

EDWARD G. DONOVAN
Mayor

CONSTRUCTION DEPARTMENT

FRANK DiROMA
Supervisor of Code Enforcement

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BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

ALBERT "SANDY" RATZ
Construction Official

The Manasquan Planning Board held their Re-Organization and Regular Meeting on Tuesday, January 8, 2019 at 7PM in the Borough Hall, 201 East Main Street, Manasquan, New Jersey.

Chairman Neil B. Hamilton called the meeting to order and asked those present to please stand and salute the Flag. He then welcomed Councilman Michael Mangan as the newest member to the Board as Council Liaison.

ROLL CALL:

Board Members Present:

Mayor Ed Donovan, Councilman Mike Mangan, John Muly, Robert Young, Mark Apostolou, Kevin Thompson, Neil Hamilton, Mark Larkin, John Burke

Board Members Absent:

Greg Love, Leonard Sullivan, Peter Ragan and Barbara Ilaria (Mayor's alternate)

Professionals Present:

Albert D. Yodakis, Board Engineer/Planner
George D. McGill – Board Attorney

Chairman Neil Hamilton said they will be moving the agenda around once George reads the Sunshine Law. We will go into the Oaths of Office.

George McGill read the Sunshine Law in its entirety.

All present members took the Oath of Office being sworn in by George McGill.

Neil proceeded to welcome Councilman Michael Mangan to the Planning Board.

Bob Young made a motion to approve the vouchers, seconded by Kevin Thompson.

Board Members Voting Yes:

Mayor Donovan, John Muly, Robert Young, Mark Apostolou, Kevin Thompson, Neil Hamilton, Mark Larkin, John Burke

Councilman Mangan abstained.

Approval of minutes of December 4, 2018 Regular meeting and December 18, Special meeting, motion to approve was made by Mark Apostolou, seconded by Robert Young, all in favor none opposed.

Michael Mangan abstained.

George McGill said now we have the Resolutions to re-organize the Board all members have the Resolutions in their packets.

RESOLUTION #A-2019 – Schedule of meeting dates for 2019 – Kevin Thompson made a motion to approve, seconded by Robert Young, all in favor none opposed.

RESOLUTION #B-2019 – Designation of Official Newspapers – The Coast Star, The Asbury Park Press – Kevin Thompson made a motion to approve, seconded by Mark Apostolou, all in favor none opposed.

RESOLUTION #C-2019 – Appointments were discussed in our December meeting, this Resolution memorializes and appoints those members as Chairman – Neil B. Hamilton, Vice-Chairman – Robert Young, Acting Chairman – Honorable Mark Apostolou – Kevin Thompson made a motion to approve, seconded by John Burke, all in favor none opposed.

RESOLUTION #D=2019 – Appointment of the Secretary, George broke out the appointments to two positions, generally there is a statutory secretary who is known as the recording secretary, the function of that secretary is to sign the various maps and function in the Board statutory capacity. That's a non-paid position. The second position is generally what's referred to as the corresponding secretary and that's the position that's the Borough's position created by the Municipality which Mary fills presently, that's a paid position. There's actually two different secretarial positions, both occupied by Mary Salerno. Kevin Thompson made a motion to approve, seconded by John Burke, all in favor none opposed.

RESOLUTION #E-2019 – Awarding contract for the Board Engineer – Al Yodakis – Kevin Thompson made a motion to approve, seconded by Mark Apostolou, all in favor none opposed.

RESOLUTION #F-2019 – Awarding contract for the Board Planner, Al Yodakis – Kevin Thompson made a motion to approve, seconded by Mark Apostolou, all in favor none opposed.

RESOLUTION #G-2019 – Award contract for Legal Services – George D. McGill – Kevin Thompson made a motion to approve, seconded by Mark Apostolou, all in favor none opposed.

RESOLUTION #H-2019 – Adopting Rules and Regulations for the Year 2019 – Kevin Thompson made a motion to approve, seconded by Mark Apostolou, all in favor none opposed.

