

The Manasquan Planning Board held their Re-Organization and Regular meeting on Tuesday, January 10, 2012 at 7PM in the Borough Hall, 201 East Main Street, Manasquan, New Jersey.

Chairman John Burke called the meeting to order stating that this was an Open Public Meeting published and noticed according to law and a copy of the Agenda was posted on the bulletin board outside. He then asked everyone to please stand and salute the Flag.

ROLL CALL:

Board Members Present:

Mayor George Dempsey, John Muly, Patrick Callahan, Councilman McCarthy, Neil Hamilton, John Burke, Leonard Sullivan, Peter Ragan, and Mark Apostolou

Professionals Present:

Geoffrey S. Cramer – Planning Board Attorney
Albert D. Yodakis – Planning Board Engineer/Planner

Board Members Absent:

Joan Harriman, Jay Price and Bill Buble

John Burke said this is a Regular meeting of the Planning Board but it's also our Re-Organization meeting and we will go through the Re-Organization process first before we start any of the cases tonight.

The first thing we have to do is clear up unfinished business from 2011 – he asked Geoff Cramer to address the issues.

RESOLUTION #18-2011 – Dattilo, Mary and Jeff – 10 Pearce Court – Block: 155 – Lot: 4 – Zone: B-3 – This Resolution deals with the memorialization of approval given to Jeffrey and Mary Dattilo at the December meeting with respect to construction of a rear deck on a single-family dwelling. There were stipulations made by the applicant that the deck would measure 12 X 18-feet. Mayor Dempsey made a motion to approve the Resolution; the motion was seconded by John Muly.

Board Members Voting Yes:

Mayor George Dempsey, John Muly, Patrick Callahan, Neil Hamilton, John Burke, Leonard Sullivan, and Peter Ragan

RESOLUTION MEMORIALIZED

RESOLUTION #19-2011 - McCarthy, Daniel and Meghan – 87 Parker Avenue – Block: 60 – Lot: 77 – Zone: R-2 – This Resolution memorializes the approval given to Daniel and Meghan McCarthy at the December meeting with respect to construction of a new front porch onto an existing dwelling. There were stipulations to the application. Mark Apostolou said that one stipulation was that they agreed to a Deed restriction as well as

that the porch would not be enclosed at any point in time. The corrections would be made on the Resolution by Mr. Cramer. A motion to memorialize the Resolution was made by Neil Hamilton; motion was seconded by John Muly.

Board Members Voting Yes:

Mayor George Dempsey, John Muly, Patrick Callahan, Neil Hamilton, John Burke, Leonard Sullivan and Peter Ragan

RESOLUTION MEMORIALIZED

John Burke said the next items on the Agenda is the approval of minutes from Tuesday, November 1, 2011 – Leonard Sullivan made a motion to accept the minutes, the motion was seconded by Mayor Dempsey all in favor none opposed.

MINUTES OF NOVEMBER 1, 2011 APPROVED

Next for approval are the minutes from December 6, 2011, a motion to approve the minutes was made by Leonard Sullivan, the motion was seconded by Patrick Callahan, all Board members were in favor none opposed.

MINUTES OF DECEMBER 6, 2011 APPROVED

A motion to approve the Vouchers from 2011 were approved by John Muly, seconded by Leonard Sullivan, all in favor none opposed.

PAYMENT OF VOUCHERS WERE APPROVED

John Burke said that concludes the year 2011, according to this Board the year is done.

Geoff Cramer took over the meeting by stating the first Resolution which is #C-2012 – which provides for the appointment of the Chairman for the upcoming year to serve until January 8, 2013, that provides for the appointment of Mr. John Burke as Chairman of the Planning Board and also for the appointment of Mr. John Muly as Vice-Chairman of the Planning Board in the absence of Mr. Burke. Mayor Dempsey moved to approve the Resolution, seconded by Michael Sinneck, all in favor none opposed.

RESOLUTION #A-2012 – Meeting Dates for 2012 – this was adopted at the December meeting of the Board and was published.

RESOLUTION #B-2012 – Designation of newspapers for the Planning Board, specifically the Coast Star and/or the Asbury Park Press – Mayor Dempsey made a motion to adopt the Resolution; the motion was seconded by John Muly, all in favor none opposed.

RESOLUTION #D-2012 – Appointment of a Planning Board Secretary, Mary Salerno – Mark Apostolou made a motion to approve the Resolution, seconded by Mayor George Dempsey, all in favor none opposed.

RESOLUTION #E-2012 – T & M Associates as the Planning Board Engineer, motion to approve made by John Muly, seconded by Patrick Callahan, all in favor none opposed. Owen McCarthy abstained from voting on this Resolution.

RESOLUTION #F-2012 – T & M Associates as the Planning Board Planner – motion to approve made by Michael Sinneck, seconded by George Dempsey, all in favor none opposed. Owen McCarthy abstained from voting on this Resolution.

RESOLUTION #G-2012 – This Resolution provides for a Planning Board attorney which is Geoffrey S. Cramer – John Burke made the motion to approve, seconded by Mark Apostolou, all in favor none opposed.

RESOLUTION #H-2012 – Resolution adopting the Planning Board Rules and Regulations which haven't changed in several years now for the upcoming year 2012, motion to memorialize the Resolution was made by John Burke, the motion was seconded by Patrick Callahan, all in favor none opposed.

OATHS OF OFFICE –

John Burke said everyone should have an Oath of Office in front of them that needs to be signed. Geoff said the Oaths of Office pertain to the appointment of the Class I member which is Mayor George Dempsey, the Class I Member to be the Mayor's Designee Judge Mark Apostolou, Class II Member is Patrick J. Callahan, Class III Member, Council Liaison is Councilman Owen McCarthy, the Environmental Liaison is Michael Sinneck, Regular Planning Board Members are: John Burke, John Muly, Neil Hamilton, and Leonard Sullivan. The Alternate Board Members are: Peter Ragan, Alternate #2, the T & M Associate Representative is Albert D. Yodakis; the Planning Board Attorney is Geoffrey S. Cramer. He said I will swear you all in except for me. All stood and raised their right hand and proceeded to be sworn in as Geoff said "Do you each solemnly swear that you will support the Constitution of the United States and the Constitution of the State of New Jersey and that you will bear true faith and allegiance to the State and to the governments established in the United States and in the State under the authority of the people and that you will faithfully and impartially and justly perform all the duties of the office previously identified of the Borough of Manasquan to the best of your respectively abilities so help you God. Each member being sworn in answered they do. Geoff congratulated them. Next Judge Mark Apostolou proceeded to give Geoffrey S. Cramer the Oath of Office reading the same Oath and Geoff responded he did and Mark congratulated him. Board members absent that will have to take the Oath at the next meeting are: Joan Harriman, Jay Price and Bill Buble

REGULAR MEETING

John Burke said now we will start the regular meeting, the first item on the Agenda is a case we had heard in December and we carried it to tonight, it's not on the original Agenda because we weren't sure whether it was going to be heard tonight or not.

