

Township of Manalapan

Department of Planning & Zoning

120 Route 522 & Taylors Mills Road

Manalapan, NJ 07726

(732) 446-8367

Planning Board Minutes

December 12, 2019

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: Daria D'Agostino, Secretary

In attendance at the meeting: John Castronovo, Todd Brown, David Kane, Daria D'Agostino, Kathryn Kwaak, Jack McNaboe, Barry Jacobson, Richard Hogan, Barry Fisher, Steven Kastell

Absent from the meeting: Alan Ginsberg

Also present: Ronald Cucchiaro, Planning Board Attorney
James Winckowski, Planning Board Engineer
Christine Bell, Planning Board Planner
Lisa Urso-Nosseir, Recording Secretary

Mr. Cucchiaro swore in Christine Bell, Professional Planner and James Winckowski, Professional Engineer.

Minutes:

A Motion was made by Mr. Fisher, Seconded by Chief Hogan, to approve the Minutes of November 14, 2019 as written.

Yes: Castronovo, Brown, Kane, D'Agostino, Kwaak, McNaboe, Jacobson, Hogan, Fisher

No: None

Absent: None

Abstain: None

Not Eligible: Ginsberg, Kastell

Resolution: **PMS1813EX ~ Chris Sullivan**
 113 Gordons Corner Road
 Block 15.01 / Lot 2
 Extension of Time – Minor Subdivision

A Motion was made by Mr. Brown, Seconded by Mr. Fisher to approve Resolution PMS1813EX, as written.

Yes: Castronovo, Brown, Kane, D'Agostino, Kwaak, Jacobson, Hogan
 Fisher
No: None
Absent: Ginsberg
Abstain: McNaboe
Not Eligible: Kastell

Applications: **PMS1933 ~ Charles Viviani**
 103 Millhurst Road ~ Block 67 / Lot 28
 Minor Subdivision
 Carried from October 24, 2019

Mr. Cucchiaro stated that he received an email from the applicants professionals requesting that the matter be carried. The applicants attorney is out of town on a family matter. This application has to be carried to the reorganization meeting because we have not yet adopted our 2020 calendar. Mr. Cucchiaro announced that application PMS1933 will be carried to the Board's January 9, 2020 meeting. There will be no further notice to property owners.

PAS1007 ~ Summerton Group, LLC
335-339 Route 9 South ~ Block 10 / Lot 18.01
Amended Preliminary and Final Site Plan

Salvatore Alfieri, Esq. of Cleary, Giacobbe represented the applicant this evening. He explained that the owners of the mall have owned it since 1988. There are some tenants that want to shift within the shopping center. Due to the parking ordinance count, there is a parking deficiency.

Mr. Cucchiaro asked Mr. Alfieri about the previous approvals that have yet to be built out. Is there an intent to ultimately build it out and how does this play into this application. Mr. Alfieri said the applicant has no immediate plan to build the approved additional square footage, but will agree that prior to applying for a building permit, they will come back to the Planning Board with the counting of all tenants and updated parking conditions.

Mr. Cucchiaro stated that site plan approvals do not expire. Ultimately you can lose the protection of the zone, for instance, if the area was re-zoned, those prior

approvals would be subject to the new zoning. Mr. Alfieri said he prefers to not abandon that approval. Mr. McNaboe said just remember that we allowed additional space to go in and allowed parking concessions at that point, and now we are asking for parking concessions again. When they are blended together, we don't know that it will actually work. Mr. Cucchiario said that while the approval does not expire, if there is an approval tonight, this approval certainly impacts that prior approval.

Mr. McNaboe said if they do their parking counts tonight and we are at 100% parking when this whole center is done without the additions being put on, this Board then has jurisdiction to keep that addition from being done? Mr. Cucchiario said we would need to discuss this at that point. If we come to that point where we are at a place where we think that this maxes out the parking without that future approval, we need to deal with that. We cannot defer that to a later date.

