TOWNSHIP OF COLTS NECK
PLANNING BOARD MEETING
January 14, 2025 MINUTES

Mr. Tobia called the meeting to order by reading the following statement: "As Chairman and Presiding Officer of this meeting of the Planning Board, I hereby declare that the notice requirements of the law have been satisfied by prominently posting on the Township bulletin board a notice of this meeting, and that there has been transmitted a 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 always maintained. I further order that this public announcement be placed in the minutes of this meeting."

Salute the Flag

Mr. Steib administered the Oath of Office to three new and three renewing members of the Board.

Roll Call:

Present:	Tobia, Lukowitz, Torchia Buss, Corsi, Lutkewitte, Savage, Sullivan, Taeschler, Viola, Visci, and Stivala
Absent:	None

Also Present: Timothy Anfuso, P.P., Mike Steib, Esq. and Beth McManus, P.P.

Mr. Tobia welcomed the returning Board members as well as the new Board members Morgan Savage, Evan Stivala, and Michael Viola.

Approval of Minutes:

Motion to approve the December 10, 2024 meeting minutes

OFFER:	Taeschler
SECOND:	Lukowitz
AFFIRMATIVE:	Tobia, Lukowitz, Buss, Sullivan, Taeschler, and Visci
NEGATIVE:	None

Mr. Lukowitz requested permission of the Chairman to read a prepared statement which he believed would have an impact on the evening's proceedings.

Mr. Lukowitz stated he has been outspoken about overdevelopment and affordable housing. Because of this there is an effort underway by the Township Committee, specifically Deputy Mayor Michael Viola, to remove him from the Board.

He was informed the Township Committee hired a law firm to investigate him. That law firm, Cleary, Giacobbe, Alfieri, Jacobs, LLC, regularly appears before the Board and concurrently has an application before it, PB762, Mumford Homes. Mr. Lukowitz stated that he made several challenges to the Mumford application during its hearings. He opined that it was a conflict of interest for a law firm investigating a Board member to have an application before the Board at the same time.

He stated neither the Township Committee nor the Township Attorney would share the results of the investigation with him. He was advised he would have to pursue legal action against the Township Committee to receive the report, thus denying him due process. He stated the Township Committee was trying to silence him using township resources and taxpayer dollars to attack him for fighting against affordable housing. He requested that the Mumford application be tabled until this issue is resolved. In declaring himself a whistleblower, he stated that the Township Committee members who are on the Planning Board should recuse themselves from voting on the Board's reorganization. As a result of his and his attorney's investigation, they may be referring members of the Township Committee to the local finance committee for investigation into ethical violations for misusing and misappropriating Township funds to prosecute him.

Mr. Tobia asked Mr. Steib to comment on Mr. Lukowitz's statement. Mr. Steib advised the Board that Land Use Law requires Resolutions to be Memorialized within 45 days of approval. If the Board chooses to table the Mumford resolution, it will open itself up to legal recourse from the applicant and recommended the Board move forward with the memorialization of the resolution. Secondly, Mr. Steib advised that there is nothing on the agenda regarding a change to the Board membership and that is not an issue before this Board at this time. Finally, regarding recusal, that should be left to the Board members themselves to decide. Ms. Buss and Mr. Viola recused themselves from voting on Reorganization matters.

Mr. Tobia said he would handle the memorialization of the Mumford Resolution (PB762) during the resolution portion of the agenda.

Reorganization:

Mr. Anfuso led the Board Nominations portion of the Reorganization. The following individuals were nominated to fill the open positions.

1. Nominations

   Chairman: John Tobia - (Motion Lutkewitte, Second Lukowitz)
   Vice-Chairman: Kris Lukowitz - (Motion Tobia, Second Lutkewitte)
   Secretary: Tim Anfuso - (Since the Board Secretary is retiring, Mr. Anfuso suggested he be appointed to certify Board documents until a replacement is hired, Seconded Corsi)

AFFIRMATIVE:	Tobia, Lukowitz, Corsi, Lutkewitte, Savage, Sullivan, Taeschler, Visci and Stivala
NEGATIVE:	None
RECUSED	Buss and Viola

2. Approval of Zoning Board 2025 Meeting Dates

February 20, 2025	June 19, 2025
March 20, 2025	July 17, 2025
April 24, 2025	August 21, 2025
May 15, 2025	September 18, 2025

October 16, 2025
November 20, 2025

December 11, 2025
January 15, 2026 Reorganization/Regular Mtg

Motion to approve

OFFER:	Corsi
SECOND:	Taeschler
AFFIRMATIVE:	Tobia, Lukowitz, Corsi, Lutkewitte, Savage, Sullivan, Taeschler, Visci, and Stivala
RECUDE:	Buss and Viola
NEGATIVE:	None