George stated that concluded the re-organization of our meeting, we should have a motion to close. Mark Apostolou made a motion to close, seconded by Mayor Donovan, all in favor none opposed.

Neil stated now we will re-open for the year 2019 – George said this is now the January 8, 2019 Regular meeting.

RESOLUTION #28-2018 – Dattilo, Dennis – 12 Pearce Court – Motion to approve made by Mark Apostolou, seconded by John Burke, all in favor none opposed. Mike Mangan abstained.

RESOLUTION #29-2018 – Patton, Richard – 289 First Avenue – Motion to approve made by Mark Apostolou, seconded by John Burke, all in favor none opposed. Mike Mangan abstained.

RESOLUTION #39-2018 – Re, Salvatore – 232 4th Avenue – Mark Apostolou said he asked George McGill to make some changes to the Resolution which he did. Motion to approve made by Mark Apostolou, seconded by John Burke, all in favor none opposed. Mike Mangan abstained.

RESOLUTION #32-2018 – DeVirgillio Realty, LLC – 26 S Farragut – Motion to approve made by Mark Apostolou, seconded by Ed Donovan, all in favor none opposed. Mike Mangan, John Burke and Bob Young abstained.

Neil said prior to starting the 15-minute presentation he just wants to make an announcement.

APPLICATION #19-2018 – DaCruz, Janet – 32 Rogers Avenue – Mr. Luttrell the attorney representing Ms. DaCruz is here tonight to request to be carried. He said they were last here on November 7, 2018 and the Board asked at that time if we would agree to get the minutes from a prior application several years ago. Although that application was withdrawn without prejudice there were certain facts that were represented to the Board that would be relevant and we agreed to get those transcripts, he did hand them to the Board Secretary this evening. I would move to incorporate that into the record so there is no confusion as to what the facts were. He didn't represent the applicant in the last application. The second issue is Ms. DaCruz, she was supposed to be here this evening, there are certain facts we wanted to get into the record as to why there is a building there which was elevated without the variance approval. At the last application which she withdrew without prejudice she was just going to pay to have the roof lowered. Ms. DaCruz paid a contractor to do that, it was Marley Construction that money was absconded. The money she paid him came from the REM program, when she notified the Prosecutors office about this the Attorney General's office has pursued that contractor. The bottom line that is why we still have a house that is still up and was supposed to be reduced. Now Ms. DaCruz finds herself in the situation where she doesn't have the money to lower the roof. Her testimony is relevant for that information to be put in the record. The problem we have is Ms. DaCruz apparently e-mailed and texted my office late last night at almost 10 o'clock that she was checking herself into the hospital. I reached out to her when I got out of Court this afternoon, she had apparently reached out to my office later on about an hour or so after stating she was in Jersey Shore Medical Center, she is being admitted and will be there for at least today and through tomorrow. I immediately instructed my office to notify the Planning Board Secretary and to request the adjournment and to notify as many people as possible. I knew there were people that were objecting that were coming, I did not have any of their contact information. I have no objection to any of the members in the audience that want to voice objections to the application tonight before we are able to put our case on and I have no objection if they want to come back when we are done putting the case on if they have new objections or want to renew the same objections. I'm stipulating that into the record so that's not any basis for grounds to oppose it, I know it's not customary but I obviously defer to the Chairperson and your attorney as to how to conduct these meetings. I spoke to at least one gentleman that there were some changes which I will touch on in a second, but the height variance was still going to be requested, he indicated he would like to at least speak his part about his objection to the height and I have no objection to that. As far as the application itself, the application consists of three