Mr. Cucchiario swore in Tonya Gabrielides, Director of Operations for Trinity Rehab. She explained there are 18 locations throughout the State. This location has about 2,500 sq ft and we are looking to take over the adjacent space and incorporate it with the existing business. The new space would be an additional 1,200 sq ft. We will not hire more employees, we simply need more space to move around, perhaps add another piece of equipment. We currently have seven employees, and they are not all there at once. The busiest time would be from 4:00 -5:00. Peak patient time would at the most be 10 patients. The hours of this location are Monday, Wednesday and Thursdays 8:00-1:00. They break in the afternoon and start again from 3:00 -8:00. On Tuesday and Fridays, the hours are from 8:00-1:00. Saturdays, when needed, the hours are from 8:00-1:00. Sundays we are always closed. Our employees are told to park farthest from the main entrance allowing our patients to have prime spots. Mr. Cucchiario asked is there any parking that is dedicated exclusively to your use? Ms. Gabrielides said it is shared parking.

Mr. Jacobson asked with the expansion, will your patients stay longer than usual? Ms. Gabrielides said no, it's the same services. Mr. Fisher asked if they would require more handicap spots? Again, she said no they would not.

Mr. Cucchiario swore in Lois Compton, leasing administrator for the center. Ms. Compton conducted the parking counts that were submitted to the Board. Mr. Alfieri said the property is almost fully rented. Just two weeks ago, a restaurant closed. Ms. Compton's parking calculation was marked in as Exhibit A1. These counts were performed on Monday, October 7, 2019, Tuesday, October 8, 2019 and Thursday, October 10, 2019. Mr. Alfieri asked about the weekend parking counts and Ms. Compton said they are similar, but some of the businesses are not open on the weekends. The two kosher restaurants are closed on Friday and Saturday. The preschool and dance school are not open on the weekend. Totville would like to expand as well and they do occupational therapy with

children with a sensory gym. They do treat adults as well and they are currently in unit A10 and want to move over to occupy unit C21 and C22. They would like to dedicate particular rooms to certain age groups and create a kitchen area for their employees. Marina's Fitness is interested in expanding as well and Knits Fabulous has closed. Royal Montessori would like to take over their space. Capri Kosher Italian Restaurant has also closed and we do not have a tenant in mind yet.

Mr. Alfieri asked Ms. Compton about the dumpsters being in enclosures and how has she addressed those issues? Ms. Compton said she has been getting bids for the proposed paving and the dumpster enclosures. Detailed plans will be submitted to the Board professionals for their review. Mr. Cucchiaro asked if the entire parking lot would be repaved and restriped. The next witness will speak about the proposed paving plan. Ms. Compton said in 2015, they hired an ADA Consultant to bring the parking lot up to compliance. More ramps and railings were added to the lot and Mr. Winckowski said this was coordinated with the engineering office. Mr. Alfieri asked if any of the signs would change and Ms. Compton said just the panels can be switched out.

Mr. Winckowski asked if units C21 and C22 are vacant right now and Ms. Compton said yes they are vacant. Ms. Bell asked if the Montessori school expands, will that expand the number of teachers or students? Ms. Compton said the owner is moving an office into the new space and adding some storage. Ms. Bell asked for clarification as to where the dumpsters will be located and Ms. Compton said they will go in their current location so they will not occupy any parking spaces. Ms. Compton pointed out on the site plan the current location of the dumpsters. Mr. McNaboe asked what the trash management plan is, is each tenant required to handle their own refuse? Ms. Compton said the restaurants are required to have their own and the other tenants are grouped. Mr. McNaboe said he has no problem referring to the approved plans, but there are a lot of dumpsters there and this matter needs to be addressed. You may need to change your trash management policy in order to make this work with fewer, but larger dumpsters and more frequent pick-ups.

Chairwoman Kwaak asked about the dumpster for Building C and D. Is it at the end of C, or behind Building C? Mr. Winckowski said it is behind C, towards the end of the building. They are all supposed to be removed for one enclosure area.

