

**BOROUGH OF SOUTH PLAINFIELD  
PLANNING BOARD MINUTES  
April 23, 2019**

**Roll Call:**

**Present:**

Mayor Matthew Anesh  
Councilman Derryck White  
Stephanie Bartfalvi; Alt. 1  
Bryan Bythell; Alt. 2.  
Paul Grzenda  
Rich Houghton  
John Mocharski  
Peter Smith  
Bob Ackerman; Chairman  
Jack Pedersen; Vice Chairman

**Absent:**

Michael Pellegrino

**Also Present:** Larry Lavender, Esq.; Bob Bucco, PE, CME, CPWM

**Vice Chairman Pedersen** opened the meeting at 7200 pm stating that this meeting is being held in accordance with the Open Public Meetings Act, by posting a notice to The Observer, The Star Ledger and The Courier News and providing the same to the Borough Clerk.

It is the policy of the Borough of South Plainfield's Planning Board not to hear any new cases after 10:00 pm and no new witnesses after 10:30 pm.

**Minutes:** March 12, 2019.

Chairman Ackerman calls for a motion to *approve* the above listed Minutes. Vice Chairman Pedersen made motion, seconded by Councilman White. Those in favor: Mayor Anesh; Councilman White; Ms. Bartfalvi; Mr. Bythell; Mr. Grzenda; Mr. Houghton; Mr. Mocharski and Vice Chairman Pedersen. Opposed: None

**Resolutions:**

- A. Case #788 - KOBO Products, Inc.**  
Block 467.03; Lot 1; M-3 Zone  
3474 South Clinton Avenue

Chairman Ackerman calls for a motion to *approve* the above listed Resolution. Vice Chairman Pedersen made motion, seconded by Councilman White. Those in favor: Mayor Anesh; Councilman White; Mr. Bythell; Mr. Grzenda; Mr. Houghton and Vice Chairman Pedersen. Opposed: None

**Current Files:** None

**Informal Hearings:** None

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**Public Hearings:** (1)

**A. Case #784 - M&M Realty Partners at South Plainfield, LLC**  
Block 550; Lot 3; AH-4 Zone  
1111 Durham Road

The applicant is requesting a Preliminary and Final Site Plan approval for a 410 unit - 31 buildings - condominium, townhouse and apartment complex. Carried from November 27, 2018, December 11, 2019, January 8, 2019 and February 26, 2019.

Kevin Boris, Esq - Weingarten Law Firm, 1260 Stelton Road, Piscataway, New Jersey - attorney for the Applicant addressed the Board. Wants to review and confirm engineering testimony. Mr. Taikina will address the Board. Understands that the Board Planner is unavailable tonight. Therefore, requests to return in May for Planning testimony.

Chairman Ackerman stated that his last conversation with the Board Planner was that he was waiting for additional material from the Applicant.

Mr. Boris called upon John Taikina - 1260 Stelton Road, Piscataway, New Jersey – to address Chairman Ackerman’s comment who has been previously sworn in. Mr. Taikina stated he had a good meeting with Mr. Slachetka and agreed to give him what he has requested upon his return from vacation on Friday. Chairman Ackerman was glad to hear and stated that the next meeting is May 14, 2019. Mr. Taikina agreed to May 14, 2019 to review Mr. Slachetka’s report. Mr. Taikina stated he expects to ‘wrap up that night’. Mr. Boris stated that the Applicant will consent to any decision of the Board up to May 15, 2019.

Chairman Ackerman stated that Mr. Bucco’s report will be reviewed tonight. Understands that the Applicant had met with Mr. Bucco to review items.

Mr. Bucco begins reviewing his report dated February 26, 2019:

- Page 5
  - D1 - Has been addressed. This portion in Edison. Grading issue on the Edison side because of an inlet which is temporary. Had directed the Applicant to do so otherwise there will be ponding. It is a temporary condition until the Edison site is improved.
  - D2 - Not required by DOT. It is a suggestion. Does not affect the Applicants site but a good idea to protect the Applicant. Again, not required.
  - D3 - Has received the Rescinded Stop Work Order. Believes the Applicant has a copy tonight.
    - Mr. Boris presented Exhibit 7A - the Rescind Stop Construction Order dated April 16, 2019. Mr. Bucco stated that the basins have been restored to their original volumes. They are operating properly due to the fact there are no complaints and there have been significant storms recently.
  - Chairman Ackerman reads D7 regarding basements. Board did not want to have basement doors that lead to the outside. Those basements can be converted to an apartment with an egress door. Looking to remove the doors and put windows. Mr. Taikina stated that he would not like to do so. No reason to not have egress. An amenity that buyers want. There are many rules and regulations that prevent apartments. Not going to happen in a condominium community. Chairman Ackerman stated there have been instances in the pass that they are converted into illegal apartments. By not having the door, that is a way for the Board to try to prevent it. Does not see the reason for the door.... Windows work. Basements can be finished. A concern. The only way it gets caught is when an inspector is there for another reason. Mr. Taikina stated unless their four hundred nine (409) neighbors catch them. Mr. Boris stated that the Applicant will be involved with the Home Owners Association. Not a situation they believe will be a problem. Mr. Smith asked if this will be handled by the Home Owner Association. Mr. Boris stated yes. Mr. Smith continued... will there be bylaws. Mr. Taikina stated yes. Mr. Smith asked if the Board may see the bylaws for the record that it is in there that people cannot convert. Mr. Taikina stated yes. Mr. Smith stated then the Borough may go after the Home Owners Association. It is much harder to go after the individual homeowner. Mr. Bucco stated that can be part of the Developers Agreement. Mr. Lavender

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stated that the Borough cannot go after the Home Owners Association. Mr. Boris stated there are Municipal Ordinances that cover this. Municipal law states cannot use a basement as an apartment. Councilman White stated that the Home Owner's Association will have the responsibility to make sure that did not occur if listed in the bylaws. Mr. Lavender stated an extra layer of policing. Mr. Taikina stated he has no objection in doing so. Chairman Ackerman reiterated that in the Home Owners Association bylaws that additional apartments will not be allowed. Mr. Boris and Mr. Lavender agreed to work out the language.

- Page 7
  - D11 - Applicant will comply.
  - D13 - Ongoing discussion regarding the I&I study.
  - D14 - Applicant will comply.
- Page 8
  - E4 - Applicant will comply.
- Page 9
  - F14 – Applicant's and Board Traffic Consultant will resolve together. Chairman Ackerman asked what is the concern. Per Mr. Bucco, the numbers do not add up. No variances required. Mr. Taikina stated what is counted as 3.5 versus 3. Chairman Ackerman confirmed with Mr. Taikina that they are still well over the required parking.
  - H1 - Tax map shows an easement. Applicant states there are none in their title search. If the Borough has a copy of any documentation, Mr. Bucco would like it. The applicant will supply the title search.
- Page 10
  - I3 - Since the letter from the Environmental Commission stated that they are good with the calculations, Mr. Bucco is good with it as well.
  - I5 & 6 - Applicant conducted three (3) Phase 1 studies with negative results. Applicant agreed to submit.
    - Mr. Taikina stated one (1) by the Applicant, two (2) by their predecessors. Will supply.
- Page 11
  - I7 - The Applicant has submitted to NJDEP.
  - J4 - Applicant working with Board of Education and will comply with their requests.
- Page 12
  - K3 - Will comply.
  - K4 - Working with the Board of Education and will comply with their requests.
- Page 13
  - M II 6 - Will comply.
- Page 14
  - M II 11 - Will comply.
  - M III 1 - Will comply.
  - M III 2 - Will comply.
- Page 16
  - M 111 10 - Board Traffic Consultant has been in contact with the Chief of Police and Traffic Safety Officer along with Applicant's Traffic Consultant. Have worked out left turn lane on Durham. No Right-of-Way is needed.
    - Mr. Pehnke agreed.
    - Chairman Ackerman reiterated that there will be a dedicated left turn lane.
      - Mr. Taikina stated will benefit the other streets in the area as well.
      - Councilman White stated a resident came before the Board with concern on how close the entrance will be to Yurgel.
      - Mr. Boris submitted Exhibit 8A - Copy of preliminary stripping plan - sheet 1 of 1 - dated February 5, 2019.
        - Mr. Pehnke reintroduced himself. Was submitted to Mr. Jahr. Starting at north end by Hogan Drive, proposing re-stripping to the end of the property. Creates the ability to turn into both entrances. Also creates left turn lanes into Famularo Drive, Yurgel Drive, Jankowski Drive and Hogan Drive. Mr. Jahr has asked for additional signs.
  - M III 12 1 - Regarding the I&I study.
- Page 17
  - M III 13 1 - Applicant proposed a natural gas generator. Will comply with remaining comments.