3. Appointment and Memorialization of Resolution for Board Official Newspapers

    a) Asbury Park Press
    b) Two River Times

Motion to Appoint and Memorialize

OFFER:	Corsi
SECOND:	Lukowitz
AFFIRMATIVE:	Tobia, Lukowitz, Corsi, Lutkewitte, Savage, Sullivan, Taeschler, Visci and Stivala
RECUSE:	Buss and Viola
NEGATIVE:	None

4. Planning Board Chairman Appointments.

    a) Street Coordinator: Mr. Savage
    b) Long Range Planning: Mr. Tobia, Ms. Visci, Mr. Lutkewitte, and Mr. Sullivan
    c) Affordable Housing: Mr. Viola, Mr. Lukowitz, Mr. Taeschler, and Mr. Corsi

5. Appointment and Memorialization of Resolutions for Board Professionals

    a) Board Engineer – Glenn Gerken, P.E.

    Motion to Appoint and Memorialize

OFFER:	Lutkewitte
SECOND:	Corsi
AFFIRMATIVE:	Tobia, Lukowitz, Corsi, Lutkewitte, Savage, Sullivan, Taeschler, Visci and Stivala
RECUSE:	Buss and Viola
NEGATIVE:	None

    b) Board Attorney – Michael B. Steib, Esq.

    Motion to Appoint and Memorialize

OFFER:	Lukowitz
SECOND:	Taeschler
AFFIRMATIVE:	Tobia, Lukowitz, Corsi, Lutkewitte, Savage, Sullivan, Taeschler, Visci and Stivala
RECUSE:	Buss and Viola
NEGATIVE: None	

General Public Comment (none-agenda items)

Kevin O'Brien, 18 The Enclosure read from a prepared statement regarding several issues. First, he advised the governing body approved a request to place a fence in a conservation easement on a 127 acre farm. He advised the Board at a Township Committee meeting he requested the November 2024 Court Order requiring Colts Neck to spend $2,000,000 on water and sewer. Mr. O'Brien questioned the feasibility of providing sanitary sewage from Naval Station Earle due to capacity and NJDOT permitting issues. Finally, he noted at the last affordable housing meeting a young lady's concern regarding traffic on Route 537 due to the Colts Neck Manor project was not responded to.

Rose Ann Scotti, 8 Tory Court spoke about Colts Neck Manor. She shared concerns that the developer did not do due diligence and that they are violating their TWA permit. She believed the Board should follow up on the concerns before any more work is done.

Chris Churney, 37 Bucks Mill Road asked about the water source for Colts Neck Manor and what would happen if the septic failed. Mr. Tobia informed him that municipal water for the development is coming from outside the Township. He also informed Mr. Churney that the Township will be monitoring the septic in the development.

RESOLUTIONS:

PB763 Colts Neck Pub – Block 47, Lot 14 – 270 Route 34
Memorialization of a Resolution granting Minor Site Plan approval. The applicant seeks to improve a gravel overflow parking area with pavement, sidewalks, and landscaping in the B-1 Zone.

Motion to Memorialize the Resolution

OFFER:	Taeschler
SECOND:	Lukowitz
AFFIRMATIVE:	Tobia, Lukowitz, Sullivan, Taeschler and Visci
NEGATIVE:	None

PB762 Roger Mumford Homes, LLC – Block 53, Lots 4, 5 & 7 – Obre Rd
Memorialization of a Resolution granting Preliminary and Final Major Subdivision approval for a 26-lot subdivision consisting of 25 residential lots and one open space / stormwater management lot in the A-7 Zone.

Mr. Tobia motion to table the Memorialization of the Resolution until the next meeting due to potential conflict of interest on the part of the applicant's attorney. Mr. Steib reminded the Board of the ramifications involved in tabling the Memorialization.

OFFER:	Lukowitz
SECOND:	Visci
AFFIRMATIVE:	Tobia, Lukowitz Taeschler, and Visci
NEGATIVE:	Sullivan
RECUSED	Buss and Viola

Mr. Tobia asked Mr. Steib to send a letter to the applicant regarding the decision.

ADMINISTRATIVE ITEMS:

Public Hearing: Round 4 Affordable Housing Options

Mr. Tobia stated this is an informational meeting for the public. Although I have been told that Planning Boards and governing bodies conduct such sessions, it is my opinion that this is a Township Committee responsibility. It is the Township Committee who hires the professionals, who negotiates agreements with developers and approves the locations. The only time it comes to the Planning Board is to adopt a Fair Share and Housing Element of the Master Plan and to grant Site Plan approval to the development authorized by the Township Committee. In the interest of public input, we are conducting this informational session to be transparent. But please be advised it is the Township Committee who has the ultimate authority over affordable housing. Mr. Tobis made a motion that any future public or informational meetings on affordable housing be conducted by the Township Committee because it is their ultimate decision.