Mr. Brown asked about the repaving and restriping and wanted to know if they are going to be losing any parking spaces? Mr. Alfieri said they will not be losing any parking spaces.

Mr. Castronovo asked why did we only hear testimony from Trinity Rehab and not all the other tenants that wish to expand? Mr. Alfieri said if you really needed to hear from the other tenants, we will have to bring them back. Mr. Castronovo said it sounds like the other tenants are going to be increasing head

count and increasing customers. It seems like there would be more of an impact from these tenants over Trinity Rehab simply needing a little more space.

Mr. Kastell questioned the timing of the parking counts. Why were they done on a Monday morning when the dance studio and fitness center aren't even open? Rising Stars is packed on the weekends. He doesn't feel comfortable that these studies are an accurate representative of the center.

Mr. Cucchiaro swore in William Greenberg, one of the owners of Summerton Group, LLC. They have owned the complex since the late 1980s. They did a recent facelift to the building. Mr. Alfieri asked Mr. Greenberg to discuss the repaving of the parking lot. Mr. Greenberg said the striping will be the same and no spaces will be lost. Mr. Greenberg said our objective is to get the front piece of the parking done before the asphalt plants close, so within the next 30 days. We have bids in the works for a resurfacing. Mr. Winckowski said he would like to put an end date for the paving by May/June 2020. Mr. Greenberg appreciated the time frame and requested that it be the end of the summer. Mr. Greenberg added that we have a service that monitors the dumpsters and they will do whatever the Board thinks is best to maintain the center.

Mr. Jacobson asked if there was any consideration given to concentrating the handicap parking into one section, such as near Trinity Rehab? Mr. Greenberg said if the Township engineer believes this would be a good idea, then he is in agreement. Mr. Winckowski said the number of spaces required, is based on the number of parking stalls you have. Ms. Bell said it makes more sense to have them distributed throughout the site because there might be someone who is in fact going to Trinity Rehab, but there might be someone requiring one of those spots going to the Montessori school or a different store.

Mr. McNaboe asked about the proposed building D and noted that it is just an unkempt area currently. What will that space look like in the near future? Mr. Greenberg said he honestly hasn't addressed this yet but he is very willing to work with the professionals to move forward with this area. Mr. McNaboe thanked Mr. Greenberg for having a successful center for the last 30+ years. He understands that retail is a dying art. If we are willing to make Mr. Greenberg's center economically viable going forward, we want to make sure of the best interests of Manalapan are satisfied. It needs to be neat and clean. If building D is down the road, or maybe never, we would like to know what your intention is. Mr. Greenberg said that is fair enough.

Mr. Brown asked about the completion of the dumpster enclosures. Mr. Greenberg asked if it was possible if he could have to the end of the summer to accomplish both tasks. The improvements are going to somewhat go hand in hand.

Mr. Castronovo said it seems like we are only focusing on Trinity Rehab. However, Totville is not here to testify to their expansion of business. Will there be an overflow due to the expansion of this business? Mr. Cucchiaro said there was new testimony because when the professional reports came out, they did reference the Totville tenant, but they were not aware of the Montessori expansion. What is the required parking space number for what is proposed to exist out on the site? Mr. Greenberg said we have spoken to both tenants. The preschool once before had four spaces, then they contracted to three and now they are going back to four. Ms. Compton has spoken with them and they are not intending to increase significantly. The same thing is true with the other tenant. Mr. Greenberg said he has owned this center for over 30 years and parking has never, ever been an issue. This is true on the weekends as well. Mr. Alfieri added that 208 spaces are on site, and we calculated before the restaurant closed last week, that we needed 449 spaces under the Ordinance. This included Trinity Rehab and Totville. Mr. Winckowski said the expansion of the fitness center has a less parking requirement than Totville and Trinity Rehab. He added that the Ordinance for a shopping center is 5 per 1,000. Once you go over 25% with non-retail, then you have to start looking at each unit individually. He said there is such a variety of uses in this center between schools, medical, retail and restaurants that all have different peaks, there is vacancy out there that can support the different peaks and uses that are higher than the typical shopping center.