variances, one was for the height variance, going above the 38-foot threshold, the second was for the curb cut, the minimum in the area for a single garage is 12-foot width, here the curb cut is about a curb cut and a half so to say. The third variance is the existing home already had a detached garage. After Hurricane Sandy and after the home being elevated instead of having a giant wall facing the front of Rogers Avenue that was designed to have an attached garage underneath the home. You can't have two garages without a variance so that's what the third one is for. The curb cut request is withdrawn, his client is going to essentially go back to a 12-foot curb cut the only thing is if her garage is denied she is essentially going to keep the curb cut 12-feet where it originally was going back to the back garage. If it's granted, we are going to move the 12-foot curb cut to directly behind the attached garage and we are also going to eliminate the detached garage but ask for a variance to keep it as a gazebo/shed with no access for any autos. This is about 264 square-feet where the limitation for a gazebo is 100 square feet. It would be open on all sides except the one facing the driveway. Mr. McGill asked if there would be plans for the gazebo the answer was yes. Mr. McGill asked will you have plans for the Board to take a look at in reference to the gazebo? Mr. Luttrell said yes. Mr. McGill asked will you have plans showing the alternate alignments for the driveway? Mr. Luttrell said yes actually we already have Surveys for that, we have the survey from when the property was subdivided which is what it used to look like before Sandy and obviously what the current as built survey is what it looks like. Mr. McGill said just as long as we have something when you come back and you will have those for the next meeting. Mr. Luttrell said yes and also the TECH review letter indicated that the two air conditioning units are apparently in the side yard which is not approved but they have been there since the house was constructed, we are obviously going to be asking for variance relief for those to continue staying where they are. With it being carried I'm probably going to re-notice anyway just to err on the side of caution for any of those issues. Mark Apostolou said but you are still seeking the height variance. Mr. Luttrell said the height variance we are still seeking, the fundamental component is she does not have the money to lower the height and the second component is and we will have the drawings that she paid the structural engineer here to design drawings and solicited bids to see if we could lower the house, it's going to look atrocious that's the other component and not going to be a benefit to the neighborhood and it will not advance the purposes of the Master Plan and so on and so forth. I'll leave that to the Board to decide. Al Yodakis said one of the sticking points for the height variance is we are going to need the elevation certificate, which I mentioned at the last meeting you were here and we have not seen that yet. Mr. Luttrell said we have yes; I have an elevation certificate. Al said yes one was submitted but it did not submit the finished floor elevation which is a key point. Mr. Luttrell said so yes all those items when we are putting our case forward that's exactly what we will show. Mark Apostolou said also we inquired about a factual history as to how that got constructed, because you were under the impression prior to receiving the transcript that things were done appropriately. I know I would be interested in knowing the timeline as to who built this, how did it go up after Mr. Almenchenko was instructed in the transcript not to do it and then he said we are going to go back and re—work it. So, the transcript speaks for itself. Mr. Luttrell said exactly, I didn't want to present a case with facts that were contrast to what was represented by Mr. Almenchenko when I wasn't part of that application. John Burke said you will have to change the landscaping plan. Mr. McGill said so Mr. Luttrell said you have indicated that you will have these plans and the elevation certificate for your presentation but we would like to have those plans beforehand. Mr. Luttrell said right so at least 10 days prior to the next meeting, that's fine. George said it's very important for our