APPLICATION #17-2011 - 30 North Main Street, LLC – Attorney Gregory Vella said he is here tonight on behalf of 30 N Main, LLC, he said if you recall he was here for about five minutes in December where his client was proposing to tear down of an existing building and build a three-story building with a first floor office and apartments above. If you recall when we went for the County approval because it's on Atlantic Avenue, their initial report was they wanted certain right-of-way easements on the County Road, but also they

suggested or recommended to this Board to take about 7 ½-to 10-feet off of our property on North Main Street and that effectively would make the property unbuildable. So we asked the matter be carried from last meeting to this meeting, we would go back to the County have a sit down talk with them. John Burke had to interrupt Mr. Vella and said let the record show that Mayor Dempsey has to leave but will be returning. It is 7:19PM. Mr. Vella continued stating we talked with the County, originally they wanted to take the 7 to 10-feet for a right turn lane from North Main Street to Atlantic Avenue. We met with them Monday; we submitted revised plans where we moved the building a foot and one-half back and we offered them three-feet, actually offered you three feet on North Main Street as an easement to satisfy them. They didn't really ask for it but they recommended it. We had a meeting with the County on Monday and I am pleased to announce that the small revisions we made are acceptable to them. Actually I just received a letter of Conditional Approval where they approved the Right-of-Way dedication. I will put it on the record that their report does not recommend us giving any property to the Borough; however it's conditioned on our plan which says we are going to give three feet of Right-of-Way easements to the Borough of Manasquan. So that is part of approval, if you want we are going to give you three feet. The project is now doable; we are here for two reasons. One, we have appealed the Zoning Officers determination this property is located in the B-1 Zone which you are all quite familiar with. The B-1 Zone permits Commercial uses on the first floor and apartments above it. The Zoning Officer told us that office uses were not commercial uses and we needed a Use Variance for this application. During that process he responded saying the B-1 Zone permits commercial uses below apartments. He says commercial uses are for profit or non-profit, thus office uses are not commercial uses therefore we need this Use Variance. We appeal that interpretation. We are not in a walking retail area, we are nowhere near it. So, we have appealed the Zoning Officer's determination saying that the B-1 Zone that says Commercial Uses are permitted, included offices, we would probably rent to a lawyer, financial, accountant, something to that affect. The Planning Board has a right for a Site Plan, if the Board says you are not allowed, I'll agree with the Zoning Officer's interpretation, we are still proceeding under a Zoning Board Use Variance Site Plan application. We believe we satisfy the Use Variance criteria or the permitted use criteria. I have talked to your Council, we are going to have our Engineer describe the project, we are going to go over his report, showing the physical building what we are building and a couple of Variances that we need and then we will have our Planner testify, he is going to testify to two aspects, one he will testify the appeal issue, then he will testify as to whether as a Site Plan for the Variances and I will leave it up to the Board to vote as you will. John Burke said I'm going to ask you to change that around a little bit mainly because if it is determined to be a Use Variance then two of these Board members have to step down. I would like to address the Use Variance first before anything else, with Mr. Cramer. If you want us to hear from our Planner on that, that's fine but I want to address the Use Variance first. Mr. Vella said we will do the appeal first, you will decide the appeal being a Use or not. John Burke said at the last meeting when we were talking about you going before Monmouth County you had said on the record that you would contact Mr. Yodakis and you would have him come to that meeting, from what I understand that was not done. Mr. Yodakis said Mr. Vella did invite me to the meeting, I had a conflict that day so I contacted the County on my own, they were moving forward in the manner or direction that he is going to present tonight. So, seeing that they were not

going to require the right turn lane, I didn't bother going over and meeting with the County myself. Mr. Vella called Mr. Higgins for the appeal issue only. Geoff swore in James W Higgins, he is president of James W. Higgins Associates, he gave his credentials and the Board accepted them. Mr. Vella asked him to explain his opinion as to our appeal of the Zoning Officer's determination that the B-1 Zone we believe that an Office Use is a Commercial Use and is a permitted use in the Zone. Mr. Higgins said he reviewed the Ordinance, he looked at the site, he looked at other Zones in the Borough that permit apartments above Commercial uses. He tried to determine from looking at what is permitted in the Ordinance and also he looked at the Master Plan, what is intended by the Master Plan, what the Ordinance actually intended. It's very clear in your Main Street downtown commercial area, the primary commercial area which does not permit offices. The Ordinance reads that apartments over stores are permitted then goes on to talk about apartments developed as an upper floor provided that each apartment has a separate access from the commercial use and has a gross floor area of not less than 800-square feet. That is in your main downtown commercial district. What happens when people write Ordinances they take wording from one district if they can they just move it to another district. The B-1 District permits stores and other retail uses but it also permits offices which your downtown area does not. The Main Street area does not; there was a specific intent in that area not to permit offices because they wanted a viable retail commercial area with apartments, rather than an area that had a mix of different types of commercial uses. Service uses as well as retail uses and office uses. So, the same wording is actually switched over to the B-1 Zone, but in this instance the B-1 Zone permits offices and the wording talks about commercial use, apartments over commercial use, it's clear the intent was that you would have apartments permitted over any commercial uses that are permitted in the Zone whether they be offices, retail stores or service uses. In fact right next to this site you have a barber shop that has residential units above the barber shop. But the barber shop isn't a retail commercial use. The reason I think the intent of the Ordinance is that apartments be permitted over any commercial use. If you look at your Master Plan the Master Plan wording for the B-1 District as it describes it is that mixed land uses are to be encouraged in the central commercial area by expanding the opportunities for residential uses of upper floors in commercial buildings. It doesn't differentiate between the different types of commercial uses, so clearly the intent of your Master Plan was that the uses be permitted as that residential uses be permitted over all commercial uses. In addition by distinguishing retail uses from other uses and saying you could only have apartments above retail uses. If you had a building say a small shopping center with three or four different uses in it which may be mixed with office and retail uses, and apartments upstairs. Any time a use changed on the first floor from retail to office it would impact the legitimacy of your apartment directly above it or even in a situation such as this, if this building were developed as retail commercial use and then that use were to fail and the owner would file and grant it out to an office use that would trigger a D-Variance which makes absolutely no sense from a Planning and Zoning point of view. Mr. Vella said he has the Zoning Officer's denial letter and also a copy of his appeal letter dated September 13th, he asked if Council wanted those marked as exhibits. Geoff asked if they are part of the application. Mr. Cramer said he would mark the exhibit A-1, Geoff also marked the letter from the Monmouth County Planning Board dated January 9, 2012. Mr. Vella asked Mr. Higgins if offices are for profit and Mr. Higgins said they are. When