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- Page 18
  - M III 13 5 - Pump station does not require a housing. Will be open and screened.
    - Chairman Ackerman confirmed with Mr. Bucco and Mr. Taikina that the area will be fenced, screened and safe. Also landscaped.
  - M III 13 7 - Will comply.
  - M III 13 8 - Will be in the manual.
- Page 19
  - M III 14 3 - Will comply.
  - M III 14 6 - Will provide grading and plot plan for each building.
- Page 20
  - M III 14 11 - Will comply.
- Page 21
  - M III 15 4 - Had significant discussion about drainage. Applicant will make sure slope bottoms work. Manufacturer will supply documentation. Najarian's drainage expert spoke with manufacturer. Will provide a signed and sealed drawing from Engineer.
  - M III 15 6 - Existing swales along Route 287 helps with run-off on the current site. This was testified previously. This is on DOT Right-Of-Way. Did recommend an easement but not required.
    - Chairman Ackerman questioned if this would affect Route 287. Per Mr. Bucco, no.
  - M III 15 8 - Will provide. In the process of obtaining a LOI from DEP.
- Page 22
  - 9B - Applicant will add additional weir.
- Page 23
  - 9C - Will provide a pre and post table.
- Page 24
  - 15 & 16 - same as Item 4 on page 21. Slope bottoms.
  - 21 - Manufacturer will design and give details.
- Page 25
  - 22D - Will comply.
  - 24 & 25 - Manufacturer will provide design details.
    - Mr. Boris agreed to work with this during resolution compliance. Mr. Bucco agreed.
- Page 27
  - 35C - Will comply.
- Page 28
  - 38 - Manufacturer will provide details.
  - 42 - Not required but suggested.
- Page 30
  - 55, 57, 58, 59, 60, 61 - Will comply.
- Page 31
  - 16 1b, 2c, 2d, 2g - Will comply.
- Page 32
  - 2h & I - Will comply.
  - 4a - Will comply.
  - 17 1 - Will comply.
- Page 33
  - 18 - Done.... Needs to be submitted.
- Page 35
  - 4a - Will comply.
- Page 37
  - 20 - Will comply.
- Page 38
  - 21 - Will provide an updated EIS.
  - 21 1 - LOI has been submitted and being reviewed by DEP
- Page 39
  - All relates to LOI. Will address with DEP.
- Page 43
  - 3 - Will comply.
  - 24 - Will comply.
    - Per Mr. Taikina, except for #13. Will not build fire house.

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- Chairman Ackerman asked Mr. Taikina besides the fire house, have they agreed to all items discussed with the Fire Department. Mr. Taikina stated yes.
- Remainder of the review letter are permits that are pending. Mr. Bucco is satisfied with the responses.

Mr. Mocharski asked regarding the letter that was received from the Middlesex County Mosquito Commission, is this a requirement. Mr. Taikina stated when they are in front of the County Planning Board, that will be addressed.

Vice Chairman Pedersen stated that the Chairman had some concern regarding basement apartments. The Municipality does not allow second kitchens. Believes this will be true for this site. Mr. Taikina stated the Applicant will follow the Municipal Code. At times there are second kitchens in homes... often for religious reasons - Kosher kitchen.

Mr. Grzenda stated that the Fire Department had concern in reaching the complex... is it a safety concern. Mayor Anesh stated that the Fire Chief would have to comment. There is coverage from neighboring towns... Edison and Piscataway. We have been servicing Traditions and Durham Avenue with homes across the street. Also, all the buildings will be sprinklered. Mr. Taikina stated everything but the townhomes. Mayor Anesh stated thought that was going to be sprinklered too. Mr. Taikina stated looking at it. The code has not changed but it is coming. Mayor Anesh stated he thought they were going to be ahead of the code. Mr. Taikina stated will be compliant with the code. Mr. Boris stated the code may be changing. Councilman White stated if the code does not change, not planning to do so. Mr. Taikina stated will follow the code. Mr. Grzenda asked the Chairman Ackerman if the Board will hear from the Fire Chief. Chairman Ackerman does not believe will be receiving additional information from the Fire Chief. Mayor Anesh stated that the Fire Chief will supply another letter.

Mr. Boris thanked Mr. Bucco for meeting with Mr. Taikina and Mr. Lathem to go over the issues.