Mr. Cucchiaro said we have to come to a number of parking spaces to understand the intensity of the relief. This number has to go into the Resolution. Mr. Winckowski asked Mr. Greenberg if when he did the counts, did he look at the number of seats per restaurant? Mr. Greenberg said we did both. Mr. Winckowski said technically the total required is 450, and the total provided is 208. Mr. Greenberg said he is grateful for Manalapan's assistance as well as the fact that he has successful tenants that want to expand.

Chairwoman Kwaak opened the floor to the public for comments and questions. Seeing none, she closed public.

Mr. Cucchiaro spoke about building D, which was the 2011 approval. The building would be 8,682 sq ft retail building that was going to be served by 208 parking spaces, where 282 were required. Are any of the spaces that we are speaking about this evening part of those spaces that were referenced. Mr. Alfieri said the whole parking lot is already built. Mr. Cucchiaro said the assumptions that the Board was operating under in 2011 when it looked at those calculations and granted the relief are not exactly the same tonight. We don't automatically find that there has been an abandonment of that building. However, he believes we are talking in hypotheticals because we don't know what the tenancy of that building would be. His recommendation was that we defer the decision and the applicant has agreed that they will not attempt to construct any portion of that building before they come back. If there is an approval,

should include a condition similar to what was stated, but he wants the Board to be very clear that it retains the right to make a determination that an amended approval might be necessary at that time. The applicant does not have the right to build D without coming back to the Board and that there will be a determination as to whether they can proceed under their old approval, which he doubts, or whether an amended approval would be necessary. The Board can retain its right that way.

Mr. Winckowski asked if anyone is producing a plan for the applicant showing the dumpsters? Mr. Greenberg said he will get this together with his contractors. Mr. Winckowski said that when you are doing repaving there are certain stormwater management requirements. We will need some construction detail for the dumpster enclosures. Mr. Cucchiaro said if the dumpsters remain where they were approved that is fine. We cannot delegate to a professional to amend the approval to relocate the dumpsters. If the applicant agrees to comply with what has already been approved, that would be easiest. Mr. Cucchiaro said so long as it is consistent with the location that is in the approved plan, then the way that the fence goes up can be subject to the Board engineer. The Board engineer cannot change the Board's previous approval. Mr. Alfieri suggested picking a spot right not for another location. Mr. Winckowski said there is a spot between A and B. There is one enclosure at the end of drive aisle expanding that to the left and the right so the back end of the parking lot will have a whole row of dumpsters. Mr. Winckowski said there is a spot behind C also. In the area where building D is going to go in, expanding an enclosure in there with the understanding that it might have to be removed. Ms. Bell said if we are adding dumpster locations to the plan, she would recommend that any trash enclosures be masonry blocks because they are stronger and can stand the test of time.

Mr. Cucchiaro stated that it is important is that the Board understand what is being approved this evening. To the extent an additional dumpster might be necessary, the spot will be identified exactly where it is going. Mr. McNaboe said he just wanted to make sure we can do this and you can live with the decision tonight.

A Motion for Amended Preliminary and Final Approval with Ancillary Variance Relief subject to the conditions that have been placed on the record was made by Ms. D'Agostino, Seconded by Mr. Fisher for Application PAS1007, Summerton Group.

Yes:	Castronovo, Brown, Kane, D'Agostino, Kwaak, McNaboe, Jacobson, Hogan, Fisher
No:	None
Absent:	Ginsberg
Abstain:	None
Not Eligible:	Kastell

The Board took a brief recess between applications.

**PFS1507B ~ Meals by Aurora, LLC
Stacar Properties
330 HWY 9 ~ Block 8 / Lot 3.01
Amended Preliminary and Final Site Plan**

Barry Fisher recused himself from Application PFS1507B. His company was noticed as part of the application.