he prepares a Master Plan or a Zoning Ordinance and he refers to a commercial use he is talking about services for retail, he is not just talking about retail. He said he is aware there are residential uses across the Street from this property and he believes it would be more consistent for a Planning Board to permit office uses next to residential rather than solely retail which are seven days a week where an office is generally five days a week. Mr. Higgins said it would not only be better but quite frankly it's better if the residential is in the same building because most of the rental residential uses are occupied at night and on weekends and offices are generally occupied during week days, so there is less conflict between the two types of uses. Retail uses tend to be open on weekends both Saturdays and Sundays and are frequently open in the evening so that there can be more conflict between a retail use and a residential use if you are in the same building much less across the Street from one another. Mr. Vella said he has no further questions regarding our appeal of the Zoning Officer's determination that an Office Use is a permitted use as well as apartments above it in the B-1 Zone. John Burke said let me first go to Al Yodakis. Al said the only issue or disagreement that he has is the section of the Ordinance titled apartments over stores and we are kind of hinging on the word commercial which is further down in that paragraph, he would defer to Mr. Cramer but he would expect that commercial use would hinge on the title of that paragraph being apartments are permitted over stores. Geoff said he thinks looking over the language here, it's pretty specific in the title of that subsection 11 and also similarly with respect to the B-2 Marine Zone also uses that verbiage of apartments over stores as does the B-3 General Business Zone uses identical language except in the B-3 it doesn't have that heading, apartments over stores. It does use the words commercial use as being on a first floor level. So, I feel that has a meaning and definition, commercial I would say it could be retail. I have a hard time thinking that the Borough Council in adopting this language thought it should be very expansive; to me it's very well defined. Apartments over stores, a different access from the commercial use, that doesn't say professional office, or business office. It says very specifically stores, commercial use. To me that's pretty well defined. I think the language is very restrictive, I think if you want to make it more expansive then there is going to have to be a planning discussion over that and the Borough Council is going to have make that change in the Ordinance language. It's not my interpretation of the statute of rights, it's the full Planning Board's interpretation. Mark Apostolou asked Mr. Higgins if this is the first time he has encountered this language. Mr. Higgins said yes. Mark asked him if in his capacity as a planner is there a standard definition that is utilized, we know about the BOCA Code, we know about the these other Codes, is there any such Code that you utilize as an expert that defines the word store. Mr. Higgins said this is the only instance where the word store is used. Usually it's a commercial use or a retail commercial, service commercial or office. Mr. Vella said the Board has to look at the intent if you meant stores why didn't you say over the stores, again it's not that complicated, it's not a word they don't know. But when the Ordinance was written it specifically says over the commercial use. A commercial use is clearly more expansive than the word store and that's the language they use, not us and that's what position is that the Council said commercial use. They were expanding it themselves. They clearly could have used the word again over stores. So there is some contradictory language in your own Ordinance, if you are going to say commercial use means stores we know commercial use the word doesn't mean just stores. Then how do you have the word stores and commercial use in the exact same thing within the same

paragraph although they are two separate things. That is the real issue, if it said stores twice we wouldn't even be discussing this but we all know that commercial use is office/professional use, I don't think anyone could disagree with that. The question is why is it used here rather than the word stores. If the answer is they want to be more expansive then we're right if you are saying they probably just made a statement you have a problem with the Ordinance. But I'm challenging it, but there is a reason why, words have meanings and they could have just used the word stores. It's not that we're trying to change Manasquan, but we think the Ordinance that they used was more expansive. Apartments over stores is just the heading, when it gets into the body of the language of the Ordinance that's where it goes. John Burke said let the record show that Mayor Dempsey has returned and since we haven't yet decided whether this is a Use Variance he can sit down. Mr. Vella said the Main Street offices is not permitted so you know that the commercial use over there can't mean office use, it's just not permitted, but here we are back to the permitted uses within the B-1 Zone and I would submit that the term commercial use means created uses within this Zone that has apartments over them. Neil Hamilton said we could probably argue all night, the way our interpretation was and how we put this together. We changed the Downtown as to change that to a BR-1 to prohibit the use of Office in the walking district for a specific reason. We did leave out probably this Zone, not anticipating that it would be an issue that we would have apartments as you call them stores. Because maybe of this one specific lot which would come into play in this application, not knowing down the road maybe our thinking was a retail would not be a site on this particular location of 30 North Main with an apartment above it. Office would be a better use with an apartment above in that specific location. So, maybe in hind site it was overlooked or maybe in our notation we elected not to change that Zone for that particular reason. I don't know Council where you are trying to go with this tonight, I don't know that the Board and you may wish to poll them, is opposed to the application of an office on the first floor with apartments above. We would not rather see retail owner first floor as I'm sure you as the purchaser would even attempt to put retail in that particular location because of parking and whatever. I think we need to move on that in my estimation I would stand with the Zoning Officer in fact that this Ordinance is written that's it's a Use Variance. Mr. Vella said I'm going to make it easy for the Board, hearing the comments of Mr. Hamilton what we'll do tonight is we are going to withdraw our appeal and we can proceed on a Use Variance application. John Burke said seeing that this is a Use Variance our Mayor and Councilman Representative and our Mayor's Alternate will have to withdraw themselves from the case. Let the record also show Mr. Sinneck has to leave because he has to go take care of another meeting. John Burke said now we are down to six members so let me just tell you in advance because we do this every time this happens, you can tell your applicant's the same thing. This is a Use Variance; a Use Variance requires five affirmative votes, not a majority. You only have six people that are able to hear this case tonight, so you are guaranteed seven and you only have six. You have the option of letting us hear the case and vote on it with six or of asking us to continuing the case to the next month when we more likely will have seven people here to be able to hear the case and vote. Mr. Vella said Mr. Chairman we are going to proceed, we are confident with our application, we think it's a very good application. Next Mr. Vella called Mr. Charles Surmonte who was sworn in by Geoff Cramer. He gave his credentials and was accepted by the Board. He proceeded to explain the Bulk Variances that are required for

