

BERNARDS TOWNSHIP

PLANNING BOARD

MINUTES v2

Regular Meeting
November 3, 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, Hurley, Mastrangelo, Piedici
Members Absent: McNally, Manduke
Also Present: Board Attorney, Jonathan E. Drill, Esq.*; Board Secretary, Cyndi Kiefer

*Present via telephone

Moved by Mr. Hurley, seconded by Ms. Asay, all in favor and carried, that the absences of Ms. Manduke and Mr. McNally be excused.

APPROVAL OF MINUTES

October 20, 2020 – Regular Session- On motion made by Ms. Asay and seconded by Committeewoman Harris, all eligible in favor and carried, the minutes were adopted as drafted. Abstention for absence: Hurley

APPROVAL OF RESOLUTION – [For the Township of Bernards Planning Board to Adopt Emergency Remote Meeting Protocols, Procedures and Requirements for Public Participation at Remote Meetings.](#)

Committeewoman Harris moved approval of the Resolution as drafted. Ms. Mastrangelo seconded.

Roll call: Aye: Asay, Baumann, Crane, Damurjian, Esposito, Harris, Hurley, Mastrangelo, Piedici
Nay: NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

[Bernards Plaza Associates LLC](#); Block 8501, Lots 39, 43, 44; 403 King George Road; Preliminary/Final Site Plan; PB20-003

Chairwoman Piedici announced that due to technical difficulties affecting the ability to live-stream the hearing and by request of the Applicant, the Bernards Plaza Associates LLC application (PB20-003) scheduled to be heard at this meeting shall be carried to the next public meeting of the Planning Board scheduled for Tuesday, November 17, 2020 *with no further notice required.*

COMMENTS FROM STAFF OR BOARD MEMBERS - None

ADJOURN

Committeewoman Harris moved, Ms. Asay seconded, all in favor and carried, and the meeting was adjourned at 7:44 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Township of Bernards
Planning Board

Adopted as drafted 11/17/2020

11/04/2020 v2 dskpjd

BERNARDS TOWNSHIP PLANNING BOARD

RESOLUTION ADOPTING EMERGENCY REMOTE MEETING PROTOCOLS, PROCEDURES AND REQUIREMENTS FOR PUBLIC PARTICIPATION AT REMOTE MEETINGS

WHEREAS, N.J.A.C. 5:39-1 et seq., Emergency Remote Meeting Protocol for Local Public Bodies, was adopted to ensure that local public bodies can continue to conduct official business in an open and transparent manner whenever a declared emergency exists that prohibits physical attendance by members of the public; and

WHEREAS, a “declared emergency” means a public health emergency pursuant to the Health Powers Act, N.J.S.A. 26:13-1 et seq., or a state of emergency, pursuant to P.L. 1942, c. 251 or both, or a state of local disaster emergency which has been declared by the Governor and is in effect; and

WHEREAS, N.J.A.C. 5:39-1.3 permits a local public body to hold a remote public meeting to conduct public business during a declared emergency if the emergency reasonably prevents a local public body from safely conducting public business at a physical location with members of the public present; and

WHEREAS, if during a declared emergency the Bernards Township Planning Board (the “Board”) holds a physical meeting in a location where, pursuant to State/Federal guidelines meant to mitigate risk, capacity restrictions are required to reduce the number of individuals that can be present in a meeting, the Board shall either:

- 1) Hold the public meeting at another location with adequate capacity for the reasonable expected attendance by the public; or
- 2) Hold the public meeting as both an in-person and remote public meeting; and

WHEREAS, a public meeting held solely in-person without a remote access alternative provided shall not prohibit members of the public from attending in person; and

WHEREAS, adequate notice of the remote public meeting shall also include, in addition to the Open Public Meeting Act requirements of N.J.S.A. 10:4-8, clear and concise instructions for accessing the remote public meeting, the means for making public comment and how to access any public documents on the Township’s website in the manner set forth at N.J.A.C. 5:39-1.5; and