Chairman Ackerman stated it was a very thorough report and glad items were resolved prior to tonight.

Chairman Ackerman opens the discussion to the public. No questions or concerns.

Mr. Taikina would like to discuss the I&I report. On March 21, 2019 sent a letter to Mr. Lavender stating they will fund the \$46,000 cost of the study. In the letter was a statement not a condition that the \$46,000 would be credited in future payments made to their fair share. Does not want to condition the study. Suggested to meet with Administration. How that future fix is addressed is separate from anything else.

Mr. Lavender reiterated that the Applicant will fund the study with 'no strings attached'. Mr. Taikina stated yes. If there is no problem... good. If there is a problem, believes they should get 'credit for the fix'. Would like to meet with Administration to discuss.

Mr. Boris stated if there is a fix, would like to follow Section 42 of the MLUL. Mr. Lavender asked to explain. Mr. Boris stated if there is a fix needed, the Applicant is not to pay for more than the pro rata cost. Mr. Lavender, Mr. Ackerman and Mr. Bucco stated that is not an issue. Mr. Boris continued... the Applicant cannot be charged unless everyone is charged. If there is a fix in the future and everyone in the town is charged for the fix, the Applicant will be responsible for that pro rata share. Mr. Lavender asked if Mr. Boris had the MLUL. Board Secretary advised has a copy and gave it to Mr. Lavender to review.

Mr. Taikina requested an invoice be sent to him regarding the \$46,000. Mr. Lavender stated yes... you are entitled to an invoice.

Councilman White stated that the correspondence received previously was discussing a credit to connection fees.... Ambiguous to the Board. Very different then what is discussed today. Mr. Taikina stated it was meant to be ambiguous. Mr. Boris stated he wrote the letter and it was ambiguous. Does not know what is going to happen in the future.

Mr. Lavender asked where in Section 42 is it listed in. Mr. Boris stated it is in the section that states that if they are to pay for off-tract improvements it will be a pro rata share. Mr. Lavender stated he agreed with that but the latter

part of the prior statement he is not sure. Mr. Taikina stated in the Appendix in the back.... Section 42.

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Mr. Boris stated he wants to make sure if they are charged, they are charged fairly. Mr. Lavender stated he wants a clarification of the previous comments 'that everyone gets charged or no one gets charged'.

Mr. Boris stated that Mr. Lavender and himself can work it out.

Mr. Taikina stated that is why suggested to work it out with Administration and a receive a bill. A letter just like an escrow request. Mr. Bucco stated to indicate it is an I&I Study.

Chairman Ackerman reiterated that there is a study to be done and the cost is \$46,000. The Applicant is willing to pay for the study. Mr. Bucco stated right. Mr. Smith stated that is the way he understands it.... That the Applicant will pay the \$46,000 but if something happens, they want a credit of the \$46,000 towards something else.

Mr. Lavender stated it is his understanding that this conversation is for another date. That the Applicant would like 'Good Will to Prevail' but not making that a condition. Basically, 'here is \$46,000 and we would like you to be nice to us later. If not, we will work it out later.' Mr. Taikina stated yes... going nowhere. Mr. Boris stated 'the boss is down the street and not going anywhere. Will be in town for a long time.'

Mayor Anesh stated he is uneasy with this.

Mr. Grzenda asked what a credit would be. Mr. Taikina stated the \$46,000 would be part of the cost of any fix. For example, when the budget for the fix is done... the first part is the study - \$46,000... the second part would be \$204,000 for Engineering... the third part would be \$250,000 to fix it for a total of \$500,000. That amount would be shared across all the properties. If their share is 10% or \$50,000 but already gave \$46,000 only would pay \$4,000. Many Board Members stated they are not comfortable with that. Mr. Lavender explained... if it is \$50,000 and were given \$46,000 hopes that the Borough would take \$4,000 more. But if the Borough says no... they will live with it. Chairman Ackerman stated they are paying \$46,000 and the fix is \$50,000 of their portion and they would like to pay the difference - \$4,000. Not comfortable with it. Mr. Grzenda agreed with Chairman Ackerman. Mayor Anesh questioned what if they did not pay for the study. Mr. Boris stated would pay the pro rata share. Councilman White stated that the example that was given was a condition but you're not giving a condition. Mr. Taikina stated that the example he gave is fair. There is no condition. Councilman White stated that the Board has always maintained a fair share payment from the beginning.