Engineer to take a look at it and be able to comment on it and provide us with a second report as to the significance of what the findings that certificate shows. We need the plans for the gazebo, the elevation certificate and the landscaping plan. Mr. Luttrell said what I am going to do is submit those, I'll also have compiled an exhibit list which I was going to have Ms. DaCruz present. If Ms. DaCruz health is still an issue, there are certain facts that I might be able to get into the record so there is not another delay I would just need to get Power of Attorney from Ms. DaCruz. If that's something that is acceptable. I've represented Ms. DaCruz for several years but related to flood litigation against the flood insurers, two adjoining properties that she owned in selling those. Mr. McGill said let's hope she is ok, but right now just anticipate that she will be here and we will move forward with this at the next meeting. Neil said we can do February let's hope that she is well and we don't have to postpone again. George said we don't have much of a basis that she's not going to be ok so why don't we put it on for February 5th and that's the way we will proceed. Neil asked are you going to re-notice? Mr. Luttrell said he would consent to the carrying of it for the record and to hearing the audience voicing their objections to the application and they are here tonight. Neil said we will hear from these folks. Bob Young said if we move it to February 5 will you be able to get us all the necessary information at least 10 days before that meeting? Mr. Luttrell said the answer to that question, I spoke to Mr. Almenchenko, he said he would be able to have something by the end of January, February 5th is going to be cutting it close but I will let him know that they have to be done before. Neil said we have to have them. Mark Apostolou asked what if there are questions for Mr. Almenchenko and we can't question him. George McGill said he prefers he be here. Mr. Luttrell said he won't be here; he winters in Florida. Neil said he will provide us with two things, the gazebo. Mr. Luttrell said he won't be providing us with any testimony on the height of the house, Mr. DePompeo who was here at the last meeting will be here on the height. George McGill said there will be a plan showing what the house is going to look like if you have to take it down, right? Mr. Luttrell said correct, he said that was designed by Mr. DePompeo. George said he's an engineer right? Mr. Luttrell said he's a structural engineer. George said isn't that the realm of the architect to design the structure, the roof and comment on as you said atrocious, somebody is going to have to comment on the aesthetics of it. That is going to be part of your case, who's going to do that? Mr. Luttrell said I'm going to let the drawing speak for itself, Mr. DePompeo is not going to testify as to whether it meets any particular design standards. He is certainly qualified to go ahead and design the reengineering of the roof structure which is what she paid him to do when we left here, to possibly eliminate that variance, because we understood that is a big issue in some of the objections that we got from the members of the audience. If I could eliminate that it would be great but I couldn't eliminate it because the cost is too great. Neil said should it be cut will he provide a rendering of what it is going to look like. Mr. Luttrell said he will provide the structural designs. Mayor Donovan asked if he was looking at any other structural changes that could be made if the aesthetics of cutting the roof off is unacceptable. Mr. Luttrell said I know he visited the house, and I asked him to confirm if there is any other way to make this elevator issue a possibility with also keeping the roof height and the answer that he is going to be prepared to testify is no. Short of eliminating the elevator and lowering the house a couple of layers from the foundation. George McGill said he thinks an architect would be helpful in the presentation however I'll let the applicant put their presentation on as they deem fit. I don't have a problem having architectural renderings shown, many times much of an architect's testimony is factual. We'll have the applicant put the testimony on and we'll make the decision based on what's in front of us. Councilman Mangan said one question, what is the

purpose of this exterior structure? Mr. Luttrell said right now it's a detached garage, because of the width of the lot the best place to put the detached garage was in the back of the property. That's been there. When the property sustained flood damage from Hurricane Sandy it was discovered that the builder never put the property one foot above the BFE (base flood elevation) he only went about a half a foot, my client got about 6-9 inches of water in the property. In order for her to qualify for the REM grant and to do it she had to bring that property into compliance. That meant raising it and at that point instead of raising it 6-inches since she got more than 6-inches of water in there, the decision was to raise it up high enough to where you could get a car underneath. That left the problem now you have a second garage. Frankly it's never going to be used so my recommendation to Ms. DaCruz was to basically demolish the garage which was then going to add another cost which she is not going to be able to afford, have some value out of it to have a gazebo or something. Mike said it still doesn't answer the question, respectfully. I understand the sequence of events, but what is the purpose of the structure going to be? Mr. Luttrell said a gazebo, a place to. Mike said I'm unfamiliar with one that large in a residential setting, certainly in this Town, that's why I asked. Just cost wise I would think demolition is generally cheaper than retro fitting. I asked because it's going to be a question I have for your client so if you don't know now perhaps it's something we can discuss at the hearing. Mark Apostolou said he is looking for an answer as to how this structure got to that height. Mr. Luttrell said that is the one thing I promise you, you will have an answer for with evidence behind it, she paid a contractor to elevate the house and lower the roof. He elevated the house, did not lower the roof and absconded with the balance of the money. Mike Mangan asked if the need is financial or a structural one. The discussion carried on for quite some time. Neil said he would like to open to the audience. Mark Apostolou made a motion to open to the public, seconded by John Burke, all in favor none opposed.

