

**THE HAMPTON TOWNSHIP
PLANNING BOARD**

Minutes for December 21, 2023

December 21, 2023

The meeting of the Hampton Township Planning Board was called to order at 7:00 PM by Dennis Daniels who led us in the Flag Salute.

Roll Call: Mr. Brucker, Absent; Mr. Daniels, Yes; Mr. Gunderman, Yes; Mr. Gurick, Yes; Mrs. Kominiak, Yes; Mr. Ostrander, Yes; Mr. Santora, Absent; Mr. Sivulich, Yes; Mr. Walthers, Yes; Mr. Zawacki, Absent; Mr. Yetter, Absent; Mr. Dooley, Yes; Mr. Ambrosi, Absent; Attorney Brady, Yes; Engineer Simmons, Yes.

STATEMENT: This meeting is being held in compliance with the provision of PL 1975 Chapter 231, Secs. 4 & 13 of the Sunshine Law. Adequate notice of this meeting has been supplied to the Official Newspapers of the Hampton Township Planning Board that being the Daily New Jersey Herald and the Sunday New Jersey Herald and is posted in the usual location of posted notices. Testimony will not be received after 10:00 PM.

MINUTES: A motion to approve the Minutes of November 16, 2023 was made by Mr. Dooley and 2nd by Mr. Sivulich. All board members were in favor.

RESOLUTIONS:

23-09-PB **Harby, John --- 209 Highland Ave – Block 2802, Lot 3—Plot Plan with Variances**
Memorialization

A motion to approve the resolution was made by Mr. Sivulich and 2nd by Mr. Gunderman. All board members were in favor.

23-07PB **Mantia, Peter & Laure – 532 Clearview Dr. – Block 2904, Lot 15 – New Const. – Variance**
Memorialization

A motion to approve the resolution was made by Mr. Dooley and 2nd by Mr. Sivulich. All board members were in favor.

APPLICATIONS:

23-06PB

Ephemeral Realty, LLC (Sussex Honda) – 57 Hampton House Rd. – Block 3501, Lot 44.04 – Amended Preliminary & Final Site Plan

Gunderman recused himself for this application.

Attorney Ursula Leo, representing Ephemeral Realty (Sussex Honda), stated they are requesting improvements to the property, including enclosing a prior overhang, changes to the service department, flow of traffic for sales and service, as well as added signs and parking.

Engineer Kyle Campbell described the current layout of the 9.4 acre property, including a guy wire that has since been removed, which prevented action on previously approved plans in 2021. Many of the current proposed plans are identical to those previously approved plans.

The applicant is requesting the below changes to the previously approved plans:

Building North Side: Enclose the prior overhang and construct a service drive-through addition.

Building Frontage: Remove existing entrance doors, remove the front entrance doors, and construct an overhang and Honda “wave” treatment.

Building South Side: Increase the 24’ x 56’ addition to 24’ x 75.9’ for vehicle sales and pickup and enclose the center pavement to construct more area for the service department.

Site Plan: Alter traffic flow to separate sales and vehicle service traffic with flexibility to change flow if needed, designate area for display, employees, and EV charging areas, drill new well and seal existing well, new façade signage, and redo rear parking area and new retaining wall.

Mrs. Kominiak asked for clarification regarding the flow of traffic, display parking, and front sign. These questions were answered by Mr. Campbell.

Mr. Daniels asked about the grading of the property and Exhibit A104. Mr. Campbell answered his questions and clarified that this general picture demonstrates Honda’s new look, not a custom-made rendering of the improved building.

Engineer Simmons reviewed the following in his report with the board.

Based on the applicant's proposed plan there are several variances required.

- Side Yard – Min: 30’, Existing: 50.2’, Proposed: 23’
- Parking Cover – Max: 30%, Existing: 39.95%, Proposed: 33.9%

- Parking Space Size – Min area: 200 SF, Proposed: 10' x 18',
- One-Way Flow 90° Parking Aisles – Min Width: 22', Proposed: 18'
- One-Way Flow 45° Parking Aisles – Min Width: 15', Proposed: 13.5'
- Display Lighting – Max: 5.0 footcandles, Proposed (in some areas): 10.5 footcandles.
- Sidewalk – The applicant plans include space for a sidewalk, but they are requesting to defer construction to the future.

Engineer Simmons recommended these variances be viewed favorably by the board, as they are either consistent with what already exists on-site, or meet limits met at other locations in the town.

He stated Mr. Campbell must provide all necessary documentation to comply with the current NJ DEP stormwater regulations as a condition of approval.

The current well needs to be sealed and a new one drilled due to conflict with the new addition.