the application addressing the Zoning denial letter. He said the property sits in the north east corner of North Main and Atlantic Avenue, it's about 7,000-square feet, and it has 62-feet of frontage on North Main and 113-feet of frontage along Atlantic. We are proposing a 1440-square foot building, 30 X 44-feet, fronting on North Main Street. We are proposing a 9 space parking lot in the rear to serve that building. We have provided a small underground retention system to manage storm water that will be due to the increase in impervious area. We are providing preliminary landscaping along the south west and south east property owners, as well as landscaping around the building. As a result of sliding the building to the east as the County asked that we move the building a little bit further for a utility easement more so than the right-of-way easement. Whereas Mr. Yodakis' report indicates we are seeking relief of 3.7-feet to the east property line, we are actually seeking relief of 2.5-feet from the back of the curb. Mr. Vella had the revised plan that was submitted to the County, the only difference is which was marked as Exhibit A-2 with a last revision date of 12/21/2011. The Board members had reduced copies in their packets of the revised plan. The only difference is the building was moved 1 1/2-foot to the east and the parking lot shifted a little. Immediately across the Street from this property to the west is the Dairy Queen, to the north are residential homes. The parking spaces are 9 X 18 where 9 X 19 is required. Mr. Surmonte said he tends design low intensity parking spaces at 9 X 18 and the fact that the size of this site was so restrictive they probably couldn't afford to make them 9 X 19, but he wouldn't have proposed the larger space anyway. A small office building and two apartments just doesn't really have the type of volume where you would be concerned with people in a hurry, people having conflicts with other drivers. This size is an accepted parking space size. Mr. Burke asked if he wanted the Board to ask their questions on the parking now or later. Mr. Vella said to jump in right now if they want. Mr. Burke asked Al Yodakis about going from 19 to 18-feet. Al said our Ordinance does require 9 X 19, however 9 X 18-feet is a standard that is used in a lot of areas with some thought for reducing impervious coverage certainly not a lot. You are talking about 9-square feet. Typically we like to see larger parking spaces 10 X 20 in some type of uses such as a Home Depot where you are going to have contractors, trucks and those types of things where you really need that type of space. It is a small parking lot, it is tight, however as Mr. Surmonte said this is not a very intense use that you have here. He doesn't necessarily have an issue with the 9 X 18 stall; he has more concern that we just meet the parking limit of the Ordinance. John Burke asked about handicapped parking. Al Yodakis said it's provided, van accessible ADA space, it meets all requirements. Mr. Vella said as part of the record we also received a report from Mr. Yodakis dated November 18, 2011 which is in your packets. With respect to his technical comments, 1.2.1 regarding fences, they are withdrawing that request and they are going to put 4-feet up to 25-feet and then go 6-feet so we can comply with that Variance. With respect to paragraphs 1.3 and 1.2 we are going to comply with that. 1.5 requests us to discuss hours of operation, and the number of employees should be discussed. He has his party here, his only testament would be they are contract purchasers, we haven't rented it out, we have no tenants that we know of, and we do know we will not have a high intensity use. He would expect standard office hours, 9 to 5. Paragraph 1.6 which talks about what's the proposed use for the basement. We would accept that as a condition of approval, that basement would be for storage only. We are not going to rent it; it's going to be for storage only.

We have no problem with that condition. 1.7 they will comply with, that's a typical Code issue between walls between residential and commercial structures. John Burke asked if that extends to the floor between the offices downstairs and the apartments upstairs. Mr. Vella said there is about 2-feet of difference between the floors, there will be plenty of soundproofing. We discussed the parking and circulation. 2.2 talks about the difficulty of the last space in the southeast corner of the parking lot, he asked Mr. Surmonte to address that. Pointing to the picture board Mr. Surmonte said he was thinking the only thing they could really do is maybe just slide those spaces down to the three feet to have them align more so with the back curve line. He doesn't know if they would be violating an Ordinance. You would still have 18-feet from the curb line to the Atlantic Avenue curb in case there was a car queued up looking to exit. Or we could designate that one as an apartment space or employee spaces. Al asked the reason for that is it because of the handicapped stall that you have the offset there. Al said he would like to see something done there, if the Board is ok, he is just worried, he asked if the Board is aware of what he is talking about. Trying to back out of that stall when you don't have any area to back out, if someone with an SUV pulled in there it could be pretty tough to make it out. Mr. Vella said we could revise the parking subject to approval of your Engineer based on their discussions. Paragraph 2.3 talks about the layout of the office and the apartments and the access. The Board does have a copy of the architectural as part of their packets. Mr. Vella explained the entrances for the office and the apartments and Al said he doesn't have a problem and this is really a site plan issue. They will work out the interior configuration and they will make it work. 2.5 and 2.6 they agree to. The last comment they have is 2.7 says these areas appear to be a 4 X 5-foot area of proposed sidewalk near Atlantic Avenue that is to be delineated. The purpose of this should be discussed. Al showed them on the plan what he was talking about and said he couldn't figure out what that was. Mr. Surmonte said they are two steps. Al said they did not show up as steps on his drawing. Mr. Vella said with respect to the remaining comments of the T & M letter dated 11/18/2011 they can comply with everyone of those conditions. Mr. Surmonte said he didn't think they would move so quickly from the County to Borough so he apologized and he has been rethinking the drainage a little different from the time he submitted the plan, he was considering a partial paver system in the parking lot, for a number of reasons. In place of their recharge system perhaps through the center of the parking lot, he was thinking it would be more attractive, it would be long term it would be a better design as far as maintenance goes. Al Yodakis said Manasquan considers pavers to be pervious. Mr. Vella said they would use porous pavers. Al said we would absolutely encourage that. This is being encouraged by the DEP, this is the way of the future I would absolutely encourage the Board that we go in that direction if they are volunteering. Mr. Vella said he doesn't want to commit to it he just wants to look at it as an alternative. He thinks it would make sense from his applicant's perspective as well. Mr. Vella said his client has just indicated, based on his engineer's comments he would be willing the permeable pavement of at least 420-square feet, we would have to do more than 420 but at least that would eliminate the Variance. We would propose as a condition of approval, to modify the plans for permeable pavement through the center of the parking lot which would be greater than 420-square feet that would eliminate the lot coverage Variance. Al said subject to his approval. Mr. Vella said with respect to Site Plan that is our Site Plan we have no other evidence. We do have a Planner who is going to testify as to the Use Variance and to the small Variances we