Mr. Lavender stated there is no condition and it is a conversation for a later date. Mayor Anesh stated that the study can be done either way. It is a matter of what the Board is comfortable with. There is no condition they will pay \$46,000 and nothing more. Mr. Pedersen stated that it is clear that the Applicant is willing to fund the study and hoping that if additional funds are needed, they are treated fairly... not a condition, a suggestion. Mayor Anesh stated they are not funding the study... but their fair share, but up front they are funding the study. Mr. Grzenda asked if funding of the study is part of the fix. Mayor Anesh stated it is the overall cost. Mr. Grzenda continued... then understands what is being said. Mayor Anesh asked Mr. Bucco who normally pays for this study. Mr. Bucco stated has seen it both ways.... It's a matter of how the Municipal wants it handled. Mr. Boris stated the Applicant's position is that the I&I issue is a town issue and the Applicant did not cause it but is willing to pay the \$46,000 up front. This is a Borough of South Plainfield issue... not a M&M Realty Partners issue.

Mr. Grzenda stated if the \$46,000 is part of the cost of the whole fix, take the percentage of the cost and spread it to everyone else. Mr. Taikina stated yes... 'as it should be'. Mr. Boris stated it is a pro rata. Everyone in PARSA who has an I&I issue should be paying a part of it. Mr. Grzenda stated doesn't the study have to be done because it is affected or caused by the development taking place. Mr. Boris stated that he would argue that this has been a Borough issue before the Applicant came before the Board. It will be an issue for the Borough of South Plainfield for years after the development.

Mr. Lavender stated that what the Borough has now is a gift from the Applicant.... Here is \$46,000. As some point there will be another number for the fix. The Applicant would like the Borough to consider the \$46,000 as an off-set but if don't, will deal with it and will give whatever their fair share is. Not exactly what the Applicant wants but willing to do so. Mr. Boris stated they are good with that.

Mr. Bucco stated that it is fair.

Mr. Smith stated that was not said originally, but has a better understanding.

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Mr. Lavender stated that the Applicant would like to be fair. Will pay the \$46,000 and would like a credit towards the fix. If the Borough decides not to and wants the entire amount of their fair share, the Applicant will pay. Mr. Taikina stated 'send us the bill.'

Mr. Mocharski asked Chairman Ackerman if he is satisfied.

Chairman Ackerman stated he can except them paying the survey. Then whatever comes back from the survey and the Applicant is willing to pay their fair share he is fine with it. But the survey fee is the survey fee. Mr. Grzenda stated that is the Applicant is stating the survey is part of the entire cost. Chairman Ackerman stated that the survey is the survey.... Separate from the fix. Whatever the survey comes back with, the Applicant will pay their fair share of the fix. The survey cost does not have to be applied to the fix. Chairman Ackerman confirmed with the Board Members that they understood.

Mr. Boris stated he is requesting the May 14, 2019 hearing date and no further notice is required. Chairman Ackerman and Board Secretary review the calendar. There is another Applicant scheduled. Chairman Ackerman stated that will go forward with the May 14, 2019 hearing date. There is another Applicant but will cover this Applicant first.

Mr. Taikina stated will have a similar meeting with Mr. Slachetka as he did with Mr. Bucco prior to the hearing of May 14, 2019.

Chairman Ackerman stated that the Board will provide M&M Realty Partners with street names. Chairman Ackerman asked Mr. Boris to send a formal request for street names.

**Old Business:**

Mr. Mocharski asked if there is any further information regarding the letter previously received on St. Stephens. Chairman Ackerman stated nothing has been received.... No application.

**Committee Reports:**

- A. Street Naming Committee** – Bob Ackerman – report progress.
- B. Environmental Committee** – Rich Houghton & Bryan Bythell – report progress.
- C. Council Reports** – Councilman White – Flanagans has sold. New restaurant will be Angelina's Tavern. Italian cuisine with a brick oven. Thanked John and Chris for all Flanagans has done. Mr. Grzenda questioned any activity on the old Acme. It is being subdivided. The lease is not finalized so cannot discuss who is leasing space.
- D. Mayoral Updates** - Mayor Anesh – report progress.

**Minor Site Plan:** None

**New Business:** None

**Correspondence:** None

**Audience Comments:** None

**Executive Session:** None

**Adjournment:** 8:10 pm.

A young man thanked the Board for a Citizen Badge that he received.

Respectfully Submitted,  
Joanne Broderick  
Planning Board Secretary