

PLANNING BOARD
BOROUGH OF CLOSTER, NEW JERSEY
Regular Monthly Meeting
Thursday,
May 30th, 2019
8:00 P.M.

Prepared & Submitted by:
Rose Mitchell
Planning Board Coordinator

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Dr. Maddaloni, Chairman called the Regular Monthly Meeting of the Planning Board of the Borough of Closter, New Jersey held on Thursday, May 30th, 2019 in the Council Chambers of the Borough Hall to order at 8:07 PM. He stated that the meeting was being held in compliance with the provisions of the Open Public Meetings Act of the State of New Jersey and had been advertised in the newspaper according to law. He advised that the Board adheres to a twelve o'clock midnight curfew and no new matters would be considered after 11:00 P.M.

Dr. Maddaloni invited all persons present to join the Board in reciting the Pledge of Allegiance.

The following Planning Board members and professional persons were present at the meeting:

Councilwoman Amitai

Dr. Maddaloni (Chair)

Ms. Heymann

Dr. Barad- 8:18PM

Ms. Brewster

Ms. Batool

Ms. Ferullo- (Alt # 2)- 8:08PM

Mr. King- Board Attorney

Mr. DeNicola-, Board Engineer

Rose Mitchell, Planning Board Coordinator

The following Planning Board members and professional persons were absent from the meeting:

Mayor Glidden

Mr. Pialtos (Vice-Chair)

Mr. DiDio

Dr. Maddaloni read correspondence list.

Ms. Mitchell stated that the member packets included 6 applications.

Item # 1

Block 701/13
80 Knickerbocker Road

Applicant: Anderson
Attorney: Blan Jarkasi

Mr. Jarkasi spoke of this previously approved Subdivision Application (approved in June 2016 & Resolution was memorialized) & he spoke of the court objection. At this time Mr. King swore in Ms. Hartman (Professional Planner) of 21 Sparrow Bush Road, Mahwah, NJ. Ms. Hartman reiterated previous testimony given at the time that the application was original heard.

Ms. Brewster asked if this property was a flag lot. Ms. Hartman responded stating that it was not a flag lot. Ms. Brewster asked about use of the private road. Ms. Hartman responded. Mr. King also commented on same speaking of deed easement. There were no questions/comments from the public at this time. Councilwoman Amitai stated she would like to make a statement

for the record. Mr. King spoke of application & determination of court case (stating that the Board would be voting to reconfirm what was previously approved) prior to Councilwoman Amitai's statement. Councilwoman Amitai entered her statement on the record (a copy of which is appended hereto); expressing her disagreement with the Board's previous decision; stating her reasons for mentioned disagreement. . . Dr. Barad asked about maintenance of the private road. Mr. Jarkasi responded. Ms. Ferullo asked if upkeep of property is up for discussion. Mr. King responded stating that the court has confirmed the right of the applicant to use the roadway & that the applicant was back before the Board for notice perfection only & in his opinion no other facts have changed. Mr. Jarkasi spoke of deed language regarding easement. Councilwoman Amitai reiterated her disappointment regarding Boards' previous approval vote. Dr. Barad spoke of reaffirming the original decision. Ms. Batool spoke of same. There were no comments from the public at this time. Mr. Jarkasi stated that Mr. Anderson made an offer to the objector during court mediation regarding roadway maintenance contribution however this offer was not accepted at that time. Motion was made by Ms. Heymann & seconded by Ms. Batool to sustain the original decision/vote made on this application. All present were in favor with the exception of Ms. Amitai who was not qualified to vote & Dr. Barad who abstained.

Councilwoman Amitai spoke of the upcoming wounded warrior softball game. Ms. Ferullo commented on same.

Ms. Heymann spoke on behalf of the Master Plan Subcommittee. She stated that meeting has taken place & that the draft for the 1st portion was just about complete.

Ms. Brewster spoke of the EZ ride program.

Motion was made by Ms. Batool & seconded by Dr. Barad to adjourn meeting. Meeting was adjourned at 9:00PM.



Rose Mitchell <rmitchell@closternj.us>

80 Knickerbocker - Dissenting Opinion

Victoria Amitai <vamitai@closternj.us>
To: Rose Mitchell <rmitchell@closternj.us>

Thu, May 30, 2019 at 9:24 PM

Rose,

Below is the Dissenting Opinion letter I submitted as a dissenting vote on the application of 80 Knickerbocker, to you and the PB members tonight 5/30/2019. Please enter into the record.
Many thanks. V. Amitai

To: Members of the Planning Board
%: Secretary of the Board

Date: May 30, 2019

From: Victoria Roti Amitai,
Councilwoman, Planning Board Liaison

Re: Dissenting Opinion for the record on the matter
80 Knickerbocker Road Minor Subdivision Application
Maras Associates and Henrietta Maras

I would like to enter my opinion into the record expressing my disagreement with the Board majority on the above matter.

In my opinion, not only was Maras Associates and Henrietta Maras not served well by this Board, but that decision creates a gross injustice for them and perhaps sets a bad precedent for our town. Following is the rationale for my opinion.

- Subdivision required a variance as applicant's residential lot .93 acres did not meet our requirement of 1 acre for subdivision
- There was discrepancy in the metes and bounds of the deed for Lot 3.
- Applicant was given permission to use owner's *private road* to access Knickerbocker Road
- Section 40:55D-35 Land Use Law does not permit issuance of a building permit unless building fronts on an approved street, therefore the second lot 13.1 only would have frontage on a *private road* creating a flag lot, against our ordinance, and required a variance.
- That *private road* does not comply with borough Right-of-Way width (50' (17337D) or in roadway width of 30' (173.37C).
- The *private road* must be certified by governing body to be suitable in accordance with borough's standards. It does not. The lot fronts on a gravel *private roadway*, not in conformance with MLUL or Closter codes.
- Section 173-39 requires a lot to front on both an approved street and improved street with right-of-way no less than 50' in width. It did not meet these requirements.

- The current utilities were not proven to be adequate for additional capacities/flow-rates hookup from the proposed Lot 13.01.
- For decades the *private roadway* was maintained - all costs and expenses, by Mrs. Maras.
- Because the vote came in at a tie of 4-4, the vote was called a second time. Once stated in a positive and then stated in the negative. (Cox: Special Consideration in Decisional Process 28.2.6 (d)
Necessary votes: "Considerable confusion can arise in such cases and sometimes it is necessary to take two votes...board members are sometimes confused by the fact that a "yes" vote is in effect a vote against granting the variance and if this vote is four "yes's to three no's it may well be that one or more members was confused as to what his vote meant." And this is just exactly what happened in this case, in the opposite.
- There was an erroneous vote when one of the Board members misunderstood and misinterpreted the confusing terminology put for a vote and voted against her own intention. She realized that only after the vote was recorded.
- Moreover, I do not think that as Planning Board members we have any discretion or role to re-write or interpret the intent of the deed written decades ago, which is exactly what took place. This is a legal matter to be adjudicated by the courts. In addition, all stated reasons above are in direct violation of our existing ordinances.

Thank you for your patience in hearing my opinion as a dissenting voter.

We went against many of our rules, went against the professional opinion of our engineer on a number of occasions. The result of this hearing has been bothering me ever since the vote.

Reading case law in the William Cox Zoning & Land Use Book, 2011 Edition on Decision Making 28-5.3
Dissenting opinions.