

# **BERNARDS TOWNSHIP**

## **PLANNING BOARD**

**MINUTES** v2  
Regular Meeting  
October 20, 2020

Chairwoman Piedici called the meeting to order at 7:30 PM.

### **FLAG SALUTE**

### **OPEN PUBLIC MEETING STATEMENT**

Chairwoman Piedici read the following open meeting and procedural statement:

"In accordance with the requirements of the Open Public Meetings Law of 1975, notice of this regular meeting of the Planning Board of the Township of Bernards was posted on the bulletin Board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge, NJ; was sent to the Bernardsville News, Whippany, NJ, and to the Courier News, Bridgewater, NJ, on October 5, 2020; and was electronically mailed to those people who have requested individual notice.

The following procedure has been adopted by the Bernards Township Planning Board. There will be no new cases heard after 10:00 PM and no new witnesses or testimony heard after 10:30 PM.

### **ROLL CALL:**

Members Present: Asay, Baumann, Crane\*, Damurjian, Esposito, Harris\*, McNally, Mastrangelo, Piedici  
Members Absent: Hurley, Manduke  
Also Present: Board Attorney, Jonathan E. Drill, Esq.\*; Township Planner, David Schley, PP, AICP;  
Board Planner, David Banisch, PP, AICP; Board Secretary, Cyndi Kiefer

\*Present via telephone

Moved by Deputy Mayor Esposito, seconded by Mr. Crane, all in favor and carried, that the absences of Ms. Asay (09/22/2020), Mr. Hurley and Ms. Manduke be excused.

### **APPROVAL OF MINUTES**

September 22, 2020 – Regular Session- On motion made by Deputy Mayor Esposito and seconded by Committeewoman Harris, all eligible in favor and carried, the minutes were adopted as drafted. Abstention for absence: Asay, McNally

September 22, 2020 – Executive Session – On motion made by Ms. Mastrangelo and seconded by Mr. Damurjian, all eligible in favor and carried, the minutes were adopted as drafted. Abstention for absence: Asay, McNally

### **APPROVAL OF RESOLUTION OF DISMISSAL**

[Shaw, Adriane](#); Block 3301, Lot 3; 490 South Maple Avenue; Minor Subdivision, Bulk Variance; PB19-005 (withdrawn by the Applicant) - Deputy Mayor Esposito moved approval of the Resolution as drafted. Mr. Damurjian seconded.

Roll call: Aye: Asay, Bauman, Crane, Damurjian, Esposito, Harris, McNally, Mastrangelo, Piedici  
Nay: NONE

Motion carried.

### **MASTER PLAN REVIEW** – Chapter 1 "Goals and Objectives"

Mr. Banisch stated that the purpose of his memo dated 10/17/2020 was to address the recommendations made in the 2019 Periodic Reexamination Report to update Chapter 1 "Goals and Objectives" of the Master Plan (MP) and to provide the Board with suggested revisions to this section of the MP for review and discussion.

The following recommendations were discussed by Mr. Banisch and the Board:

- Review of the Land Use Element to ensure that existing goals reflect the priority to control growth in order to limit its impact on the community.
- The Shade Tree Commission's suggestions made during the reexamination process (Mr. Banisch offered two new goals to address those suggestions).
- Review of the goals and objectives for the Parks and Recreation Plan for relevancy and for updating the inventory (it was agreed that this should be undertaken when that element is addressed)
- The addition to the "General Objectives" of Purpose "p" (to promote more flexibility so that municipalities can offer zoning alternatives to traditional development strategies), a new purpose to the "Purpose of the Act" section of the Municipal Land Use Law. Mr. Banisch advised that the second new purpose ("q") which involves military facilities, did not pertain to the Township and should not be added (the Board agreed with both suggestions).
- A clearer identification of an "end state" (goal) that the Board hopes to achieve. Mr. Banisch included a chart of the goals as they are currently written and a re-write of each as an "end state." The Board felt that these revisions made the goals much stronger. A discussion ensued about the goals for wastewater treatment facilities and natural/sensitive environmental areas and Mr. Banisch agreed to rewrite those two.
- For organizational purposes, goals should be tied to objectives to facilitate interpretation. The Board felt that some objectives listed seemed more well suited for inclusion in one of the elements and Mr. Banisch was asked to identify and move those objectives to a more appropriate section/element.
- Undertake an assessment of Highlands Regional Master Plan (RMP) conformance. Mr. Banisch gave a brief description of what that would look like, adding that the entire Township is within the Planning Area. It was noted that several years ago, the Township Committee considered opting into the RMP and concluded that it was too restrictive. The Board asked Mr. Schley to provide the historical background for the Committee's decision and Mr. Banisch to look for other municipalities similar to the Township that had opted into the RMP to determine if that had provided any advantages especially concerning Affordable Housing obligations.

Mr. Banisch stated that the last comment referred to revision of "Objectives" section of Chapter 1 and noted that a marked-up copy of the chapter from the 2010 MP with suggested editing to the Introduction and the MLUL Purposes section had been provided with this memo for the Board's review.