WHEREAS, at the commencement of a remote public meeting the Chair or the Chair’s designee, or in his or her absence, the Secretary, shall announce publicly and shall cause to be entered into the minutes an accurate statement regarding adequate and electronic notice or an explanation of the reason or reasons such notice was not adequately provided as set forth in N.J.A.C. 5:39-1.5(g); and

WHEREAS, prior to the commencement of a remote public meeting, the Board shall make a copy of the agenda available to the public for download on the Township's website and shall post a copy of same at the building where the meeting would otherwise be held, including posting of same at any designated and clearly delineated handicap accessible entrance to the building, by no later than 3:00 PM on the date of the meeting; and

WHEREAS, the content of the electronic notice shall be posted on the main access door of the building where the public would routinely attend public meetings of the local public body in person and the notice must be viewable from the outside; and

WHEREAS, the electronic communications used for a remote public meeting shall have a function that allows the Board to mute the audio of all members of the public, as well as allow members of the public to mute themselves, and same shall be announced at the beginning of every remote public meeting; and

WHEREAS, pursuant to N.J.A.C. 5:39-1, if the Board holds a remote meeting to conduct public business, it shall use electronic communication technology routinely used in business settings that can be accessed by the public at no cost and with participant capacity consistent with the reasonable expectations of the Board for the type of public meeting being held, and such participant capacity shall, at minimum, not be limited to fewer than 50 public participants (not including persons required to be present to conduct business at the meeting such as the Board members, Board professionals, and all members of the Applicant's team); and

WHEREAS, remote public meetings may be held by the Board in a format as selected by the Board, by means including, but not limited to, electronic communications platforms with video and audio or live streaming via the internet and shall, additionally, provide a telephonic conference line to allow members of the public to dial in by telephone to listen and to provide public comment; and

WHEREAS, when the Board holds a remote public meeting, it shall allow members of the public to ask questions by audio or by audio and video if the meeting is being held over both; and

WHEREAS, any remote public meeting where sworn testimony is being taken shall be broadcast by video, as well as audio, and all individuals giving sworn testimony, including members of the public making comments, shall appear by video; and

WHEREAS, any presentation or documents that would otherwise be viewed by, or made available to, members of the public physically attending an in-person public meeting shall be made available on the internet website of the Township or made visible during the video broadcast of the remote public meeting; and

WHEREAS, except for quasi-judicial hearings on land development applications or similar public hearings, in addition to making public comments at any remote public meeting, the Board, in advance of the remote meeting shall allow public comments to be submitted to the Clerk by electronic mail and in written letter form by a reasonable deadline to be established and posted on the website in advance of the remote public meeting; and

WHEREAS, except for quasi-judicial hearings on land development applications or similar public hearings, public comments submitted prior to the remote public meeting through electronic or regular mail shall be read aloud and addressed during the remote public meeting in a manner audible to all meeting participants and the public; and

WHEREAS, a reasonable time limit shall be placed on the reading of individual written comments, all of which shall be read from the beginning until the established time limit is reached; and

WHEREAS, in support of, and respect for, an open, fair and informed decision-making process, the Board recognizes that civil, respectful and courteous discourse and behavior are conducive to the democratic and harmonious airing of concerns and decision making; and

WHEREAS, in an effort to preserve the intent of open government and maintain a positive environment for citizen input and Board decision making, policies and rules shall be established to promote civility and maintain decorum at in-person public meetings and remote public meetings in accordance with N.J.A.C. 5:39-1.4 (f)-(h); and

WHEREAS, if a member of the public becomes disruptive during a remote public meeting, including during any period for public comment, the Chair or the Chair's designee, or in their absence the Secretary, shall mute or continue muting, or direct appropriate staff to mute or continue muting, the disruptive member of the public and warn that continued disruption may result in the member of the public being prevented from speaking during the remote public meeting or removed from the remote public meeting; and

WHEREAS, disruptive conduct at an in-person public meeting or remote public meeting includes sustained inappropriate behaviors including, but not necessarily limited to, shouting, interruption, and use of profanity; and

WHEREAS, any member of the public who continues to act in a disruptive manner at a remote public meeting after receiving an initial warning, may be muted while other members of the public are allowed to proceed with their questions or comments; and