Stuart J. Moskowitz, Esq. represented the applicant this evening. When the first tenant for this building received approvals, the Resolution required because of the parking situation, that any tenant coming into the center would be required to come back to the Planning Board.

Mr. Moskowitz referred to Exhibit A1, a grading and utility plan from Concept Engineering dated May 26, 2015, last revised September 20, 2016. It depicts the original property layout that shows the building and the parking. The 21 parking spaces are the plan.

Mr. Cucchiaro swore in Christopher Aker, licensed architect in the State of New Jersey. His colleague, Anthony Church, created the proposed layout of the business dated August 9, 2019, hereinafter known as Exhibit A2. Mr. Moskowitz distributed Exhibit A3, total floor plan by Bishop & Smith dated September 6, 2018.

Mr. Moskowitz referred to Exhibit A3 and stated Meals by Aurora would propose to occupy the space to the left of the building. Exhibit A4 was introduced, as a photoshop of the store front of the building prepared by Mr. Moskowitz. There will be a door in the front. Currently there is a carve-out for a window, but that is where the door is going to go.

Mr. Aker spoke in detail about Exhibit A2. This is a commercial kitchen. There will be a grab & go case, an open display case, a refrigerator and a cash register. Beyond that cash register is a counter for prep stations, display case, convection oven, griddle, freezer and meat case. The back is an extension of the kitchen and a prep sink that is meant for gluten free cooking. Mr. Winckowski asked what is the different between a commercial kitchen compared to a walk in deli? Ms. LaMarca will speak in detail about this. Chief Hogan asked what use group to do intend to utilize? Mr. Aker said he believes it will be retail. Chief Hogan asked if he ever investigated the electrical power supply? Mr. Aker said electrical requirements are going to be dictated by manufacturer specifications for the equipment that is going into the space. Chief Hogan said we understand there is a problem now that there is not enough power currently for that space. Mr. Moskowitz said the other tenant, Himalayan Salt Cave has been going through this right now and they are

doing a lot of things that are going to go beyond their space. They dug up the floor and they have laid the pipes. Nothing is going to happen without permits, including of course the electrical permits. The Township will be advised of the equipment and what the manufacturers specs are and they will comply with that. Chief Hogan said you may be required to put in a full new service to the building. Mr. Moskovitz said we oversupplied the building as it was. There is a possibility that we will have enough power. Chief Hogan said there is a disagreement to that and we can discuss this off-line before any permits can be given.

Mr. Cucchiaro swore in Aurora LaMarca, the owner and applicant. Mr. Moskovitz asked Ms. LaMarca to explain her proposed business. Her business will consist of meal planning and catering. To be able to purchase one of her meals, the customer would have to give 48 hours notice. There will be a small grab & go section as well. We will have two kitchens since one will be strictly for gluten free cooking. Her business will not be like a deli where you step to the counter and order your particular sandwich. No one is going to walk in and wait for her to prepare food.

Mr. Moskovitz asked her how many employees will she have and she said four- five the most. These are her two employees from her old business. They do not drive, they will walk to the job. Mr. Cucchiaro stated you are not guaranteeing that if you hired someone else it would be the same situation. He added that you are not expressing a condition if there is an approval that your employees would be walking to the site. The hours would be from 5:00 am - 8:00 pm. The grab & go would generally take place in the morning for commuters and they would be in and out. She understands that her proposed sign would have to comply with the zoning regulations. She stated that most of the food shopping she does herself, but as the business grows, she will have deliveries from Boar's Head and perhaps a produce company as well. At her previous location, the deliveries would be brought in a medium size truck. Vans would drop off their deliveries in the back of the building and we will have to work on their schedule. Once the food is prepared, either she delivers it in her personal Jeep, or the client will pick it up. In the future she will get a van-sized vehicle with refrigeration. She would not park it there overnight. There would be no need for a loading zone. Her garbage would consist of two 50 gallon bags a day. She will reach out to WMUA to see what their requirements are for a grease trap. There is a garbage dumpster and a recycling dumpster that is shared by all three tenants.