Mr. Simmons noted that the proposed plan does not exceed the maximum area of façade signs (10% of frontage), however it does exceed the maximum limit of one building façade sign. There are currently four separate signs proposed on the plan. Previously approved plans from 2021 included seven signs.

There will be 2 locations for decorative aggregate where display vehicles will be parked.

No EIS has been provided for this application. With all factors taken into consideration, Engineer Simmons stated he does not foresee any issues with waiving this requirement, subject to Mr. Campbell's storm drainage report.

New HVAC equipment will be rooftop mounted. The exact location is not yet determined, but they will not be visible and will be shielded if necessary.

The applicant is required to be in compliance and receive necessary permits for the down-facing building mounted lights, as well as EV charging stations.

Mr. Daniels asked about the grading to the front of the building. Mr. Campbell stated that the grading will be to bring the south to match the north area.

Mrs. Kominiak asked for clarification of the display aggregate parking areas.

There was discussion about how much of the lighting would be allowed over the 5 footcandle limit. It was determined to allow a maximum of 10.5 footcandles for up to 14,000 sq ft.

There were no questions or comments from the public.

Attorney Leo stated that there will be 7 variances and 2 waivers. The board declined to have her reiterated them at this time.

Attorney Brady stated the conditions of the approval:

- Provide all necessary documentation complying with the current NJ DEP Stormwater Regulations, including an updated operation and maintenance manual for the stormwater system.
- HVAC is on the roof, or will be shielded if visible, as required by Engineer Simmons.
- May exceed the 5 footcandle maximum up to 10.5 footcandles for no more than 14,000 sq ft of the parking area.
- The zoning table must be updated to accommodate the front yard setback.
- A detailed calculation for the rear wall is required.
- A sidewalk will be added to 206, if requested.
- Dimming of lights will occur after closing.
- The applicant has the option of changing traffic flow with permission from Engineer Simmons.
- All other required approvals must be met.

A motion to approve the application was made by Mr. Gurick and 2nd by Mr. Dooley.

Roll Call: Mr. Daniels, Yes; Mr. Gurick, Yes; Mrs. Kominiak, Yes; Mr. Ostrander, Yes; Mr. Sivulich, Yes; Mr. Walthers, Yes; Mr. Dooley, Yes

23-10-PB

Harby, John --- 209 Highland Ave – Block 2802, Lot 3—Plot Plan with Variances

Attorney Mark Peck introduced himself as representing the applicant who is seeking a bulk variance approval to build a single family home on the vacant lot located at 209 Highland Ave. He stated that all items on the General Checklist and Variance Checklist provided by Engineer Simmons have been completed, and they are requesting a waiver for the Environmental Impact Statement.

Engineer Simmons recommended waiving the EIS, as the main environmental issues on the property are the septic, well, and storm drainage, which would be addressed in Mr. Dykstra's testimony.

A motion to approve completion of the application was made by Mr. Gurick and 2nd by Mr. Ostrander. All were in favor.

Attorney Brady recommended to the board that this new application not be prohibited by the res judicata doctrine. The last application had design-driven variances, which were part of the reason for denial. The new proposed building is smaller. This reduces the amount of impervious surface, which was another reason for denial of the initial application. The new application is compliant in all regards, save for the undersized lot.

Attorney Peck agreed with Attorney Brady's opinion, and noted that they've revised their plans to include additional stormwater infrastructure improvements.

A motion that res judicata does not apply was made by Mr. Dooley and 2nd by Mr. Gurick.

Roll Call: Mr. Daniels, Yes; Mr. Gunderman, Yes; Mr. Gurick, Yes; Mrs. Kominiak, Yes; Mr. Ostrander, Abstain; Mr. Sivulich, Yes; Mr. Walthers, Yes; Mr. Dooley, Yes

Attorney Peck stated that letters were again sent to the adjacent property owners for offers to purchase this vacant lot or to sell part of their property in an attempt to make the lot conforming. All responded "no" to all questions. These letters were filed as A101.

Attorney Peck listed the variances, noting they are all pre-existing.

- Lot Area - Min: 65,340 SF min, Provided: 25,645 SF
- Lot Depth - Min: 225 ft, Provided: 150 ft
- Lot Frontage - Min: 200 ft, Provided: 170 ft

Attorney Brady swore in Mr. Harby 956 Rockport Road for his testimony. He presented the plan sheets 1-3 (A102) created by Mr. Dykstra. The house will now be within the setback requirements. The size was reduced to just over 2000 SF. There will be a conservation easement in the back of the property. A septic permit was received from the county and township. A patio was added after the SF of the home was reduced. Retaining walls were decreased in height. Three dry wells have been added to the front of the yard. He stated this would be an improvement from the existing condition.