are going to request, we withdraw the lot coverage Variance. Neil said it's not mentioned in the Engineer report or the Zoning Officer's report, because I believe it's addressed internally and that's the livability standards which we put into place here in an Ordinance and it has specifics to it that refers to storage and it refers basically to the residential portion of the project. It lists storage for bicycles, beach chairs, and whatever and you may be addressing that in the basement or taking them up to the apartments. Mr. Vella said in the Zoning Officer's report there are two issues that deal with the issue you are talking about, one is it indicates that 60-feet of storage space where 80-feet is required, we are withdrawing that request, we have 80 there and we will comply with the 80 for storage. Neil asked where the 80 is. Mr. Vella said it's actually there already in the calculations, it was just miscalculated, it's on the second floor of the apartment. We believe that's a very good Ordinance we will comply with that we don't need deviation. Neil said it meets the standards by definition but it does not meet the standards by being practical. Let me continue on. The other issue we have is outdoor area of common space for a patio for grilling and whatever. We also look for outdoor activity area that you can come outside your apartment and you have an outside deck to sit on in the Spring/Fall/Summer whatever that you are not confined inside a complex that has very limited light coming in or whatever circumstances of the structure are. The other issue I have is and this is in reference to landscaping because of the location of this building it's a huge flat front wall at the entrance of this Community that you are putting in a modern structure that doesn't really have the architectural amenities that fit into the character of a neighborhood that Manasquan is, that's this village atmosphere. Even though there is Commercial across the Street I don't know that that's really commercial. Let me go back to the Livability Standards. We put these in place and we worked hard because members of this Board are still sitting here, that we took a bad hit on two applications that we approved over years past whereby those individual applications became Condo's and you could very well Condo this project as well. What has happened is the residents complain because they come home from the Beach, they don't want to drag their bikes upstairs or downstairs so now the bikes are outside. They don't have the avenue of grilling outside because the area is so small or the absence of that area. They don't have the luxury of getting outside their apartment other than going downstairs and sitting on asphalt, or a small green area. I'm only suggesting you take a look at these and consider these and I think the Board needs to think about this as well and the architectural surroundings of this environment, possibly you could address the outside area by cantilevering the decks over the rear, maybe some amenities to the building, we need some expansive planting on that corner that's going to shelter that building that when you sit there at that traffic light you are not looking at a wall, a lot needs to go into this and you maybe need to provide these suggestions if the Board so chooses to go forward and bring this back to this Board so that we can take another look at this. Mr. Vella said with respect to your comments and those are all items we discussed prior to this meeting. What I am going to do is have my applicant testify regarding the front architectural for the entrance. Mr. Vella said he thinks the Board will be satisfied with the architectural plans and it's going to be beautiful. With respect to the outdoor areas, we are mindful of your Ordinance that requires 60-square feet outside of it. We have one of two choices, we have asked for the waiver of that, one because we are putting a professional office on the first floor and we don't see as an applicant and you could see differently, it's your Borough. We don't see as a melding between a professional

office use and apartments you have 60-feet of decking outside the second floor walking into this professional office space and someone sitting in their underwear having coffee saying good morning as you walk into your professional office. We don't think that's a good look; however we're leaving that up to you. We can provide second story decks to meet your Ordinance for the outside area, we don't like it. We don't think it's good for an office use, but it's your Ordinance. He would like to call Pat Mastarelli to stand to address Mr. Hamilton's comments. Mr. Cramer swore in Patrick Mastrorilli who is the managing member of the applicant 30 N Main, LLC, he is also the owner of a company builds modular office building and residential home construction company. He addressed Mr. Hamilton's comments by saying he understands from the look of the drawing Mr. Hamilton's comments. They just completed 11 – 12 months ago a building that Mr. Vella had mentioned on the corner of Park Avenue and Route 71. We actually went to great lengths to make the building look and fit on that piece of property. He is cognizant of what Mr. Hamilton says. We would be very much willing to make sure that building is a colonial type look similar to the building on Park Avenue and Route 71, they are cognizant from the standpoint of landscape design and yes it would be foundation landscaped and it will be a building I hope that you would be very proud of. We were commended by the Spring Lake Heights Planning Board after our building was completed, they were very happy with it and they have come out publically and said that. I have lived in this area my entire life so I do understand the local flavor, from the standpoint of Manasquan and the local communities. Some of the things we are looking to do in the front obviously would be to create that walk in feel as well as corner perimeters with low boxwood hedges across. We have also discussed with one of our Planners expanding the dormers on the front to make them look a little bit better on the top as well as shutters for all the windows. We also typically around all the windows use 3-inch white lineal which gives a flavor for a thicker window, a more classy look from the standpoints of the windows as well as end caps on the sides of the building. Neil Hamilton said just to go back to the livability standards, that's going to be a decision of this Board whether you want to see those or we proceed on as the building is designed. John Burke said he has a question and a problem with this too, he understands what you are testifying and I looked at your building down there, but I am looking at a plan and I don't see what you're talking about. I have a problem, because we have nothing against you or your attorney, but we have had problems before where people have explained to us what it's going to look like and it's looked totally different from what we perceived that explanation to be. I agree with Neil that the front of this building looks terrible. Mr. Vella said we don't disagree with that and the idea of the plans was to show that we have separate entrances on the apartments. He doesn't know if your Board has Architectural Sub code, some Boards do. John Burke said no we are the Architectural Subcommittee. Mr. Vella said these are not final outside architectural, that's months from now. If you would like for us as part of the approval to come back to this Board with our architectural, subsequent to approval before we get a building permit we would be more than happy to come by this Board at any meeting you want seeking your approval of the architectural. We are not afraid of that, my client has no problem coming back to this Board with those architectural and saying here is our final architectural we told you so. The landscaping and whatever it is how do you like it? John Burke said he disagrees with Mr. Vella because we have had applicants coming before this Board with full plans showing us exactly what their testifying to and right now I don't see that here and I don't