Ms. LaMarca understands she will have to receive approvals from the Health Department. Ms. Bell asked if the entire kitchen area open to customers that are coming in? Ms. LaMarca said there will be a counter and you can see the grill on the other side. There is no menu board, nor any seating. She also caters, for parties from 10 - 200 people. For large parties, she will need help and therefore would utilize all four of parking spaces. Ms. Bell asked if there are designated times for deliveries, and if so, can you fit everything in your car for one trip? Ms. LaMarca said she is working out the Howell firehouse and she delivers two days a week.

Chief Hogan asked Ms. LaMarca if this is a typical commercial kitchen for catering and she said yes. So all the equipment is commercial grade? She said yes it is. Chief Hogan said then there will be a fire suppression system, a hood system with ventilation, etc. and she said that is correct.

Mr. Jacobson asked if any beverages will be dispensed - coffee or sodas? Ms. LaMarca said there will be prepacked drinks. She is not anticipating selling brewed coffee. Mr. Brown asked for the hours for the grab & go and Ms. LaMarca said that would be an available service during normal business hours.

Mr. Castronovo said you currently have four/five employees is that the same amount of helpers you would need to cater a 200+ person event? She said that is how she currently operates, so yes. Mr. Cucchiario said we understand the catering portion of this and the grab & go aspect. Can someone just call up and order a sandwich and come and pick it up? Ms. LaMarca said no, we are not a deli.

Mr. Kastell said obviously this is the old paint store location. Do we make sure all the services such as gas for the ovens and other utilities are in good order? Chief Hogan said he was concerned with that as well. This will all be part of the building application process. It is an expense and we know it is not there. Ms. LaMarca said she is aware of this.

Mr. Cucchiario swore in Carter Troyan, owner of the building and the dry cleaning business. Mr. Troyan said the proposed tenant will need a door opening and we will be cleaning up the front by changing the colors in the front and fixing up the paint work on the façade. Mr. Moskovitz referred to the engineer's report wherein the dry cleaner would require no more than five parking spaces but that the health spa would require no more than 15 parking spaces; is that accurate? Mr. Troyan said that when the 15 was discussed it meant that they were going to have maximum room for children. He saw it last night and it can hold up to 15 children in that room, but he doesn't think they are going to occupy any more than that at any point in time. The 15 they were referring to he thinks meant to allow for that maximum amount of children in the place at one time. Mr. Moskovitz said so 15 people, not 15 spaces. Mr. Troyan said their lease allows for seven spots.

Mr. Cucchiario stated that the Board remembers extensive discussion about this with that applicant because it wasn't clear during the testimony and she is not here tonight. Mr. Moskovitz said the resolution adds some clarity to that. Page 6 of the resolution says that she has finally accurately calculated the number of rooms, the services offered as well as employees on site to reasonably conclude that 15 parking spaces are adequate for use. She never said she needed 15, she agreed yes 15 would be adequate, but she also made it very clear that the only way she gets up to that number is when she has children there. She understands the lease says seven spaces. Page 8 of the resolution states, 'no more than 15 people including employees are permitted in the facility at one time'. Mr. Moskovitz said

item 7(f) of the engineers report says seven parking spaces are reserved for the approved Salt Spa, but the resolution for the Salt Spa indicates up to 15 parking spaces.

Mr. Brown stated that according to his notes from the February meeting, he counted 19 total people; 15 members of the public could go in for services, and then four employees. Mr. Moskowitz said the resolution says 15 people including employees. Mr. Cucchiaro said the testimony was very inconsistent and we had to harmonize conflicting testimony at the end. The applicant of the resolution you keep referring to is not here this evening to clarify her position. Mr. Winckowski said is there anything in the resolution about seven spaces? Mr. Moskowitz said engineer's report item 7(f) it says seven spots are reserved for the Salt Spa. Mr. Winckowski said no, the Dolan and Dean study indicates that seven parking spaces are reserved for the approved Salt Spa, however the resolution of approval indicates up to 15 spaces are required -- Mr. Winckowski was just reciting in his report what your professional wrote in his report. Mr. Moskowitz refers to item 10 on page 8, it says 15 people including employees. She understood that she has seven parking spaces. Mr. Cucchiaro said that she agreed that 15 parking spaces are adequate for the use. Mr. Moskowitz said if seven spaces are adequate, certain 15 would be adequate. Mr. Cucchiaro said that is not in the resolution. If you are going to change her resolution, she needed to be here tonight.

