The Manasquan Planning Board held a regular meeting at 7PM on Tuesday, October 4, 2016 in the Council Chambers of the Borough Hall, 201 East Main Street, Manasquan, New Jersey.

Chairman Neil Hamilton called the meeting to order and gave the opening statement and then asked everyone present to please stand and salute the Flag.

ROLL CALL:
Board Members Present:
Mayor Ed Donovan, Councilman McCarthy, Neil Hamilton, John Muly, John Burke, Barbara Ilaria, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin, Leonard Sullivan
Board Members Absent:
Robert Young and Kevin Thompson (Mayor's alternate)
Professionals Present:
Geoffrey S. Cramer – Planning Board Attorney
Albert D. Yodakis – Planning Board Engineer/Planner – BORO Engineering

Geoff Cramer read the Sunshine Law announcement.

Minutes of September 20, 2016 – Mark Apostolou made a motion to approve, seconded by John Muly, all in favor none opposed.

Vouchers – Leonard Sullivan made a motion to approve, seconded by Owen McCarthy.
Board Members voting yes to approve the Vouchers:
Mayor Ed Donovan, Councilman Owen McCarthy, Neil Hamilton, John Muly, John Burke, Barbara Ilaria, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin, and Leonard Sullivan.

Neil announced there is a correction if so approved by the Board. Mr. McGill is representing the Frank Morris application, he had a conflict for tonight's meeting, he is asking that they be continued to the November 1, 2016 Regular meeting at 7PM if there are no objections from the Board. There were no objections. Neil said it will be moved to the November 1st meeting and will be the first application. If anyone is present for that application be informed of the meeting change.

RESOLUTION #26-2016 – Neuwirth, Mark and Susan – 66 Church Street – Minor Subdivision - Mark Apostolou made a motion to memorialize, seconded by John Muly.
Board Members Voting Yes:
Mayor Ed Donovan, Councilman Owen McCarthy, Neil Hamilton, John Muly, Barbara Ilaria, Greg Love, Mark Apostolou, Mark Larkin and Leonard Sullivan

<u>RESOLUTION #26-2016</u> – Connors, Judi – 159 First Avenue – Bulk Variances – Mark Apostolou made a motion to memorialize, seconded by Owen McCarthy.
<u>Board Members Voting Yes</u>:
Mayor Ed Donovan, Councilman Owen McCarthy, Neil Hamilton, John Muly, Barbara Ilaria, Greg Love, Mark Apostolou, Mark Larkin and Leonard Sullivan

<u>RESOLUTION #27-2016</u> – Leonard, John and Pam – 120 Lake Avenue – Bulk Variances – Mark Apostolou made a motion to memorialize with two (2) corrections Geoff will make, seconded by John Muly.
<u>Board Members Voting Yes:</u>
Mayor Ed Donovan, Councilman Owen McCarthy, Neil Hamilton, John Muly, Barbara Ilaria, Greg Love, Mark Apostolou, Mark Larkin and Leonard Sullivan.