Attorney Brady was concerned with Mr. Harby testifying about engineering and storm drainage issues, as he is not an expert in this area. Mr. Harby stated Mr. Dykstra would confirm this in his later testimony.

Mr. Harby presented a rendering of the finished home (A103).

Mr. Kominiak asked for the dimensions of the old and new proposed homes.

Mr. Harby indicated the original was 68' x 45', while the newly proposed will be 63' x 37', lowering the square footage by about 700 SF.

Attorney Brady swore in Kenneth Dykstra, 21 Bowling Green, for testimony. He is recognized as an expert in civil engineering, given the many times he's stood in front of the board. He confirmed his license is still valid. Mr. Dykstra described the lot as 25,460 SF on Highland Ave in Clearview Lake. There are currently approximately 25 houses located on Highland Ave. The subject lot is dry, with only about .14 acres of land draining into the property. It sits slightly higher than the adjoining property, which has approximately 30 acres of drainage flow through the middle of it.

Mr. Dykstra stated they heard the previous concerns over the size of the house and reduced the size to fit in the building envelope more consistent with the rest of the neighborhood. They added a berm and three dry wells, as well as ensured grading would drain away from the neighboring property. Due to Engineer Simmon's previous concerns about water at the bottom of the driveway, river rock channels were added to both sides of the driveway. In his opinion the added improvements exceed requirements and improve runoff from the current conditions.

Mr. Daniels asked about the general path for drainage and showed a video on his phone of the lot and the neighboring property after the recent storm. The water comes down heavily from the neighbor's property and driveway. The street's storm drain grate has been removed because of previous issues with water back-up and leaves blocking drainage. He asked if there was any way to improve this issue by running drainage along the road rather than directly into the road. Mr. Dykstra says they could extend the rip-rap drainage area. Mr. Daniels confirmed he would work with Mrs. Wunder to ensure his phone recordings would be included in the file.

Mr. Peck stated they have concluded their testimony.

Questions were opened to the public.

Raymond Smith of 213 Highland Ave, stated he is the owner of the property that Mr. Daniels took video of the water flow issues. He asked Mr. Dykstra if he designed the flood control for his property. Mr. Dykstra stated that he personally did not, but his office did. Mr. Smith asked how the board and public can trust his office's findings and plans for this new application given the state of his lot.

Mr. Harby stated that they designed extra drainage and provided a storm water report, to show that this construction will not cause further issues to neighboring properties.

Jeffery Calvani of 412 Longview Dr., stated that in previous construction it was stipulated that no rocks were to be disturbed at the back of the property and asked if that will be the case for this lot as well. Attorney Peck confirmed that is part of the conservation easement and will go untouched.

James Bangma, representing the Clearview Lake Properties Association, asked what recourse they would have if there is damage due to water running from the property into the road. Mr. Harby stated he is obligated to follow HOA guidelines so if the guidelines state that he would have to fix it, he would be liable to do so.

Attorney Michael Hanifan, who was representing Mr. Smith, asked if Mr. Harby was planning to move into the house with his family and why. Mr. Harby confirmed he was because he liked the area and school system. Mr. Hanifan then asked the name of the highschool. Mr. Harby said he did not know. Attorney Brady stated that it is irrelevant whether he plans to stay in the home or sell it. Mr. Hanifan said it is a misrepresentation

to the board. He further stated that the original intent of Clearview Lake was for seasonal use homes and smaller lots were not intended to be sites for large homes. Attorney Brady stated the house complies with zoning requirements.

Mr. Hanifan asked if Mr. Harby would be willing to post a bond to ensure that the planned drainage would work as intended for 1-2 years. Mr. Harby said that unless the board enacts that he would not. Mr. Hanifan asked if he would be willing to agree to a maintenance requirement for the drainage along the road. Mr. Harby agreed as long as it was within his property lines.

Chairman Daniels opened the meeting to the public for statements.

Attorney Brady swore in Raymond Smith of 213 Highland Ave. Mr. Smith stated the lot is still 40,000 SF too small by the ordinance. Mr. Harby is a construction manager for a building company and he does not believe his stated intentions to move into this home.

Attorney Brady swore in James Bangma of 319 Lakewood Terrace. He stated his concern for the runoff increasing once there is compacted soil and a 2000 SF of driveway, rather than forest at this lot. Highland Ave is the sole access road for several houses. There are already significant drainage and road erosion issues around Clearview Lake that cause problems for plowing and the fire department. He stated that the 1.5 acre minimum was created to protect existing residents and this lot is not even close.