know about the rest of the Board members but I'm a little leery even having you come back at a later date. I'm leery voting for approval and not seeing what I'm going to vote on. Mr. Vella said I understand, your concern is the exterior look of the building. Is that fair to say with respect to this comment. Mr. Burke said exactly and the reason I'm concerned is because what Mr. Hamilton said, you're coming down Main Street, you enter the Town of Manasquan this is basically the first building you're going to see when you stop at that traffic light, so yes I'm very concerned about what this building is going to look like and I'm not convinced that I could vote on this application approval without seeing what you gentlemen are talking about. Mr. Vella said he understands that completely and that's what my suggestion was to the Board. We are contract purchasers with a very limited timeframe, ok. A very limited timeframe to purchase the property and proceed and that's not your problem. My suggestion is that we believe that our architectural, our landscaping is premium. We have no problem that as subject to approval that before any building permits are issued, that we come before the Board with our architectural for your approval. If you deny our approvals our architectural, we still can't get a building permit. Until you approve our architectural then we can get a building permit. That moves the project along; your Council can tell you that that condition, a Resolution is valid and binding. We are very comfortable with that. Our position is that we are not going to go for a building permit until you say we give you our stamp of approval and then we get our building permit. We'll build exactly that because it's a modular, it's not even stick. We are going to show you the plan from the builder, that's our position is that we are moving this in a short time frame, so we don't have full architectural, but we are more than willing to condition this approval by coming to this Board and say here it is if you say no, tell us we'll change it, we'll re do it and we will never get a building permit until you like our architectural. Geoff said that can be included as a condition in the Resolution, time it so that there is no building permit until we give the approval to a plan that shows hopefully graphically the landscaping and the exteriors. So we are satisfied it's an adequate gateway builder for your Community. Mr. Vella said we agree with that 100%. John Burke asked Neil what he thought about that. Neil said he thinks that would work, Geoff can condition that and we can move on with the application and the Use and approve the architectural. Mr. Vella said we want you to be happy and we are very confident I know my client very well, he loves his plan so I'm not really worried about the landscaping. And, we will go back to the outdoor area with the Planner. So if there are no other comments with regard to the site I'm going to have my Planner testify with respect to the Use Variance and the small Bulk Variances that we need including the outdoor area. John Burke said can we first address that outdoor area since we started on this let's go to that first. I agree with Mr. Hamilton also on the outdoor area as he said, we agonized for almost a year on getting that in place and unfortunately I don't see any place on here we could do it. I'm not 100% sure that decks on the upstairs are a good idea to just meet that requirement. I don't know. Mr. Vella said we are as we indicated; we are cognizant of this issue. We know for a fact that we could build two at least 80-foot decks on the second story, he had a plan marked as A-3 is proposed architectural of the rear of the building which shows on the second floor the decks. They will be toward the parking lot area that meets your Ordinance requirement, we don't like it but I've already discussed that. You wouldn't want outdoor decks on the front in your gateway. You wouldn't want outdoor decks facing the neighbors across the Street, so the only real place is here to meet your Ordinance

requirement. There is really no area outside on the property to for a barbeque area. We have thought about this, we did go into this, we didn't know you really wanted this, we can put them here, if that's what you want we will do it. John Burke asked Mr. Vella to turn around and show the plan to the audience. He did and he said if you deem the application favorable we will show that as part of the architectural. John Burke said if the Board agrees why don't we request the decks be put in the architectural and plans and that would be another thing that we would have to give our approval on when you come in to show us the front of the building and so on before the building permits. Mr. Vella said we'll withdraw the request for that design waiver for the livability issue. John Burke said and just so you know and the audience knows too when you come back before us there will also be allowed audience participation in that also. Mr. Vella said if your attorney wants to put in it that we will notice for that meeting as well as part of the condition then we have no problem doing that. Geoff said he hates to preclude the public from being able to ask questions tonight. John Burke said oh no they can ask questions too. John Burke asked Al if he had any questions on the deck, Al asked if they would meet the 80-square feet, and they answered him yes. Al said he doesn't see anyplace else on the plan that you could put the decks or an outdoor patio, that's really the only option. Mr. Hamilton said you are dealing with the storage in the basement area for bicycles, I'm not happy with that but they do obviously meet the criteria of the Ordinance. But, we know if there are families living there or even just adults they're probably during the better weather not going to see the basement area, they are going to be chained up outside. Mr. Vella said Mr. Hamilton my clients indicated that when we come back with the architectural, there is going to be an area in the basement of a kind of fenced in area for the residents. Neil said the problem is not that, it's getting the bicycles up and down the stairs, that's the issue it's the inconvenience that you put the tenants through. This is why we have this in the other two projects and it doesn't work. John Burke said he will actually reinforce what Mr. Hamilton is saying, he lives in an apartment complex in this Town and we have basements underneath for the bicycles and we have a wrought iron fence around the stairs going down and there are as of today 12 bicycles chained to those fences and they are not in the basement and that's exactly what happens. Mr. Vella said we do have a small area when you walk in the building, you can probably put a hanging bike area. As a tenant you are on the first floor you have your own door, there's a landing and then stairs. Neil said if they are not going to walk them up and down the stairs they are not going to hang them up. It's a problem and I understand you are addressing it on one aspect but it's not addressed enough. Mr. Vella asked if he is looking to have some sort of outdoor area, fenced in for their bikes. Neil said a shed area would be better to protect them from the weather and you can probably lock something up, you can put your beach chairs and your bicycle in there. They will try to provide something on the architectural. Mr. Vella said these are high end apartments in the sense that these have two full baths and stuff like that so, as part of the architectural we will provide some type of outdoor covered storage area for the tenants. Mr. Vella said after discussion it appears the only Variance we are requesting is the Use Variance, parking space Variance, the parking area setback Variance and this dormer issue which we'll ask Mr. Yodakis to comment on. Mr. Surmonte said the only thing that he hasn't said and he thinks it's very important regarding the Use Variance is that what the applicant is doing is he's removing a fully non-conforming Use and putting a Use on the site where both of the Uses are permitted, but just not in concert with one and

the other even though it's a technicality that this is a much better use of the site than the Ordinance actually envisioned. Mr. Vella said the only issue outstanding is the Zoning Officer referenced a dormer setback of 2-feet where zero is required, I called the Zoning Officer three or four times today I don't know what he is talking about, maybe Mr. Yodakis could comment better and we'll see if we could comply with that. Mr. Yodakis said he believes what Dick was talking about here is if he is talking about the space where the dormer needs to be setback and it can't be a flat front, I believe that's what he was talking about. John Burke said it has to be two-feet back from the edge of the soffit. Al Yodakis said the Ordinance requires the dormers be setback up into the roof line so you need to have two-feet from the end of the roof up into the dormer. Mr. Vella said we will make sure that's in the architectural. We will withdraw that request we will comply with that. John Muly said they would look good with shutters on them as well, dress it all up. John Burke asked about the mechanicals and Mr. Vella said they would all be provided on the plan, we don't need any variances, that's one of the conditions we would comply with that was referenced in Mr. Yodakis' report, that will all be on the plan and you will see that when we come back with the architectural. John Burke asked Al if this project requires sprinklers since it is a three-story building. Al said he believes it would, he doesn't want that officially on the record he would like to double check. Mr. Vella said if it's required by the law and we have to put them in we will, I don't think we do but he may be wrong. If the building department and the BOCA Code requires, and the Fire Code requires we have to do it there is no relief we are asking for that. Geoff Cramer asked about curbs and sidewalks. Mr. Vella said where needed as Mr. Yodakis report states where needed they will be replaced. Any place the sidewalks are in disrepair they will be replaced. Al said when the intersection was re-done the curbs were all replaced. A motion to open the meeting to the public was made by John Muly, seconded by Patrick Callahan, all in favor none opposed.