<u>APPLICATION #25-2016</u> – Baldwin/Bennett – 131 Beachfront – 130 First Avenue – Block: 167 – Lot: 14 – Zone: R-4 – Minor Subdivision – Keith Henderson is the attorney representing the owners/applicants. The Board accepted the additional notices that had been left off the property owners list. He had three (3) exhibits to be marked as evidence. A-1 – Resolution #33-2000 – this states the previous approval by the Board for this subdivision. A-2 – a newspaper article which appeared after the first approval, titled "Sisterly Subdivision". A-3 – a list of Beachfront subdivisions shown on the Tax Map of the Borough of Manasquan, which have the same configuration, being north-south access. Mr. Henderson had one witness, Geoff swore in Catherine Bennett, the owner/applicant of 131 Beachfront one of the sisters seeking the relief. Mr. Henderson said 16 years ago this application was approved; nothing has changed on the property since that time. The only reason that subdivision was not perfected was because the applicant was not aware when they made the application that they had to separate the utilities and they did not have the financial wherewithal to do that. In the interim years the Board has made changes to the zoning that affect this lot. The only thing that has changed with the property is the zoning. Catherine Bennett gave the background of the property. Her father purchased the house at 131 Beachfront 69 years ago, in 1947. The property at that time was owned by the American Timber Company. The land was made available to the tenants, her father had a contract to purchase the land at 130 First Avenue and 131 Beachfront, in 1991 but literally the night he was copying the contract in his Law office, he suffered a stroke and passed away before he signed the contract. The contract was assigned by her father's estate to her sister Mary Ellen Baldwin and Catherine and her husband Ronald Bennett. It was her father's wish that the two of them would be able to inherit those houses and each live in one house. She lives at 131 Beachfront and her sister Mary Ellen is a permanent resident at 130 First Avenue. Now, they have the financial wherewithal to separate the utilities. Keith went through the variances which haven't changed since the original application with the exception of the fact that the Borough changed that one item of the zoning ordinance. The lot frontage is supposed to be 30-feet, its 19.8-feet existing. The lot area is supposed to be 4200-square feet, it's 1583-square feet, but it has two (2) houses on it. The rear setback is supposed to be 15-feet, 10-feet is existing. The side yard on the Beachfront house is 5-feet required, 2.23-feet existing. Building coverage is supposed to be limited to 35%, we are at 41%. Lot coverage required is 50% we are at 67.1%. Required are two (2) legal off-street parking spaces, although they find ways to park the cars, there are no legal parking spaces.

On First Avenue, the same requirements, lot frontage 30-feet required, 19.8-feet exists. Lot area 4000-square feet is required, we have 1361.5-feet, he suggests you should really be measuring that at 2100-square feet as there are two (2) houses there. The front setback, 10-feet is required, 1.3-feet is existing, the side setback is 5-feet required, 4.2-feet existing, side setback south is 5-feet required, 1.05-feet existing. Building coverage on that lot, 35% permitted, 38.4% existing. Lot coverage is 50% required, 62% is existing. Again for that lot there are zero parking spaces. Nothing has changed in the last 16 years since this was originally approved, other than that one zoning issue. All those lots you have listed on that sheet marked exhibit A-3 are lots which have had that same configuration, many of them are conforming. There is no change proposed to either of the dwellings. There are other properties in addition to the ones listed there which were converted to condo share ownership to avoid coming before the Board, which is an option for them if this Board does not approve. Unfortunately, the application was not subject to the permit extension act, it fell between the first and the second. He suggested to the Board that the reasons why the permit extension act went into effect was essentially financial hardship for people who got approvals. It's the same principal that is here, even though the State Statute doesn't affect it. Al in addressing his report said Mr. Henderson addressed all the variances. He asked if there was some kind of cross access easements here. Keith said we used to do the standard easements that we did in all those applications that are on that sheet. You have cross access ingress, egress easement for the First Avenue to have access to the Beach and the Beach house to have access to First Avenue. There is also a utility easement required for the separate utilities which have to be installed. He would submit those to Geoff and Al for review. Al said there are several other minor detail items in his report. It comes down to the Planning question, splitting the lot, we have two undersized lots. He doesn't know the history about why the zoning changes were made here. Mark Apostolou questioned the parking issue. Ed said so as a result of this we would get two (2) non-conforming lots instead of one (1) non-conforming lot. Lenny said correct. Keith said you have to remember that the new zoning allows two (2) houses on one lot, so you would have been drawing the same line under the old as we are trying to do under the new. Nothing on the ground will change. Ed said not now but a future owner may come before this Board with plans to put up something different than what's there now. Keith said at that point in time they would have to persuade you and seek a D Variance, but a good number of the variances could be reduced if you had brand new construction. Ed said you said there are other lots that are subdivided and do you know if they were done before or after the zoning change. Keith said he suspects probably 99% of them were before the zoning change. Ed said he has no historical knowledge of why the zoning was changed to require 4200 square-feet. Keith said the typical living arrangement of a family compound is exactly what they are asking for. Keith said it is his understanding is the whole idea is to eliminate making people get a Use Variance. A Use Variance is a D Variance, it's not a Hardship Variance and there really isn't a legal justification for a D-1 Variance, even though this Board gives many of them because there is no way other way to resolve the issue. Neil said he sat on this application 15 years ago with Mayor Winterstella and he can't recall what our reasoning was back then, but they were probably excited to see some new re-development at the Beachfront. But, times have changed our thinking has changed, we did want to maintain two structures on one lot without a variance, to create this family compound, we get in a situation whereby with a subdivision we have variance relief in the front garage,

