# PLANNING BOARD OF ADJUSTMENT
# MEETING MINUTES
# MAY 13, 2025, AT 7:00 P.M.

Chairman Tobia called the meeting to order by reading the following statement: "As Presiding Officer of the Colts Neck Planning Board, I hereby declare that the notice requirements of the law has been satisfied by prominently posting a notice of this meeting on the Township Bulletin Board, and that there has been transmitted a copy of said Notice to the Asbury Park Press and the Star Ledger and that a copy is on file in the office of the Township Clerk. This meeting is a quasi-judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times. I further order that this public announcement be placed in the minutes of this meeting."

Salute to the Flag.

Roll Call.

| | |
|---|---|
| PRESENT: | Tobia; Torchia Buss; Corsi; Lutkewitte; Sullivan; Teaschler; Viola; Stivala; Lukowitz (arrival 7:05 pm) |
| ABSENT: | Visci (excused) |
| ALSO PRESENT: | Timothy Anfuso, P.P.; Glenn Gerken- Town Engineer and Michael B. Steib, Esq. |

**APPROVAL OF MINUTES:**

Motion to approve the April 8, 2025, Meeting Minutes:

| | |
|---|---|
| OFFER: | Lutkewitte |
| SECOND: | Taeschler |
| AFFIRMATIVE: | Tobia, Torchia Buss; Corsi; Lutkewitte; Sullivan; Taeschler; Viola; Stivala |
| NEGATIVE: | None |

**GENERAL PUBLIC COMMENT (Non-Agenda Items):**

None.

**RESOLUTIONS:**

440 Route 34, LLC

| | |
|---|---|
| OFFER: | Viola |
| SECOND: | Taeschler |

| | |
|---|---|
| AFFIRMATIVE: | Tobia, Torchia Buss; Corsi; Lutkewitte; Sullivan; Taeschler; Viola; Stivala |
| NEGATIVE: | None |

**ADMINISTRATIVE ITEMS:**

1. **2025 Fourth Round Housing Element and Fair Share Plan Discussion**

Mr. Anfuso thanked the board and started with a review of elements of relevance. Mr. Anfuso went over the regional requirements for the income eligibility to qualify for Affordable Housing.

*Mr. Lutkowitz arrival 7:05 pm.*

In reference to the compliance plans for First and Second Round Obligations, all requirements were fully satisfied. Round 1 was satisfied The Grande through 22 Rental Units and 66 Owner Occupied which included a 1:1 bonus for the rentals totaling 110 credits.

Round 2 was satisfied with an RCA with the City of Long Branch, 107-unit RCA. Due to rounding, the Township became one short and added an Amboy Associates write down/buy down unit to get the 1 unit which brought us to 218 total.

Third Round Compliance plan reflects obligations from 1999-2025 which required 306 units, and the Township is currently appealing aspects of the Court Order. Growth Share Ordinance qualified two units and 7 Medicaid units for a total of 9 credits. Colts Neck Building Associates (also known as Colts Neck Manor/The Kushner Project) with 72 rental units and 72 bonus credits for an additional 144 credits. Countryside Developers reflects 15 rental credits however this needs to be verified. The Durational Adjustment includes 138 units which was first applied with a waiver for Area 1, mixed use zone along Route 34 roughly 537 to the north and Delicious Orchards to the south on Route 34.

The Township requested that the waiver be removed and be granted a standard durational adjustment. The Judge granted the durational adjustment request without the waiver but then added requirements from the waiver to the durational adjustment. The conditions included:

- Retaining the Area 1 overlay district.
- Provide up to $2 million sanitary sewer service to Area 1.
- If developer is able to get NJDEP permits and approval for infrastructure, the Township has to include it and rezone the property.
- If a developer seeks a court order with a site readily approvable and DEP permits, we have to consent and allow affordable housing.
- The Affordable Housing Trust Funds will be prioritized for sewer infrastructure and will not be used toward NWS Earle.
- Work with a qualifying developer of comparable reputation to that of Toll Brothers to facilitate sewer service to Area 1.

Third Round resulted in 138 outstanding which was applied to the duration adjustment.

Mr. Anfuso reviewed historical dates of notation for Fourth Round review. Next action is required by June 30th, 2025, and the Affordable Housing Plan must be adopted and submitted to the court within 48 hours of adoption. Reviewing the schedule from October 2024 to June 30th to adopt and implement the plan and the timeline is tight.

August 31, 2025, is the next date for interested parties to file a challenge to the Housing Plan. December 31, 2025, the challenges will need to be settled and March 15, 2026, must amend and implement the agreed revisions and adopt all pertinent ordinances. We need to view June 30, 2025, as the deadline to adopt a Fourth Round Affordable Housing Plan.