Attorney Brady swore in Jeff Calvani of 412 Longview Drive. Mr. Calvani asked to ensure the whole road frontage would be protected with proper drainage, rather than just to the left of the driveway. Mr. Calvani stated his property receives the runoff from the area and adjacent property previously designed by Mr. Dykstra's team. He stated he is dealing with issues including a sinkhole and a collapsing wall. He further stated when the property was designed by Mr. Dykstra's team, they intended to construct a retaining wall, however, the resulting wall was a pile of rocks. Mr. Daniels stated the wall was approved by the town engineer. Mr. Calvani said that is part of his concern and asked for a properly engineered wall to prevent water from running into his property.

Attorney Peck stated that this application is for a classic C1 hardship variance and the construction will provide better drainage overall.

Mr. Daniels stated that Clearview Lake's dues are meant to contribute to roads, however there is no current drainage easement. Engineer Simmons stated as drainage easements become necessary, the board asks the applicants to grant the easement. As of right now, stormwater management is sparse in the Clearview Lake community.

Mr. Gurick stated that the required attempt to make the lot conforming was completed when they sent the letters to neighbors and they received no response.

Attorney Brady stated that denying a reasonable development that complies with zoning, would be condemning the lot to inutility.

Engineer Simmons wanted to note Mr. Harvey is proposing a 4 bedroom house. This clarification was made to avoid any issues during construction, if the application is approved.

A motion to deny the application was made by Mr. Dooley and 2nd by Mr. Ostrander.

Mr. Dooley stated due to past issues he doesn't think it's going to work. No matter what is done, it's increasing the impervious surface and will lead to drainage issues and road erosion.

Mr. Dennis stated he is concerned with the cumulative effect of more development in the area.

Mr. Gurlick stated the plans already go above and beyond the requirements. He doesn't know what else they can ask the applicant to do.

Mr. Siluvich stated that residents are suffering because the HOA doesn't have money to update the drainage system.

Roll Call: Mr. Daniels, Abstain; Mr. Gunderman, No; Mr. Gurick, No; Mrs. Kominiak, No; Mr. Ostrander, Yes; Mr. Sivulich, No; Mr. Walthers, No; Mr. Dooley, Yes

A motion to approve the application was made by Mr. Sivulich and 2nd by Mr. Gurick.

Attorney Brady listed the conditions of the approval.

- Conservation Easement along the stone wall at the rear of the property
- Carbonate boring testing to be done
- Modular block retaining walls, design approved by Engineer Simmons
- Drainage along the frontage, designed by Mr. Dykstra & approved by Engineer Simmons
- All other conditions listed on Engineer Simmons Report

Roll Call: Mr. Daniels, No; Mr. Gunderman, Yes; Mr. Gurick, Yes; Mrs. Kominiak, Yes; Mr. Ostrander, No; Mr. Sivulich, Yes; Mr. Walthers, Yes; Mr. Dooley, No

BILLS:

Harold E. Pellow & Assoc. - Hampton Twp PB	\$138.00
Harold E. Pellow & Assoc. - Lowes	\$138.00
Harold E. Pellow & Assoc. - Home&House	\$34.50
Harold E. Pellow & Assoc. - Wawa	\$172.50
Harold E. Pellow & Assoc. - Sussex Co. Realty	\$169.00
Harold E. Pellow & Assoc. - JCB Development	\$483.00
Harold E. Pellow & Assoc. - Fairclough Land-site	\$325.50

Harold E. Pellow & Assoc. - Sweeny	\$475.00
Harold E. Pellow & Assoc. - Ephemeral Realty	\$1028.00
Harold E. Pellow & Assoc. - Harby	\$269.00
Harold E. Pellow & Assoc. - NW Christian	\$34.50
Harold E. Pellow & Assoc. - 50 Hampton Hse Rd	\$69.00
Harold E. Pellow & Assoc. - Mantia	\$927.50
Brady & Correale, LLP - General	\$48.55
Brady & Correale, LLP - Ephemeral Realty	\$176.00
Brady & Correale, LLP - Harby	\$1459.75
Brady & Correale, LLP - Harby	\$308.25
Brady & Correale, LLP - Lowes	\$89.50
Brady & Correale, LLP - Mantia	\$308.25
Brady & Correale, LLP - NW Christian	\$352.20

A motion to pay the bills was made by Mr. Dooley and 2nd by Mrs. Kominiak. All board members were in favor.

OPEN TO THE PUBLIC

ADJOURNMENT

A motion to adjourn at 9:50 PM was made by Mr. Gunderman and 2nd by Mr. Walthers with all members present in favor and none opposed.

Respectfully submitted,

Katie Schroder, Acting Secretary