the Beachfront house owner could own that and I don't know that that has really worked out but he thinks buyers down there have gotten away from that. They said I don't want to go through that grief, let me just own the whole thing, put my family in the garage apartment. I don't know the size of the properties that you presented here. Yes, we have subdivided quite a few, and others have gone to the condo mode. He understands where you are coming from but for the size of this lot it's going to be so difficult to ever get onsite parking. If someone were to come in there and buy as a family compound and they knock everything down, probably the best they could do on First Avenue to get some onsite parking and a little storage would be to have stacked parking for two vehicles. You can't even get the width of a garage in there to satisfy any of the zoning even to get the 3.1 for Fire Code. Keith suggests it would be far more difficult if they do the alternative which would be the Condo, they are going to do what they have to do for estate planning. He said you have more problems up there with the Condo's than you do with the subdivided lots. You have condos up there where people have made limited common elements. There are fights between the people who live there. It's nowhere as clean as a subdivision but that's what we'll have to do. As you all know a condo is a form of ownership and the Planning Board has no jurisdiction over it. Neil said he just doesn't think its good planning, 15 years ago if we had the same rules in place that we do now we would probably flat out deny it. I'm only one member of the Board. Owen said it comes down to a policy decision for us, where do we have more control as a Board either now or at that point as Geoff mentioned that we can't regulate ownership if it is a condo. Is it better, if and when something is done there that the Planning Board retains future control as to what happens there. John Burke feels this is cleaner rather than going with a condo. The attorney makes an interesting point; it's basically just a line in the sand. Ed asked John how the Board loses control over it. It's a non-conforming lot, how do we lose control over it as a condo? John said we lose control over the condo itself, how the two people handle that piece of property as a condo. Ed asked and by subdividing it how do we gain control over that. John said basically anything major done has to come back before this Board, as a condo some items don't have to come back to the Board. Lenny said so you are saying if you condo this and then someone bought it and wanted to tear it down, they wouldn't have to come to us for any variances? Keith said oh they would have to come before the Board it's just messier. Mark Apostolou voiced that he agrees with the Chairman. Keith said you are talking about disapproving an application which you already approved 16 years ago. If it wasn't so easy to go condo, I would take this to court; I don't know how you say we've changed our minds. Neil said if the rules didn't change where we had a different outlook on the way you want to see the Beachfront built and developed, I would say you would have been in and out of here in 5-minutes, but our thinking has changed. None of the members of this Board have heard this application prior; I don't remember 15 years ago what our thinking was. Keith said you don't lose anything by approving the subdivision and it makes a cleaner estate plan. Mark Apostolou made a motion to open the meeting to the public, seconded by Mayor Donovan, all in favor none opposed.

<u>Audience Members Coming Forward</u>:

<u>Fran Drew – 111 Third Avenue</u> – The applicant's are her cousins. She supports the application.

<u>Barry Ivans- 128 First Avenue</u> – He is in favor of the application.