Audience Members Coming forward all were sworn in:

George Limbach – He lives at 37 Rogers Avenue, his wife and he live directly across the Street from the house in question. The Zoning Ordinances were formulated for the greater good of the community, the house in question was raised sometime after Sandy. There is confusion on exactly how this happened. It's in violation of three clear and obvious zoning violations. The approval of any of these three variance requests would clearly set unwarranted zoning precedence for our Town. The goal is compliance of the regulations. We should not allow this. We do have a severe parking problem in the Summer and an extra parking spot would be welcome. He asked the Board to reject all three variance requests.

Frank Valgenti – 12 Sims Avenue – He questions how we get to this point. Mr. McGill said you will have an opportunity to ask the applicant directly, whatever question you want to ask when they present their testimony. So, obviously anyone who speaks tonight has the right to come back and participate in the further hearing of this matter, you are not precluded from that. Mr. Valgenti said he re-built his house after Sandy, painstakingly, he met with people in this Town to make sure his plans were approved. He gave up on certain things, he couldn't have a garage underneath, his height is right where it's at. Everything is in line. We had a REM grant, he doesn't understand how money is absconded from a REM grant when he had multiple sign offs throughout the entire process of his grant to get that money done and signed off and met the building plans and everything. At the end of the day he submitted plans with this Town exactly what he was building and there was no deviation from that, he doesn't understand how there would be plans sitting somewhere in this building that don't match what we are talking about finding an architect that was missing from the last meeting to come up with a drawing. How

something could get built with the hopes of lowering a roof, well that lowered roof should be sitting in a drawer somewhere in this building and it doesn't sound like it is. Mark Apostolou made a motion to close the public portion, seconded by John Burke, all in favor none opposed. Mr. McGill said he wants it put on the record that we've discussed financial hardship, that is not a sufficient basis under the MLU Law to grant a variance. When that is presented, you can listen to it but it's not going to be anything that will ever find its way into a Resolution that I'm going to write in supporting any kind of relief. It's pretty much 101 Land Use, it's not sufficient and I want that out there. Neil said so you will be carried to the first meeting of February. Mark Apostolou asked if you could swap addresses with the audience so if something goes awry you will be able to communicate. Mr. Luttrell said he would re-notice the next meeting is at 7PM in this room on February 5, 2019. Mary asked Mr. Luttrell if he would indeed have the stuff for the Board Engineer 10 days prior to the meeting and Mr. Luttrell said yes. Mary asked absolutely. Mr. Luttrell said he can vouch for himself and what's in his control, he will tell Mr. Almenchenko he has to hustle otherwise my client will have to look for someone else to do the plans. Al Yodakis said just show us what the gazebo is going to look like. Al said you gave us an elevation certificate to the top of the ridge line, we need the finished floor because there are some State Statutory requirements on how high it was raised above the BFE and we don't have that information.

15-MINUTE PRESENTATION – Sullivan's Gas Station – George swore in the presenter William Kurtz – he is a contract purchaser who is a resident of Sea Girt, he is a civil engineer and planner with offices in Wall Township. When he saw that 86 Main Street was available, it interested him as he does developing as well. He mostly does commercial and residential real estate and not down town in such a small setting. The site is a 7200 square-foot lot, it meets your BR-1 Zone requirements in terms of area and the like. In looking at the site and trying to make it a worthwhile project for himself his original intent is to do a retail type facility on the first floor and possibly 4 stories total with 3 above the retail. The total height would be slightly higher than your 40-foot requirement is in that zone. There would be 9 residential units above the retail below. The units would be approximately 1250 square-feet, 2 BR, 2 baths rental units. The site right now is 100% impervious right now. Your zone requires 60% maximum coverages. That would be an issue if I was to go further. The building is going to be about a 4500 square-foot footprint. He feels it's an ideal corner to do something really special for the downtown. The other issue is parking, 2 spaces per unit is what your Ordinance requires. He doesn't know if he could even meet 1 space per unit at that particular location. Unless it was underground parking which would make that project almost undoable. I do note that you have public parking throughout the downtown area. Neil said unfortunately you don't have much time to sit before us, it would have been helpful if you could have brought in some sort of a rendering of what you thought the site would look like. Mr. Kurtz said he appreciates that but he doesn't know if that would have changed your minds, he would want to go back and have his architect prepare the rendering and the floor plans but he just wanted to hear some thoughts. Neil said he personally would rather see no vehicles parked on that site, he would like to see the front landscaped and whatever to make it all fit. That corner is a focal part of Town. A building that size would never get my support. I could probably go for two retail stores and maybe two apartments above. I wouldn't want to see you exceed the height of the Coast Star building which is next door. If you could bump it forward for delivery trucks, also to hide the recycling and trash in the rear. Maybe the rear of the building would be the access to the upstairs. Keep the front all commercial. You