Audience Members Coming Forward:

Andrew Marcucci – 37 North Main Street – he is here tonight to implore the Board to reconsider granting the particular Variance for the applicant on several issues. Most pointedly Mr. Hamilton's comments about the quality of life on the corner and in Town that this particular structure will disrupt. He is probably one of the few people in this Town and he believes the only one in this room who has to look at the structure every night and every day described by Mr. Hamilton as a wall. Similar concepts and projects of this type around the blocks that we are talking about here have been denied and opposed by the Board for reasons of adequate parking alone. What's to say that the right Use described by the potential office tenants will not utilize the overflow parking that's readily available in the Municipal lot for example? The project itself is very dense; there are only about 8 parking spaces, not to say the type of possible traffic disruption. I strongly feel that the size of the structure is going to be a possible detriment to the overall busyness of the corner. The Board just recently approved a subdivision of the retail property across the Street and the potential for increased tenants on that side as well as the continued possible interactions of clients going into the offices as well as the population of tenants above could contribute significantly to the quality of life issues in the area. We have existing issues with noise with some of the tenants that are in the area and the current owners of the location in question have previously had tenants in there which caused considerable noise issues at night. As a local resident and member of the Borough I'm imploring the Board to take this into

consideration based on Mr. Burke and Mr. Hamilton's comments regarding the quality of life issues. The contract purchasers are purchasing a possibly 168 year old stage coach home, demolishing that and putting up this large office structure which I genuinely believe will be a wall, they can present to you and request that they will accommodate any architectural plans under the sun and this Board has experienced itself the dangers of trusting future plans in order to have them blow up and become serious issues as far as what was promised and what was actually delivered. I am asking the Board to take this into serious consideration as they review this particular request.

Mr. Vella said with respect to the parking, we are complying with the Ordinance requirement with the number of parking spaces, while excess parking is great, it is a small site. We have less than a 1200-square foot office space, what would disrupt this neighborhood a retail Use that's seven days a week and nights would disrupt this neighborhood. I think this is a great project, you are getting rid of a very old dilapidated structure and we promise it will be a beautiful building. As your lawyer has already indicated, this is not something where we are going to submit and it's going to be built up tomorrow, we will be before you again, unless you like it, we can't build it. We have a short time frame, you don't do full architectural as a contract purchaser, that's why we're coming back with it, and we just don't have the time to do all that.

Neil Hamilton moved to close the public portion of the meeting, the motion was seconded by John Muly, all in favor none opposed.

Mr. Vella made his closing statement.

Neil Hamilton said as far as the Use he thinks the Use as Office is better suited for the area, because of the minor impact of vehicles as opposed to retail as stated by Council and the Office should be closed on weekends and then the residential kicks in. As far as the Use Variance, Office is a better Use; I would move the Use Variance be approved. The motion was seconded by Leonard Sullivan.

Board Members Voting to Approve the Use Variance:

John Muly, Patrick Callahan, Neil Hamilton, John Burke, Leonard Sullivan, and Peter Ragan.

USE VARIANCE APPROVED

Neil Hamilton made a motion to approve the Bulk Variances, the motion was seconded by Peter Ragan.

Board Members Voting to Approve the Bulk Variances:

John Muly, Patrick Callahan, Neil Hamilton, John Burke, Leonard Sullivan, and Peter Ragan.

BULK VARIANCES APPROVED

Mr. Vella said just for clarification, the second vote for the Bulk Variances included the approval for Site Plan approval, is that correct. Mr. Cramer said no, just the Bulk Variances. Mr. Vella said we still need the Site Plan approval. Mr. Cramer said you will have that after we see the documentation you talked about. John Burke said the Site Plan approval will be given after we see the architectural and the landscaping plans. Mr. Vella said the conditions don't relate to the Variances, they relate to the Site Plan approval, I'm not trying to hide from anything, I'm not going back on anything I said. Mr. Cramer said what we'll do is after I draft the Resolution, I'll share it with you so you can see how it

flows, but again the Board really wants to see the details of the decking, architectural rendering, and the landscaping plans, perhaps colorized if you can that would be very helpful, before they give you the final preliminary and final Site Plan approval. Mr. Vella said his only comment is that both Variances relate to a building and a site and I'm really not going back on anything that I said, I'm just saying the approval wording language, is Site Plan approval with Bulk Variances and the conditions are that we don't get building permits until we come back here on a full notice hearing showing you the architectural. We are not a residential house where we go before the Zoning Board and ask for a Bulk Variance, we are a Commercial site and a Commercial site can only apply for a Site Plan approval. It may be a technical issue, I'm not going back, and the only thing we can apply for is Site Plan approval with variances subject to conditions. We can't just get Bulk Variances like a house. Mr. Cramer asked him when he thought he would come back to the Board with the architectural details. Mr. Vella said within a couple of months, we plan on moving forward pretty quickly. Probably March or April. My Planner just whispered in my ear, if you want to give us Preliminary Site Plan approval and we'll come back for Final Site Plan approval. Mr. Cramer said and you know I'm going to weave these conditions and stipulations into this Resolution, you know that. Mr. Vella said and I will review it, and they should be in writing and they should be very specific so everyone knows what we are doing. John asked the Board members what they thought. Mr. Ragan said it doesn't matter to him if we give Preliminary approval, we're still going to have a chance to review everything. Al Yodakis said he thinks Mr. Vella's correct in that we really need to issue some type of Site Plan approval with Bulk Variances to be technically correct, so giving Preliminary with the Bulk Variances then you return for a Final with everything we've talked about, I think that's the correct way to proceed. Patrick Callahan made a motion to approve the Preliminary Site Plan approval with Bulk Variances, the motion was seconded by Leonard Sullivan.

Board Members Voting Yes:

John Muly, Patrick Callahan, Neil Hamilton, John Burke, Leonard Sullivan and Peter Ragan.

PRELIMINARY SITE PLAN AND BULK VARIANCE APPROVAL GRANTED

Mr. Burke called for a 5-minute recess; the motion was made by Patrick Callahan, seconded by Neil Hamilton, all in favor none opposed.

ROLL CALL FOLLOWING RECESS:

Board Members Present:

Mayor George Dempsey, John Muly, Patrick Callahan, Councilman Owen McCarthy, Neil Hamilton, John Burke, Leonard Sullivan, Peter Ragan and Mark Apostolou

Being the application that was to be heard next is a Use the applicant's agreed to allow the Maher application to be heard before them.

APPLICATION #20-2011 – Maher, Tim – 40 Pearce Court – Block: 156 – Mr. Cramer swore in applicants Tim Maher and Suzanne Maher and Stephen Duarte, contractor. Mr. Maher explained the application to the Board and the Variances requested. Variances needed for the application are front, rear and side setback as well as lot coverage. A motion to open the meeting

to the public was made by Leonard Sullivan, seconded by Councilman McCarthy, all in favor none opposed.