<u>Mary Ryan – 113 Beachfront</u> – She is in favor of the application and asked the Board to approve the application.
<u>Margaret Patterson – 57 Wyckoff Avenue</u> – She is the sister of the applicants, and has lived here for 43 years and she asked the Board to approve the application.
Mark Apostolou made a motion to close the public portion of the meeting, seconded by Owen McCarthy, all in favor none opposed. Mr. Henderson gave his closing statement, noting that they have the support of the neighborhood. There have been no negative comments. John Muly made a motion to approve the application, seconded by Councilman McCarthy, he stated the application was approved 15-16 years ago and he doesn't see any substantial changes to the property.
<u>Board Members Voting Yes</u>:
Councilman McCarthy, John Muly, John Burke, Peter Ragan
<u>Abstain</u>: Mark Larkin
<u>Board Members Voting No</u>:
Mayor Donovan, Barbara Ilaria, Greg Love, Mark Apostolou, Lenny Sullivan, Neil Hamilton.
Application denied.

<u>INFORMAL 15-MINUTE PRESENTATION – 177 MAIN STREET</u> - Keith Henderson is the attorney representing the applicants the Laszlo's, 177 Main Street, LLC. He said the reason he is here is because there was a very minor deviation from the Site Plan that was approved. In the parking lane which ran the east side of the property he was asked to look into the Title. The Engineer left that opening there because he was under the impression it must be there because it was required by an easement or something else. Keith did a complete Title Search of that property and there really are no easements that go in that direction at all. From the Laszlo's perspective that is a nuisance that allows access in and out of their parking lot from neighboring properties and cars that are trespassing on their property, so they want to close that off. It has been temporarily closed off and Mr. Furey wanted them to come back here because it is a modification to the plan. Keith has copies of all these easements should the Board wish to have them. Neil said just the fact that the curb is there now, it's in the Resolution that they have to put a dumpster on their property to handle their own garbage and recycling. I guess the plan was to just drive through as a circulation feature. Keith said he hadn't really looked into the Title. Al said part of the issue is, originally it was designed to be circulation coming through there, as everyone has seen, the parking is very tight back there. He had talked to Mr. Carpenter way back when they went through this. With the elimination of the curb, it changes the circulation back there significantly. It's difficult, if anybody has a plan to get into the parking stall. His opinion is he just wanted to make sure the Board was ok with it. It's changing the circulation pattern that we looked at and approved and it's going to affect those parking stalls and how people can get in. People can still get into and out of those parking stalls, but they are going to have to back up. Mr. Laszlo explained what they did, he said for him it's a liability and insurance issues for them, there are people driving on his property. There is no reason why they should have that. Unless somebody can create a legal obligation and impose upon him an easement that doesn't exist we don't want it. It's a nuisance and it creates issues and liabilities for us. This all came about because of the release of our Performance Bond. Al said he will say the parking situation now is probably

the best case scenario, they still managed to get the five (5) parking spaces in. But, it was a change from what this Board originally saw and Al didn't feel comfortable just waving a magic want and saying yes it was ok. I just want to make sure that everybody here, if you are ever back there and see this that you are comfortable with it. Mr. Laszlo said there are no designated spots, shoppers can use them. There is a legal easement that permits our property to cross the Algonquin property line, that's always been there, that's recorded. That is the legal access to the property. Neil said looking at the site after all is said and done, looking at the Site Plan when I saw the layout I said what handicapped person is going to park here to shop in your shops. There is no way, by the time they get all the way down to the end of the driveway up to the Algonquin, out to Main Street. I guess it satisfies the need but it's really in a bad location. Neil said so what do you need from us. They really don't need anything; it's a minor site plan amendment. The audience cannot make any comments.
The Board called for a 5-minute recess.
<u>Roll Call Following Recess</u>:
<u>Present</u>: Ed Donovan, Owen McCarthy, Neil Hamilton, John Muly, John Burke, Barbara Ilaria, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin and Leonard Sullivan.