Mr. Anfuso then noted overview compliance requirements and outlined rental obligation and breakdowns between single, family, senior, and special needs. Bonus credits were discussed noting the strategy offered a full unit or .5-unit credit as well as the consideration that multiple bonuses may not be applied to the same unit.

Mr. Anfuso noted the affordability controls, specifically in reference to the Grande units which have deed restrictions expiring and the Township could provide incentives for any sellers to keep the units within the Affordable Housing Program. A board member asked if incentives could come from the same account used for the $2 million designed for sewer and Mr. Anfuso noted that the funds within that budget would not be enough.

Another option currently being investigated and reviewed is a partnership with potential non-profits for housing within Colts Neck. Although local regulations seem to be much stricter than California. Ms. McManus has been in communication with a non-profit from California.

The Township must also ensure construction will begin within 2 years of receiving approval of its housing plan. Mr. Anfuso then went over that site selection for affordable housing development must be suitable and noted N.J.A.C. 5:93-1.3 and N.J.A.C. 5:93:5.5.

Seniors and Veterans housing is also being reviewed and falls under the requirements noted previously and do qualify as 100% affordable housing. In previous discussion, there was little support for expending Township money and/or bonding for creation of affordable housing and the public had noted during both the third round and January public hearing concerns about traffic, character, and municipal service impacts which included the schools. Given the time constraints from October of 2024 to submit the plan by June 30, 2025, offers challenges. The plan currently involves reviewing the strategies, amending the plan, and considerations for the durational adjustments as time permits solutions to present.

There will be a public hearing on Monday June 9th at the next Planning Board meeting with the Township Committee meeting on the 11th and 25th of June. The penalty for not having the plan established leaves the Township unprotected for a lawsuit.

Chairman Tobia noted the board members should review, coordinate, and discuss further the strategies and considerations outlined before the subcommittee hearing on the 29th of May. This

will provide a buffer between review, public hearing, and ultimate submittal of Fourth Round review.

2. **430 Route 34, LLC – Block 31, Lot 7 – 430 Route 34**

Informal presentation of a potential Preliminary and Final Major Site Plan application to reconfigure the parking lot in the B-1, Business Zone.

Mr. Danti Alfieri began by noting the site is an old hardware store. Mr. Steib also specified this is an informal and nonbinding discussion between both parties. Boris Volshteyn, principal owner of the property, began by discussing options they have considered for the property though it sits vacant. There are two potential tenants: Ace Hardware with interest in half of the property and a local gym called Burn and Blast for the other part of the property.

Currently Mr. Volshteyn is working with Dynamic Engineering to upgrade the septic system. They are in preliminary approval review with the state; however, there is not an effective chain of communication. The request for the board is a discussion on opinions related to:

- Uses to expand beyond just hardware (Mr. Steib noted any use variances would be with Zoning Board, Mr. Volshteyn noted it would not be a use variance.).
- Parking considerations for additional parking of different rental possibilities.
- Highway Access Management Plan (HAMP) considerations related to the property.

Dynamic Engineering discussed the potential planning to rework and include sealing, striping and keeping the lot as is. The HAMP will shift the access to about 50' once the proposed traffic light is installed, there is no funding currently and no proposed date for installation. With all things in consideration, they would like to not put extensive cost, delays, and time into the parking lot beyond some cleaning up with a notation that the traffic light may come at some point and potentially post a bond for those modifications needed for compliance with the signal. The main point is the access entry shift which is only required with the installation of the light and is not currently required.

Dynamic Engineering has requested the NJ DOT to review the plan, however, there has not been any feedback provided, and that any formal application will also involve a letter of no interest from the DOT which will move faster due to the formal application nature. Mr. Anfuso he could provide contacts within DOT Highway Access/Major Planning that may be helpful to Dynamic Engineering.

Mr. Anfuso offered a summary for the site. If Ace Hardware were to continue pursuing rental, this is something that he could be approved administratively and would require no Board consideration. However, if other permitted uses are introduced that is where the parking standards become considerations.

Dynamic Engineering has offered two layouts for review. The first plan centers around partial hardware and partial retail for the site which requires 79 spaces where there are an existing 91 spaces. However, the consideration for change of use applies and increases the parking standard greater than 5 stalls which involves site plan approval. This first plan, in compliance with the Highway Access Management Plan, requires no variance but requires site plan approval.

With the second plan, which is centered around the rental being completely office and retail, the parking considerations then become more significant with 108 required spaces and only 91 existing spaces. This creates a parking variance.