WHEREAS, if time permits, the disruptive individual shall be allowed to speak after all other members of the public have been given the opportunity to make comment and, if the person still remains disruptive, the individual may be muted or kept on mute for the remainder of the remote public meeting, or removed from the remote public meeting; and

NOW, THEREFORE, BE IT RESOLVED by the Board, that the standards and procedures for emergency remote meetings, as set forth in this resolution and as codified in N.J.A.C. 5:39-1 et seq., are hereby established and adopted; and

BE IT FURTHER RESOLVED that procedures and requirements for public participation are hereby established and adopted in order to safeguard public participation in any in-person or

remote public meetings of the Board and shall apply to all members of the public in attendance at any in-person public or remote public meeting of the Board.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

Section 1. The foregoing recitals are incorporated herein as if set forth in full;

Section 2. This Resolution shall take effect immediately.

THOSE IN FAVOR:

THOSE OPPOSED:

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

| <u>Member</u> | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|---------------|------------|-----------|----------------|---------------|
|---------------|------------|-----------|----------------|---------------|

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 xxxxx xx, 2020.

CYNDI KIEFER, Board Secretary

**TOWNSHIP OF BERNARDS
2020 PLANNING BOARD APPLICATION**

RECEIVED

SEP 24 2020

PLANNING/ZONING BOARDS

- ☐ Minor Subdivision
☐ Major Subdivision - Preliminary
☐ Major Subdivision - Final
☐ Conditional Use

- ☒ Site Plan - Preliminary
☒ Site Plan - Final
☐ Informal Review
☐ Other (specify): _____

1. APPLICANT: Bernards Plaza Associates, L.L.C.

Address: 820 Morris Turnpike

Phone: (home) _____ (work) 973-467-5000 (mobile) _____

Email (will be used for official notifications): JoeK@gardenhomes.com

2. OWNER (if different from applicant): Same as Applicant

Address: _____

Phone: _____ Email (will be used for official notifications): _____

3. ATTORNEY: Richard J. Hoff, Jr., Esq. - Bisgaier Hoff, LLC

Address: 25 Chestnut St., Ste. 3 Haddonfield, NJ 08033

Phone: _____ Email (will be used for official notifications): _____

4. OTHER PROFESSIONALS (Engineer, Architect, etc. Attach additional sheet if necessary):

Name: Catherine Mueller, P.E. (Page-Mueller Engineering) Profession: Engineer

Address: P.O. Box 4619, Warren, NJ 07059

Phone: 732-805-3979 Email (will be used for official notifications): cmueller@pagemuellereng.com

5. PROPERTY INFORMATION: Block(s): 8501 Lot(s): 39, 43, 44 Zone: B-5

Street Address: 403 King George Road Total Area (square feet/acres): 23 acres

6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY? ☐ No ☒ Yes (if yes, explain or attach Board resolution) Application # PB-18-0005. See cover letter for further explanation.

7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY? ☒ No ☐ Yes (if yes, explain) _____

8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?

☐ No ☐ Yes (if yes, explain and attach copy) _____

02/06/19

Bernards Township Planning Board

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9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST: _____

As a condition of the May 21, 2019 Preliminary and Final Site Plan approval, Applicant seeks approval for a walking path on Lot 44. See cover letter for further explanation.

10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.): _____

None

11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION: _____

Testimony to provided at public hearing. See cover letter for further explanation.

12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):

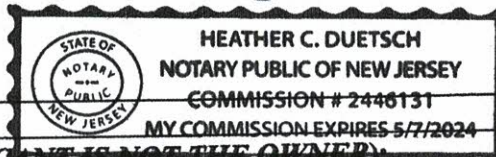
APPLICANT(S) SIGN HERE:

I/we, Joseph Korn and Bernards Plaza Assoc. hereby depose and say that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s): [Signature] and 8/20/20

Sworn and subscribed before me, this 20th day of August, 2020

[Signature]
Notary



OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, _____ the owner(s) of the property described in this application,

hereby authorize _____ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): _____

Sworn and subscribed before me, this _____ day of _____, 20__.

Notary