<u>APPLICATION 29-2016</u> – Rossinow, Mary Sue and Seth – 276 Perrine Boulevard – Block: 79 – Lot: 8 – Zone: R-2 – Geoff Cramer swore in Mary Sue Rossinow, she gave her testimony stating they purchased the property in 2011, basically it's a box of a house, not much curb appeal. They are hoping to receive a variance for a covered front porch to make the house look better. She stipulated the porch would never be enclosed. Al went over his report, he had a question regarding the front setback, is that to the front line of the porch or the overhang. Mary Sue said to the front line of the porch, Al said so that overhang is going to be another foot or so where it sticks out. Al asked what the proposed sidewalk would be made of. Mary Sue said it is cement now and will remain cement. Al said so that was included in your impervious coverage calculation. John Muly said he thought it was a nice proposal, it certainly dresses up the front of the house. Mark Apostolou made a motion to open the meeting to the public, seconded by Mayor Donovan, all in favor none opposed. There was no public participation. Mark Apostolou made a motion to close the public portion, seconded by John Burke, all in favor none opposed. Mark Apostolou made a motion to approve the application as submitted, seconded by Peter Ragan.
<u>Board Members Voting Yes</u>:
Mayor Ed Donovan, Councilman Owen McCarthy, John Muly, John Burke, Barbara Ilaria, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin, Leonard Sullivan and Neil Hamilton.

Neil said save your packets for the Morris application.

There is a request in correspondence, 264 Cedar Avenue, this property was sold and the previous owners had come to the Planning Board and the new owners are seeking a 9-month extension. Geoff said he spoke to the attorney for the buyer and the new owners would like to build according to what was approved. They are entitled to a one 9-month

extension. Neil said this has happened in the past. There was a lot of discussion about when an extension has to be applied for. Neil said we just have to be specific in our Resolutions. Lenny Sullivan recommends we approve the request to a letter from Roger McLaughlin asking for these people to use the same exact plans, with the same exact approvals of the Board back in 2014, but limited to 9-months as opposed to the one year he is seeking. John Burke seconded the motion, all in favor none opposed. Geoff will contact the Attorney for the new property owners and inform him of the Board's decision. There will be a Resolution for adoption at the next meeting.

The second meeting October 18 at 7PM is when the cemetery and RALCO will be coming before the Board.
As of now, there were no applications for the second meeting of November; Mark Apostolou made a motion to cancel the meeting, seconded by John Burke, all in favor none opposed.
(In the interim, the second meeting of November will be held on November 15th at 7PM – a mistake was made in dates and 148 McLean Avenue will be appearing at this meeting).

Geoff said litigation on Edgar's Pub is completed. There is a stipulation of settlement, Edgar's Pub management has discussed with the Borough of Sea Girt granting an extension of time to allow roof top dining beyond September 30th. Lenny said it was in the newspaper that Sea Girt approved that. Geoff said Sea Girt is not the licensing authority, the Mayor and Council in Manasquan are the authority. They haven't formally requested an extension from the ABC, as the Mayor and Council of the Borough of Manasquan. Edgar's would have to make an application to the Planning Board. Barbara Ilaria said if the Board would like she will look into the agreement with Sea Girt and see what the rules from ABC is as far as food and when it could be approved, if it's the Planning Board or the Council.

Mark Apostolou made a motion to open the meeting to the public, seconded by Owen McCarthy, all in favor none opposed.

<u>Audience Members Coming Forward</u>:
<u>John Drew – 111 Third Avenue</u> – His wife and he are the owners of the Main Street building 169-175 Main Street, next door to the Laszlo's new building at 177 Main Street. He is afraid that the public good has not been served by this latest decision that you have approved to block off the access between the Theater lot and the rest of the parking lots behind the stores. He also thinks it's a safety hazard because it blocks off access for emergency vehicles. And as far as concerns about insurance an easement arrangement could be made which would hold the Laszlo's harmless.
<u>Fran Drew – 111 Third Avenue</u> – She is here tonight to respectfully ask you to reconsider the possibility of encouraging the re-opening of the access between the Laszlo's property and the contiguous properties. She said there is a generosity of spirit that is possible. That was the case in 1959 when Mr. Newbury who owned the Algonquin and built it in 1938 made an easement on his Algonquin property so that the owners of the adjacent property and any future owners would not suffer from no access or egress from Abe Voorhees Drive. She said the Laszlo's are good people and have done a good job with a very difficult,