Mr. Moskowitz referred to Dolan and Dean's Traffic Report. He said to look at the last two pages of the traffic study, one is Tuesday, August 6 and the other is Saturday, August 3, 2019. On Saturday, the largest number used at any time was five. On Tuesday, the largest number used was six. Himalayan Spa was under construction at the time. Mr. Winckowski said the person who created this traffic report should be present this evening. Mr. Moskowitz said the Salt Spa said they are fine with seven spaces. Mr. Cucchiaro said it matters what the Board determined for the site. There was no expert testimony at all; the Board accepted layman testimony. Mr. Moskowitz said in any event, the lease restricts her to seven spaces. If we are going to say she needs 15 spaces, which she never said, we are not going to put anything in that third space. She never said she needed 15 spaces. Ms. D'Agostino stated she recalls the 15 spots and the five for the dry cleaner therefore leaving only one spot. Mr. Moskowitz said if she was using 15 spaces, then he would have objected to the resolution. It was his understanding that including employees, it was 15 people, not 15 spaces.

Chairwoman Kwaak said the Board would take a brief recess.

After the recess, Chairwoman Kwaak announced that the Board would like to carry the application to the January 9, 2020 meeting. The Board is requesting the applicant's engineer to be present at the next meeting, as well as the owner of Himalayan Salt Spa so all the parking issues can be accurate. There are too many open questionable items being discussed this evening.

Mr. Moskovitz understood that the application was being carried, but requested to finish up with Mr. Troyan. Mr. Troyan said there are two dumpsters on site for trash collection and they are large enough for all three facilities with pick-ups twice a week. Mr. Moskovitz asked Mr. Troyan if he is in arrears with his property taxes and he is. Mr. Troyan is hopeful to have the amount paid off within six months. He said he makes payments every month. Mr. Moskovitz asked him if he is making the payments that are due, plus paying extra to catch up and Mr. Troyan said that is correct. Mr. Troyan said he intends to catch up with taxes by having the new tenant's rent assist him. Mr. Moskovitz asked him if the tenant comes in, will you paid in full by June 30 and Mr. Troyan said yes.

Mr. Winckowski asked if he could install a trash enclosure for the dumpsters? Mr. Troyan said we could if that what was sought, it wasn't on the initial requirement other than the slab that we put out there. Mr. Winckowski said he recommends it considering the intensity of the use and you probably are going to need a bigger dumpster. Mr. Troyan said we could submit designs for that.

Mr. Cucchiaro stated that application PFS1507B-Meals by Aurora, LLC will be carried to the Board's reorganization meeting on January 9, 2020. No further notice to property owners is required.

Mr. Fisher joined the dais again.

Ordinance: Ordinance 2019-20 ~ An Ordinance of the Township of Manalapan, Amending and Supplementing Chapter 95, "Development Regulations", Section 95-3.4, "Certificates and Permits"

Mr. Cucchiaro stated there is a referral from the Township Committee regarding Ordinance 2019-20 for the Planning Board's review. Whenever an Ordinance is proposed that falls within the land use section of our code, it is required by the MLUL that it be referred to the Planning Board for a determination as to substantial consistency with the Master Plan.

This Ordinance, while it is proposed to be codified in Chapter 95, our Master Plan doesn't really get into certificates and permits. As a matter of law, it is impossible to be substantially inconsistent or consistent.