Mr. Anfuso hears the applicants' contention that the Highway Access Management Plan only governs the driveway location to Artisan's Way and the rest is an illustration of what could be. The caution here is that in other applications on past properties, the DOT viewed the plan as set in stone and less as interpretational. If there is testimony that can be provided that speaks to the driveway location being the requirement and the rest is simply illustration that allows the considerations to progress and if the DOT then requires more, there will be a condition of approval that requires compliance though said approval. However, these would then be between the Township and State instead of the applicant and State, though the applicant would be required to provide the supplemental documentation needed.

Mr. Anfuso continued that he has not seen the notations that only the traffic light would mandate adjustment to that entrance, he believes the verbiage speaks to all Municipal considerations meeting the design as noted regardless of the traffic light and would recommend that we meet those requirements for the 100' separation from the highway and then worry about the internal configuration later.

Around five years ago, the DOT had additional plans to reconstruct the highway from Merchants Way all the way to Old Bridge which will rework intersection configurations and improvements. However, in these plans DOT had no notation of the light in the preliminary drawings, Mr. Anfuso believed the project was dead. Recently, at some point this year, the DOT referenced the project and indicated that more public hearings would be held in the future meaning the light may still be in consideration. However, there is no proposed date.

To recap, a board member asked if it was Mr. Anfuso's position that the applicant move the entrance in accordance with the plan. Mr. Anfuso said yes, if there is testimony that notes the guidelines only apply to the entrance, and the parking lot layout is only illustration and not required. If there are more requirements than the entry itself, there are considerations with potential improvements that impact other property owners, which would require their support and a broader requirement and conversation.

The board and candidate discussed potential considerations for the parking lot where discussions on deliveries by 18-wheelers are a current concern with potential shifts of access routes which include slopes, stairs, and neighboring owners for changes to the structure. Another avenue for exploration was matching the existing parking layout of the other shopping centers.

Mr. Anfuso then noted that the considerations for the discussion at this meeting is to keep everything as is with an overlay and sealcoat/restriping and include a bond for Highway Access Management if it ever comes into consideration or to relocate the driveway with the 100' separation and only reconfigure a minor portion of the site while maintaining the existing curbing and pavement with just resurfacing. If they reconfigure access aisle to perpendicular to the front of the building versus the current parallel structure, there will be a loss in parking.

Mr. Volshteyn and the board discussed the layout of the building with structures noted as storage and space that is able to open the garage bays for indoor/outdoor use which allows some creativity to approaching parking since those spaces are not utilizing floor space in a traditional way. Previous tenant considerations were a grocery store chain which ultimately was not viable due to the septic and that Ace Hardware is limited to the amount of the building they can rent due to projected sales. Additionally, the applicant would have lighting considerations for the lot as well as they are currently substandard, and that landscaping would also be part of the plan when a plan is established.

Mr. Volshteyn explained where the septic and septic fields would be located and noted the current system is obsolete and with Ace and a gym consideration it would be estimated to be 4200 gallons daily.

Mr. Anfuso prefers that the applicant move the entrance and consider the 100' separation to which the board concurred. The board discussed with Mr. Volshteyn how 18-wheelers can work with that shift to the entrance which involves the back bays and accessing from the rear entry which is currently fenced. Dynamic Engineering noted that currently with hardware rental there are no parking variances. However, if moving the use to all retail the consideration is nearly a 20 parking space variance request.

Mr. Steib noted that the board would be inclined to support the applicant and the application with a plan to do what they can to reduce the variance needed and bring a traffic professional in to discuss the number of spaces. Mr. Anfuso noted that the applicant would be better suited for future considerations that included parking variance for the "worst-case-scenario" if the hardware store leaves and becomes fully retail, then another application would be required for the parking considerations.

Mr. Volshteyn noted Ace has an August-February plan with February being fully operational, however this is not enough time for the septic considerations. Dynamic Engineering is reviewing a staged plan for the septic to determine timing where the applicant mentioned portable toilets to which the board noted historically that the Health Department may not view that favorably.

Chairman Tobia noted that the board wants the applicant to be successful, that the direction provided tonight and those considerations for involving a plan with the professionals necessary and that if another informal discussion is needed it is available. The board wished the applicant good luck.

**APPLICATIONS: Old Business**

None.

**APPLICATIONS: New Business:**

None.

## EXECUTIVE SESSION

Narrative/None

Chairman Tobia, any other discussion items or action needed? Chairman Tobia noted none were offered and wished the board a happy and healthy Memorial Holiday.

## MOTION TO ADJOURN

A motion was made at 8:33 p.m. to adjourn the meeting and unanimously carried.

I hereby certify that the above is a true and exact copy of the meeting minutes for the meeting conducted on May 13, 2025, adopted by the Board of Adjustment of Colts Neck Township at its meeting held on June 9, 2025.

Krista Hill-Kane, Secretary
Zoning Board of Adjustment of
Colts Neck Township