AUDIENCE PARTICIPATION

Tom Bateman – 43 Pearce Court – he lives across the Street from that house he thinks it's going to be beautiful, he hopes the Board approves it.

Kathy Bateman – 43 Pearce Court – she agrees

Doug Peterson – 46 Pearce Court – he would like to see people like this come into Town and enhance their property, they are good people and he thinks it should be approved.

Mayor Dempsey made a motion to close the public portion of the meeting, motion seconded by Councilman McCarthy, all in favor none opposed.

ACTION TAKEN

Patrick Callahan made a motion to approve this application; motion was seconded by Mayor George Dempsey.

Board Members Voting Yes:

Mayor Dempsey, John Muly, Patrick Callahan, Councilman McCarthy, Neil Hamilton, John Burke, Leonard Sullivan and Peter Ragan.

APPLICATION APPROVED

APPLICATION #14-2011 – Prendergast, Laura – 28, 28 ½ Wyckoff Avenue – Block: 15 – Lot: 31 – Zone: R-2 – Use and Bulk Variances

As this is a Use Variance Board Members Mayor Dempsey, Councilman McCarthy and Mark Apostolou had to step down. The attorney for the applicant introduced himself stating his name is Mike Elwood here on a D-2 Variance. Mr. Cramer swore in Tom Peterson, architect for the applicant and Al Yodakis. The applicant's were sworn in previously. Mr. Elwood said the applicants appeared in October and they appeared pro-say, they ran into some issues with the application. They retained him, and he gave his argument as to why this application should be approved as a D-2 Variance. He quoted case law on the matter. He then turned the meeting over to Tom Peterson. Neil Hamilton questioned the validity of a D-2 Variance. The prior application was for a modular structure and Mr. Peterson is designing the project as an addition to the existing main residence. There are two dwellings on this property which is on the corner of Wyckoff and Fletcher Avenues. There are a number of Variances requested, which he proceeded to explain. Al Yodakis asked Tom to address the pool depth as that is a real concern. He proposed let the Engineer for the pool installer work with Al Yodakis on the pool if they receive approval tonight. There was a lot of additional discussion on the pool. Everything in T & M's report was addressed. John Muly addressed the Technical Review report recommendations. Also there be a Deed Restriction on the use of the garage apartment. Attorney Elwood said that is not something his clients are willing to do right now and he stated case law arguing the point. There was a lot of discussion on the Master Plan and the attorney for the applicant quoted Case Law and Legislature arguing why an applicant is allowed to apply for

a Variance. Tom Peterson proceeded to present his argument in favor of approval. Tom had exhibits entered into evidence: A-1, A-2, A-3, A-4, A-5, A-6 which entailed one Google picture of the site, and the others were pictures of the house and garage from different angles. There was discussion on the height of the structure proposed at 34-feet. There was a lot of discussion from Neil Hamilton regarding the pool and the design waiver and why would the Board even consider this. Leonard Sullivan agreed with Neil in that he would not be in favor of deviating from the Ordinance regarding pools. The applicant agreed that the pool will comply with all the setbacks and depth restrictions. Mr. Elwood said we'll make it on record we have good reasons for not accepting a Deed Restriction. Ownership is irrelevant, it seems to him the Board indicated whether or not there should be a renter there and that's irrelevant under the Law. Mr. Cramer said we have a stand-off and the Board can break the stand-off. Tom Peterson gave his argument for the Board's approval. Geoff told the Chairman to open the meeting to the public and then come back after the public speaks and because this is a Use Variance you are going to need five (5) affirmative votes from a six (6) member Board tonight, you may want to hear from individual members of the Board before you make a decision.

AUDIENCE PARTICIPATION

Neil Hamilton made a motion to open the meeting to the public, John Muly seconded. Motion carried unanimously.

David Miller – 36 Clark Street, he thinks you should let them have it as long as the pool doesn't interfere with the ground water.

Leonard Sullivan made a motion to close the public portion of the meeting, seconded by John Muly. Motion carried unanimously.

POLL OF THE BOARD

Patrick Callahan – his feelings are the Deed Restriction was mentioned at the last meeting, you have to follow the Master Plan. He would be hesitant to approve this application based on the Deed Restriction.

John Muly - he agrees to a point, we are still trying to eliminate some of these non-conforming uses in all areas of the Town.

Lenny Sullivan – he agrees, he feels we need a Deed Restriction, we are not asking you to tear the house down, we could. A Deed Restriction is necessary.

Neil Hamilton – When the applicant's appeared here first it was mentioned we were looking for a Deed Restriction, it's not something that's new. We are going to have a Planning hearing on just this issue to try to get a definite direction of how this Board wants to address these cases. Once this Board does decide how they want to handle them, it would be imperative on the Zoning Department to make sure that this notice gets out to the folks of Manasquan that have these non-conformities that they know exactly what they are up against when they come for an approval. All I can suggest to you prior to letting this Board vote is if you want to wait a couple of months and see how our discussions go and what the outcome is and what our positive

directions are going to be on how to handle these two units on a lot and then come back to the Board.

Peter Ragan – he would also be inclined to deny.

John Burke – his comments are the same as everybody.

During the poll, Mr. Elwood interrupted the Board members stating that this was a legal issue; the Board attorney said he had to research the issue. John Burke asked Mr. Elwood if he wanted five minutes to talk to his clients. Mr. Elwood said that would be good. He took his clients out into the hall to discuss the issue.

At 10:37PM Mr. Elwood returned and told the Board members that he spoke to his clients and they are requesting an adjournment to the next meeting to give them some time to think about this issue. Mr. Cramer said if you are going to adjourn we are going to need a waiver for the time limit. Neil Hamilton made a motion to adjourn the application to the next regular meeting which is February 7, 2012; Leonard Sullivan seconded the motion, all in favor none opposed.

APPLICATION CARRIED TO THE FEBRUARY 7, 2012 MEETING

Al Yodakis had given the Board members something in the mail; it was a copy of the legal action plan for the Constantino Brothers. They have asked to move forward and that is not what was said in the Resolution. They have to supply a No Further Action Letter to the Board, Al reviewed their plans and they seem reasonable. There was discussion of the issue and Al will respond to them.

Motion to cancel the second meeting of January was made by Lenny Sullivan and seconded by Mayor Dempsey, all in favor none opposed.

Mayor Dempsey said the Board needs to go back to the 45 minute limit for applications to be heard. He said this is getting carried away. There was discussion by the Board members regarding this time limit.

Motion to adjourn the meeting was made by John Muly, seconded by Leonard Sullivan, all in favor none opposed.

MEETING ADJOURNED AT 10:46PM

Respectfully Submitted,

Mary C. Salerno
Planning Board Secretary