wouldn't get that density from me, other projects which back up to the Plaza have been approved. Your tenants would have to park in the Plaza. You can do a nice job there. Mr. Kurtz said I appreciate your input. Neil asked if an Environmental study been done there? Mr. Kurtz said phase I has been done, some tanks have been removed, if I do proceed I will be doing a Phase II to assure myself that it's a clean site. I would be sinking some wells or borings into the ground because those tanks have been removed. Neil said he didn't believe they would even want to get vehicles up on that corner, possibly right behind the building, one curb cut next to the Coast Star building for access. Mark Apostolou said keep in mind we just had a fatality at that intersection. Mike Mangan said the Town is looking at that intersection. Mark Apostolou said he sides with the Chairman; he thinks it's too dense. Mayor Donovan said five units would trigger the COAH obligation. Mayor Donovan said just the parking, that is a huge problem with a development. We have time limits in the parking lot across the Street, we have time limits on Main Street. Mr. Kurtz asked how do you handle the permit issue. Ed said for overnight parking the Police Department issues them, you can get one if you make an application. If you live in the apartments above a store you can apply and then will give you one to park in the Plaza overnight. Mr. Kurtz said thank you, I appreciate your input, he will go back to the drawing board and hopefully he will be back. The Board Secretary has his application.

APPLICATION #10-2019 – South Street Enterprises, Inc. – 75 Main Street – Block: 27 – Lot: 8.01 – Zone: BR-1 – Neil said this is a Use Variance so the Mayor and Councilman have to leave the dais. Mike Mangan left the meeting. Ed Donovan chose to sit in the audience. Michael Rubis, he is representing the LLC, this regards Unit #1 at 75 Main Street. He is a certified criminal trial attorney not a Land Use attorney, so this is his first variance application. He has Stacey Farinacci who is managing member of South Street Ent., LLC to put forward some facts in support of the application. Neil said you can explain to the Board, we don't allow offices on the first floor in that zone but from what I understand from the Zoning Officer you are having a difficulty renting that store, it's on a corner, it doesn't have any storage basement access and you are looking for relief from the Board to put a low impact office in there, one or two people and for that simple reason you would be asking for a Use Variance for us to permit that. Mr. Rubis said yes that's correct, from what Stacey has told him this property has been owned by South Street Enterprises for about 20 years. That unit #1 is approximately 600 square-feet, of that there is a closet that is about 40 square-feet, there is a bathroom which is kind of the same size as the closet. The actual usable space in that corner store is about 515 square-feet, there is no basement storage, there is a side door to the back patio type area, there is a storage space there. In the 20 years that it's been owned by this LLC it's been vacant approximately 35% of the time. So that's 7 out of the last 20 years that it has been vacant. Recently the last tenant was a record store that lasted 1.5 years, before that there was a paint store that lasted 8 months, there was a boutique that lasted approximately a year, they subsequently moved to Main Street and lasted 6 years. Prior to that the only other tenant was Katherine's which lasted 1 ½ years as we all know Katherine's has been thriving on Main Street for almost a decade now. Due to the lack of storage space a retail space wouldn't want to come in there. If you look at the stores that are there now, 3/4 of the stores that are in the strip Plaza on the first floor are Consignment shops. They seem to do the best in that area and they need storage space. The biggest problem is it is not on Main Street, it's on South Street, it's in the farthest corner of the property and you just don't have the foot traffic. Mr. Prime is there, there is a beauty type salon next to that. There really isn't foot traffic. Those are the issues my client is dealing with. They would like to put an