narrow plot of land. She feels that the neighbors had a much better situation when the 16-foot access on Laszlo's property was open. Now it is closed. She had a document from two neighbors who asked her to bring it tonight to express their concerns. Mr. Cramer told Mrs. Drew that this is not a hearing, you are making your concerns to the Board and he doesn't remember her being here during the course of the application. Mrs. Drew said she never got any legal notice. Geoff said you had to. She said she didn't. She wanted to come on July 19th when they said they had a special 15-minute presentation but the Laszlo's said it's only 15-minutes and there won't be time. Owen asked if she came for the initial hearing, Mrs. Drew said she didn't know there was a hearing, she never got to see the drawings. Neil said we are not an advocate of closing that up and stopping the flow of traffic. We have no jurisdiction over private properties. If the owner chooses to do that the Borough has no legal right to say you can't do that. Mrs. Drew said if we had come to the original meeting and learned that that was going to be closed off and learned that there was a handicapped car being parked there, then we would have been able to express our major concerns about that happening and perhaps if you knew that then, there might have been some other guidance. Neil said we had no idea that was going to be closed off, and right now it has got to be an issue between property owners. The Borough is not going to get involved. Owen McCarthy said that hearing wasn't in February. It was two years ago. Neil said Fran being so involved, I can't believe you didn't know what was going on. Fran said yes she asked to see the plans never got to see them. The way we discovered that the rain water was going to be draining on our property was when we were walking across and we see a big ditch coming right down and she asked the excavator what it was. If any five of you went to see what was approved by you, you would see what was approved a risky, unsafe situation. I'll leave it to you. Mark Apostolou said we have the opinion of our expert, our Engineer that it was the best configuration possible so that's what we relied on tonight. Neil said we heard you, we got the point. We have no jurisdiction. The neighbors need to get together and discuss this.

<u>Robert Farber</u> – He is a partner of the Health Food Store building 179-181 Main Street – he is somewhat neutral on the issue pertaining to the parking space. If there is a better alternative he would like to sit with the neighbors and go over it. He came tonight because there was an issue pertaining to the curbing that was there that was holding up the Laszlo's Performance Bond that could not be removed because my tenant needs it for his dumpster and parking space. Neil asked Al Yodakis if that was so and he said yes, but after tonight he thinks the Bond will be able to be released. I have been informed by your Code Official that this has all been review by your experts and your officials and I am good with it. And yes the property is still owned by the Farber's, Neil said I miss your father he was quite a man and Robert said he is still around and is 91 years old. Al Yodakis said he has reviewed the 177 Main Street file and Plaza Group of Manasquan, LLC c/o Drew was indeed noticed about the hearing. We don't have the receipts the attorney for the applicant keeps them. Councilman McCarthy made a motion to close the public portion of the meeting, seconded by Mark Apostolou, all in favor none opposed.

Geoff Cramer said there is a matter pertaining to two lots along Stockton Lake Boulevard brought to his attention by Mr. Henderson. Apparently they were identified as one lot on the Tax bill, the Ridley property. Keith would like to have the two lots by Deed recombine these lots with the pieces across the Street to which they belong. Mark Apostolou asked if he has to make an application to the Planning Board. Geoff said to him it looks like a re-

subdivision. At one time these lots were continuous between Lake Avenue and the waterfront; there was no Stockton Lake Boulevard. When Stockton Lake Boulevard was constructed all these loose ends at the end of these long lots got cut off. Mark said his suggestion is for Geoff to demand Title information to show the history so we know exactly what is there. He will need to make an application to the Board. Barbara Ilaria made a motion to adjourn the meeting seconded by John Burke, all in favor none opposed.
MEETING ADJOURNED AT 8:50PM

Respectfully Submitted,

Mary C. Salerno
Planning Board Secretary