase in water to that stream. Ms. D'Agostino asked about Mr. Rosenberg's basements and he stated he has two sump pumps running 24/7. If he has no power, he could easily have 3'-4' water in no time. There is no way to stop it or control it.

Mr. Cucchiaro swore in Michael Cavaliere, 62 Westbrook Way. He stated they have been in his house since the development was built in 1985. We have all had tremendous water issues. The storm drain runoff is not just catching the local rain, but it is catching all the water from Gordons Corner Road from all the other developments. The thrust of the water is very strong. He has one sump pump, and they intend to install another sump pump. During on the heavy rains, the pump died and we had about 6"-10" water. The easement was put in 1996. We were actually involved in a lawsuit with the Town. The easement was put there because of us. We contributed 10' and 20' on the other side was taken to have the Township easement be maintained. It has not been very well maintained. The silt constantly comes up and the water spreads out into our backyards. He replaces his pump every six months, the silt clogs the hole up. There needs to be a more critical study of the water flow.

Mr. Rosenberg returned to add that there are photographs showing standing water, or running water through that ditch.

Mr. Cucchiaro swore in Virginia Cavaliere, 62 Westbrook Way. She asked Mr. Ploskonka to point out the conservation easement and he showed her on the Exhibit Board. She asked about the removal of the structures. Mr. Ploskonka said the structures will be removed and the ground will be restored to grass. The conservation easement is owned by the property owner, but the easement is restricted through the deed. What you currently see exists, but right now it lacks any protection; to your eye it will look the same. She also questioned the public noticing and stated there is a missing number on the page. Mr. Ploskonka stated it should read 5,830 vs. 6,000. Mr. Boccanfuso stated there was some discussion about the improvable area, which is the 5,830 vs. 6,000 required. There is a similar requirement for an improvable diameter which establishes the shape of the improvable area. When he did his initial review of the application, we thought that there may be a non conformity relative to the improvable diameter where 60' is the requirement and it appeared to be around 58'. Subsequent to the release of his report, Mr. Ploskonka's office submitted a supplemental plan which did appear to indicate that the improvable diameter was compliant with the ordinance requirements. The notice included that possible need for a variance to ensure that they had jurisdiction to proceed in hearing the application.

Ms. Cavaliere stated that years ago she hired a lawyer to handle the water problem. She has a huge legal document at home stating what they all agreed to. She was under the belief that when the property is sold behind her, the water problem will be address and they will probably put in a concrete slab. Mr. Cucchiaro stated we do not have that document, so we cannot comment on it. Ms. Cavaliere said if we brought in the document, would you address that issue? Mr. Cucchiaro said we would consider anything you submit. Mr. Ploskonka said it would be difficult to put a condition in that agreement for property that wasn't

owned by the developer. Mr. Cucchiaro stated again, we do not have this agreement. Mr. Castronovo questioned the concrete slabs Ms. Cavaliere mentioned above. Mr. Ploskonka said she is talking about a concrete channel to be placed from Gordon Corner Road down to Milford Brook. Ms. Cavaliere asked about the curb cut. Mr. Ploskonka said it is right in front of the pipe that discharges into the stream. There are other curb cuts along Gordons Corner Road for access to the drainage ditch. Ms. Cavaliere said her sump pump never stops working and they replace it twice a year and they have a backup sump pump. Someone has to take responsibility for maintaining the drainage ditch. It says it will be maintained in the agreement. Mr. McNaboe asked Ms. Cavaliere to please get a copy of the agreement to Ms. Nosseir for copying and distribution. Mr. McNaboe asked Ms. Cavaliere if she was home on May 27, 2018 during the storm? She said yes she was home and the water was flowing very heavy. The water in her backyard was a couple of inches high.

Ms. Rosenberg said that to his knowledge, the water has never breached the bank. It has come exceptionally close, however. The greater issue is the standing water and that causes the issues in the basements; it constantly seeps into the ground. Mr. McNaboe asked Mr. Ploskonka to address this issue. Where does the ditch end? He stated that the easement ends in the center of lot 41. The easement covers lots 44, 43, 42 and a portion of 41. Mr. Ploskonka said the wetlands have a 50' buffer associated with the wetlands. The wetlands go down to the end of the property. Mr. Ploskonka said we could provide an extended easement that takes us from the middle of lot 41 to the end to allow for maintenance by the Town and/or the Mosquito Commission. Mr. McNaboe stated that the would ask the question first: why wouldn't we extend that easement at least to the end of the property? There is no reason for it to end half way through lot 41, why don't we continue it? Mr. Ploskonka said we will continue the easement to the end of the property.

Mr. Ploskonka said his directions from the Town engineer is to have no increase in run off from the impervious surface. He had suggested that the driveways be reduced at the front and try to minimize as much as possible the impervious surface and put in drywells. Mr. Boccanfuso stated that any development does not increase the peak rate of runoff. He agrees with extending the easement to the end of the property. The applicant's willingness to extend the easement is a step in the right direction.

Mr. Siniscalchi stated the garage and the existing dwelling are in a wooded area. By removing the trees that absorb the water, it will have an additional impact. Mr. Ploskonka said we can let it grow back naturally into the ecosystem that is there as opposed to putting grass down.

Mr. Cucchiaro stated that there are number of matters that need to be clarified for this application. Chairwoman Kwaak stated that this application should be carried to the next meeting. Chair Kwaak asked Ms. Cavaliere to bring the agreement to Ms. Nosseir. Mr. Vincent asked if he could please get a copy of the agreement as well.

Mr. Cucchiaro stated that application PMS1813, Chris Sullivan – 113 Gordons Corner Road, will be carried to the August 23, 2018 Planning Board meeting. No further notice to property owners is required. Interested residents can stop the Planning office to review the plans and documents.

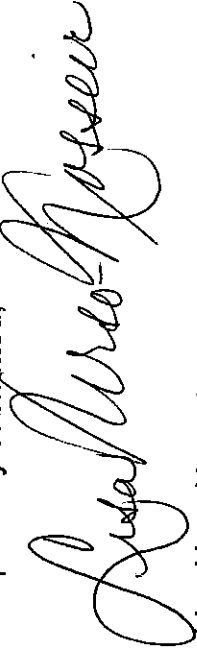
Chairwoman Kwaak opened the floor to any non agenda items; seeing none she closed public.

Chairwoman Kwaak stated that the next meeting will be August 23, 2018 and there are several pending applications at this time.

Adjournment

A Motion to adjourn the meeting was made by Ms. D'Agostino and agreed to by all.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lisa Urso-Nosseir". The signature is written in a cursive style with a large, prominent initial "L".

Lisa Urso-Nosseir
Recording Secretary

A recorded CD or DVD of the meeting is available for purchase by contacting the Planning Board Office.