Mr. McNaboe explained to the Board that ordinarily a survey is produced at the sale of the house. What is happening is that we wind up getting that survey, the new owner is in, and any non-conformities were just inherited by the new owner. It does not matter who produces the survey - the buyer or the seller, but it must be produced before the house changes hands. The buyer will now be aware of everything that is inconsistent with that property. There is a 10 year clause where the Town had a time to deal with it. Basically, we are trying to make it

where the Township Committee is hearing two-three of these every meeting where somebody has a problem and is asking for relief.

Mr. Kastell asked for clarification on the 10 year clause. Mr. McNaboe said it doesn't make it ok, but both are aware that it is there and if anything should happen, it has to go out of there. We fought with that, that was something that was put in last year by our Township Attorney. Chair Kwaak said but what if the people had permits? Mr. McNaboe said we just want everyone to be aware of what is happening; zones have changed, setbacks have changes, etc. When that shed is taken down and replaced, it has to be put into the new location. A big problem has been is that the purchasers have not been aware of any of these issues. Chair Kwaak said it can take two-three weeks for a survey to be done. A lot of these sellers go two weeks before the closing to do a CCO inspection, and at the same time, the survey is just being ordered. Now when the surveyors find all of this out, that \$750 price is going to increase. Mr. McNaboe said we have to get the word out to local realtors of this new ordinance. We are trying to protect the new buyers coming into town.

Mr. McNaboe explained that the Construction office goes out and looks; if the property is irregular, you can't really see what is there. You don't know if it 3' or 5' - you need a survey. We are not getting involved in who pays for it. The buyer and seller can split the cost. The second part is that there is a certification that nothing has changed from the time the survey was drawn. The survey can be up to six months old.

Chief Hogan stated that this is going to be considered a prior approval. If you are going to sell your house, you will need a resale certificate of continued occupancy. That is a Construction department responsibility. Within that certificate, we are going to get the prior approval from Zoning, which is what this ordinance covers. The Health department will provide their information and it will all be compiled together and inspections will be made on the interior and exterior and once it is approved, it all comes together. These are all the pieces of that puzzle. Chief continued and said this program is going to be rolled out properly with regard to advertising by letting our real estate associations be aware of this and get the conversation out to the public.

Mr. Cucchiaro that a Certificate of Continued Occupancy does not constitute a certification of a pre-existing non-conforming use which can only be obtained in accordance with the provisions of NJSA40:55D-68. It is important to understand and appreciate what Mr. McNaboe is saying. It is like a notice that everyone understands what is on the property. This Ordinance does not translate into you are now a pre-existing non-conforming use with vested rights. It doesn't change that process.

Chief Hogan stated that if an item is flagged during the process, it must be corrected. The caveat is the 10 year mark. A brand new home is only warranted

for 10 years. Construction code allows that and there is some gray area in there with regard to visual inspections rather than opening up walls and looking. If it is 10 years or more, the ordinance is saying if that new home owner decides to make any changes, then they would have to comply to the standards of today.

A Motion was made by Mr. Fisher, Seconded by Ms. D'Agostino that Ordinance 2019-20 is substantially consistent with the Master Plan.

Yes: Castronovo, Brown, Kane, D'Agostino, Kwaak, McNaboe, Jacobson,
 Hogan, Fisher
No: None
Absent: None
Abstain: None
Not Eligible: Ginsberg, Kastell

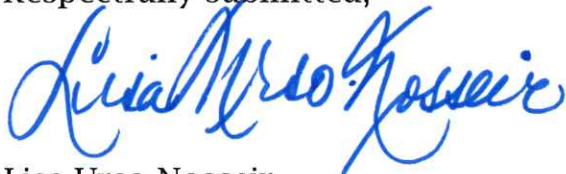
Chair Kwaak opened the floor to the public for any non agenda items. Seeing none, public was closed.

Mr. McNaboe thanked the Board for their dedication to the Township for attending and getting involved with the Planning Board throughout 2019.

Adjournment

A Motion to adjourn the meeting was made by Chief Hogan and agreed to by all.

Respectfully submitted,



Lisa Urso-Nosseir
Recording Secretary

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