attorney in there, he would have to have off site storage for his files. Neil asked if they have a tenant, Mr. Rubis said it would be me. I live in Manasquan on Lakewood Road and it's perfect for me. John Burke said this would be setting a precedent if we allow you will other attorneys come in and say we want to be in the middle of Town. Mr. Rubis said I understand that and that's what makes Manasquan different than Spring Lake because you can walk Main Street and go shopping. I enjoy that being a resident. The fact though is this isn't on that Main strip, this is a 500 square foot office in the corner of a South Street property, I don't see you are going to have that problem. The LLC is only seeking a variance for just that one space. It is a problem because there is just no foot traffic. Based on the history of this one unit that just isn't happening and you can see that in the fact that the longest tenant in the past 10-12 years has been there a year and a half. Mr. McGill said after you said you were going to be a tenant I thought I probably should have sworn you in. None of what you are saying is actually testimony we can actually use on the record, so we need someone to come up and deliver this information on the record. Stacey Farinacci came to the table and was sworn in. She stated she represents South Street Enterprises, they are family owned and operated proudly for about 20 years. They are just seeking relief for the one unit. They love Manasquan, they love owning this property. Her father in law puts every ounce of love he has into that property. For 20 years they have been struggling with that unit. 35% of the time it has been vacant, she is the property manager so she deals with the tenants, they just can't seem to have a retail store survive in there. She named the tenants who rented and couldn't stay there as did Mr. Rubis. She said her father in law is a great landlord and all his tenants love him. George McGill asked Stacey what the sizes of the units that are doing well. She said they are all larger and they all have access to the basement, none of the customers can go down into the basement for storage. She didn't know the exact square footage for the units, they all vary. As of right now, Squan Dry Goods occupies four of the retail spaces, Mr. Prime has one, the men's consignment shop has two, there is a lash boutique that has one or two of the spaces, and then we have offices upstairs and we have had tenants up there for almost 20 years. George asked if the space that they are talking about be incorporated in any way into any of the other units. Stacey said at one time, there was a Salon who tried to open up a blowout bar and she opened up a doorway but again she didn't have enough business or foot traffic to support paying for both rents so we had to close that up. Mark Apostolou said he thinks it's opening a dangerous door. John Burke agrees with Mark. Kevin Thompson said he is ok with the change. Mr. Rubis said it's not just financial, you have an area in a building that is vacant and that is an eyesore, it shows that the property connotes that area isn't doing well. Mark said we could move the consignment down to that corner because people know he is there. But, that's just me I can't speak for the rest of the Board. Mark Larkin said he is ok with it. John Muly doesn't have a problem with it. Bob Young said initially he would have had a problem with it but he was driving through downtown Chatham about a month ago and it used to be a rather robust center and in one block there were four large stores that were vacant and that probably changed my thinking on this one. I share your concern about a slippery slope but that was an eye opener for me and I don't want to see that in Manasquan. Mark Larkin asked if we make this a precedent does that open a door legally? George McGill said no, each case is as we say decided on their own facts, in this situation you are looking at an argument that is pretty much based on site suitability, it's suitable for the use that they are proposing because it's not suitable for what it's zoned for. That's their argument. It would be difficult for another person to come in and make the same argument unless they have the same facts. Of course cases that have similar facts should be decided in a similar manner. The Board's decision is not necessarily