Chairwoman Piedici advised that any additional comments from the Board should be emailed to Mr. Banisch no later than November 3<sup>rd</sup> and asked him to make the revisions for review by the Board at its November 17<sup>th</sup> meeting. She then opened the meeting to the public for comments.

Todd Edelstein, 172 Riverside Drive, commented on the RMP, Affordable Housing obligations and opined that, because it is a large open tract of land, Millington Quarry should be addressed in any revision of the MP.

Hearing no further comments from the public either in person or by telephone, that portion was closed.

#### **COMMENTS FROM STAFF OR BOARD MEMBERS**

Chairwoman Piedici asked that those members who participate in the meeting via telephone arrange for a "telephone buddy" on the Board and advise Ms. Kiefer.

#### **ADJOURN**

Committeewoman Harris moved, Deputy Mayor Esposito seconded, all in favor and carried, and the meeting was adjourned at 8:55 PM.

Respectfully submitted,

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Cyndi Kiefer, Secretary  
Township of Bernards  
Planning Board

*Adopted as drafted 11/03/2020*

10/26/2020 v2 dskpj

**BERNARDS TOWNSHIP PLANNING BOARD**

**ADRIANE SHAW  
BLOCK 3301, LOT 3**

**APPLICATION NO. PB-19-005**

**RESOLUTION DISMISSING APPLICATION NO. PB-19-005  
WITHOUT PREJUDICE TO ALLOW THE APPLICANT TO  
PROCEED WITH NEW APPLICATION TO BOARD OF ADJUSTMENT**

**WHEREAS**, Adriane Shaw (the “**applicant**”) submitted an application on November 7, 2019 to the Bernards Township Planning Board (the “**Board**”) which is application no. PB-19-005 (the “**application**”) seeking a minor subdivision of property owned by the applicant which is designated on the Bernards Township tax map as Block 3301, Lot 3 and has a street address of 490 South Maple Avenue (the “**property**”), which property is situated in the R-4 zone district (the “**R-4 zone**”);

**WHEREAS**, the application requires a “d” variance so the Board of Adjustment has exclusive subject matter jurisdiction over the application by virtue of N.J.S.A. 40:55D-20 by reason of N.J.S.A. 40:55D-70d and -76b;

**WHEREAS**, the application was deemed incomplete on December 17, 2019 and the applicant’s attorney thereafter submitted a letter to the Board dated October 13, 2020 advising that the application was being “withdrawn” and a new application would be submitted to the Board of Adjustment;

**WHEREAS**, Board Rule 2:4-7, titled “Dismissal of Applications,” provides:

The Board, on its own motion, may dismiss any action without prejudice if neither the applicant nor anyone on his or her behalf appears at the time set for the hearing of said application. The Board may also dismiss any action without prejudice if neither the applicant nor anyone on his behalf actively prosecutes the application. Further, the Board, on its own motion, may dismiss any action without prejudice for failure to comply with these rules. Any applicant may, at any time before the commencement of the hearing, voluntarily withdraw his or her application, in which case, the application shall be dismissed without prejudice. After commencement of a hearing, a voluntary dismissal may be taken only with the approval of the Board, in which case the Board shall dismiss the action with or without prejudice depending on the circumstances of the particular case. The Board reserves the power to

impose reasonable terms and conditions on any dismissal of an application made after commencement of the hearing on the application.

**WHEREAS**, as a result of the applicant's failure to prosecute the application and by reason of the Board of Adjustment having jurisdiction over the new application, the Board hereby determines that the application should be dismissed but should be dismissed without prejudice in accordance with Board Rule 2:4-7 to allow the applicant to prosecute the new application before the Board of Adjustment without being barred by the legal doctrine of res judicata;

**NOW, THEREFORE, BE IT RESOLVED** by the Board, by motion duly made and seconded on October 20, 2020, as follows:

1. The application (PB-19-005) is hereby dismissed without prejudice by reason of the applicant's failure to prosecute it and for lack of jurisdiction over the application.
2. The applicant may prosecute the new application before the Board of Adjustment without being barred by the legal doctrine of res judicata.
3. The applicant's escrow account balance from the application, if any, shall be transferred to the escrow account established for the new application.
4. A signed copy of this resolution shall be mailed to the applicant and the applicant's attorney and notice of its adoption shall be published in the official newspaper of the Township.

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**THOSE IN FAVOR:** Asay, Baumann, Crane, Damurjian, Esposito, Harris,  
McNally, Mastrangelo, Piedici

**THOSE OPPOSED:** NONE

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The above memorializing resolution was adopted on October 20, 2020 by the following vote of eligible members:

<b><u>Member</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Abstain</u></b>	<b><u>Absent</u></b>
Asay	X			
Baumann	X			
Crane	X			
Damurjian	X			
Esposito	X			
Harris	X			
McNally	X			
Mastrangelo	X			
Piedici	X			

I, Cyndi Kiefer, Secretary to the Planning Board of the Township of Bernards in the County of Somerset, do hereby certify that the foregoing is a true and correct copy of the memorializing resolution duly adopted by the said Planning Board on October 20, 2020.

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**CYNDI KIEFER, Board Secretary**