precedent but we should decide things in a consistent manner. Neil said I've heard both sides and he knows why we put the Ordinance in originally so we didn't wind up like Spring Lake with all the realtors and I think we made a good move and fortunately our Chamber of Commerce is very active, all our stores in Town are probably 100% full. I know your site very well, when we put the Ordinance together probably it made a lot of sense, you do have some offices upstairs, as some on Main Street do have offices upstairs. I get what you are trying to accomplish by that, it's almost like a little dead space down there. That center is difficult; you don't seem to get the amount of walking traffic that you get on Main Street. Fortunately, Mr. Prime and the Consignment Shops are doing well, they have become destinations. I'm pleased that happened, we have a good downtown basis. I don't think we are going to set a precedent next to Merten's Jewelers or something I would say nah, we are really opening a can of worms here. I think at your locale I don't have a problem with it, after all is said and done other than it being a destination office for an office professional I don't think anyone is even going to know it's over there. Like Council said we have to take each case on its own merit so I frankly don't have a problem with it. If it was in the middle of the complex I would say why can't you join it to another store but being its almost dead space down at that end, it's small I could probably consider approving that application. George McGill swore in Mr. Rubis who wished to speak as a witness. He testified that he approached Ms. Farinacci and the LLC about that space and the reason is, he's been living in Manasquan for two years. His wife used to be a law enforcement officer in Neptune City, she worked at Hudson County Prosecutors Office and she is not working anymore as she is getting over an illness. We are in the process of buying my mother in laws house on Lakewood Road. I approached Ms. Farinacci because I love it here, I want an office here and be a member of the Community here. When I saw that space and saw it's been empty for a while I thought it would be a great place. This is a long term tenancy for me. Al Yodakis asked to question the applicant just to get some things on the record. How many people are involved in your practice? Mr. Rubis said right now, he has an office in Spring Lake Heights and also an office in Jersey City. He has been without a secretary now for about a year and has been waiting for his lease to end to hire someone. Al said it's probably reasonable to assume you will have at least one more employee. Mr. Rubis said he will have one-part time paralegal who will be working possibly 20 hours a week. The office will be my office, set up as an office and a conference room and a receptionist. Al asked about hours. Mr. Rubis said regular hours 9-5 Monday through Friday. He said most of his practice is not walk in other than him sitting at the computer drafting papers. Al said he wants to get on the record the impact of traffic. Mr. Rubis said minimal at best. Al asked if there were any designated parking spots assigned with this space and the answer was no. Al said so what you are saying is that site is uniquely suited to this use because of the ineffectual tenant space that we've had over the past 20 years and would not be a negative detriment to the zone plan, light, air and open space or any other purposes outlined in the Master Plan to the Borough. Kevin Thompson made a motion to open the meeting to the public, seconded by Robert Young, all in favor none opposed. There were no audience participants. Kevin Thompson made a motion to close the public portion, seconded by Robert Young, all in favor none opposed. Kevin Thompson made a motion to approve the application, seconded by Robert Young.

Board Members Voting Yes:

John Muly, Robert Young, Kevin Thompson, Neil Hamilton, Mark Larkin, John Burke

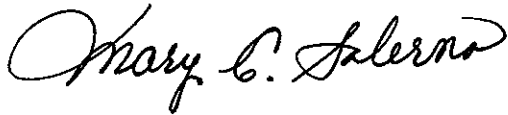
Board Members Voting No:

Mark Apostolou

Neil asked George McGill if in the contested application again and it's either carried or postponed and we know we have objectors, could we require that the applicant or the objectors leave information, their phone number and name with Mary that should we have a cancellation for whatever reason like we had tonight that they could be contacted. George said he doesn't think we could require it but he thinks it's a really good idea and he thinks everybody would leave their information saying they could be contacted. We find out so late in the day at least we could give these people a heads up as a courtesy.

Kevin Thompson made a motion to adjourn at 8:32PM, seconded by John Burke, all in favor none opposed.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary C. Salerno". The signature is written in dark ink and is positioned above the printed name and title.

Mary C. Salerno
Planning Board Secretary