OFFER:	Lukowitz
SECOND:	Lutkewitte
AFFIRMATIVE:	Tobia, Lukowitz, Buss, Corsi, Lutkewitte, Savage, Sullivan, and Taeschler
NEGATIVE:	Viola
RECUSED	None

The Township's Affordable Housing Planner, Ms. Beth McManus, P.P. delivered a PowerPoint presentation regarding Round 4 Affordable Housing obligations. She stated the purpose of today's hearing is to gather community input on how Colts Neck should plan for affordable housing in the fourth round. The information she receives tonight will help her develop what strategies are most appropriate for Colts Neck.

Ms. McManus gave a brief history of affordable housing. She explained every municipality has a constitutional obligation to provide its fair share of affordable housing. It all stems from the 1975 Mt. Laurel I decision. Municipalities who participated in the process are insulated from builders remedy lawsuits and maintain control over their zoning powers. She reviewed the following key Fourth Round deadlines.

- January 31, 2025: Submission of resolution stating municipal fourth round affordable housing obligation.
- February 28, 2025: Date objectors have to challenge the municipal stated affordable housing obligation.
- March 1, 2025. If no objection is filed courts determination of fourth round obligation.
- March 31, 2025: if objection is filed courts determination of the obligation.
- June 30, 2025: date of municipal submission of its affordable housing plan.

Ms McManus explained the difference between a vacant land adjustment and a durational adjustment. A vacant land adjustment is for municipalities with public water and sewer capacity but too little vacant land. This does not apply to Colts Neck. A durational adjustment is for municipalities with adequate vacant land but not enough public water and sewer capacity. This is the adjustment which applies to Colts Neck.

Ms. McManus described the following minimum and maximum requirements which must be included in every municipality's affordable housing plan.

- A minimum of 25% of the units must be rental. Of which half of the rental units must be designed for families (two or three bedrooms).
- A minimum of 50% of the affordable units must be available to families (two or three bedrooms).
- A maximum of 30% of the affordable housing units can be designated for seniors.
- A minimum of 13% of the affordable housing units must designated to very low income families.
- A maximum of 25% of the affordable housing obligation may be fulfilled through bonus credits. Seventy five percent of the obligation must be actual housing units.

She reviewed the various compliance strategies available to municipalities to satisfy their affordable housing obligation (inclusionary housing, 100% affordable housing, special housing, accessory apartments, market to affordable and extensions of control).

Inclusionary housing is where a developer builds new housing to satisfy an obligation. It involves an increase in density, usually 8 to 10 units per acre. In turn for the increased density 15 to 20 percent of the units are allocated for affordable housing. The municipality's only obligation in this type of housing is to rezone the properties.

A 100% affordable housing project is usually where a municipality partners with a nonprofit or developer to build or redevelop a property. Typically this approach requires substantial municipal funding or the donation of land. The municipality must adopt a resolution committing to finance 100% of the project cost if other sources are not available.

Supportive and special needs housing consists of group homes, permanent supportive housing to provide on-site or off-site access to needed services or temporary transitional housing such as single room occupancy. The municipality's responsibility in this type of housing is basically the same as in a 100% affordable project in terms of financing.

Accessory apartments are separate and distinct dwelling units either attached or detached to a single family dwelling. Since this strategy has notoriously been hard to create, the regulations limit municipalities to a maximum of 10 units. The tenant of the accessory apartment cannot be selected by the property owner but must be open to any qualified household in the region selected by the Affordable Housing Administrator. A municipalities responsibility in delivering this type of housing is zoning to make accessory apartments permitted in residential zones as well as funding $20,000 to $50,000 per unit.

Market to affordable and continuation of controls are similar. Market to affordable is where a single family dwelling or multi-family dwelling is purchased at fair market value. A 30 year affordable

housing deed restriction is placed on the property and the unit or units are resold to income eligible households at an affordable housing price. Continuation of controls occurs when the initial 30 year affordable deed restriction expires. The owner of the property then chooses to record a second 30 year affordable housing deed restriction on the property, thus maintaining the unit in township's affordable housing inventory. Both market to affordable and continuation of controls typically involves a substantial financial commitment from the municipality.

At the conclusion of Ms. McManus's presentation Mr. Tobia asked now that our fourth round preliminary obligation numbers have been published by the State, what is Colts Necks fourth round number – 101. He then asked how much unfulfilled third round obligation does the Township still need to fulfill – 138. So our cumulative third and fourth round obligation outstanding is 239 units. Yes.

Mr. Tobia stated the Third Round Court Order requires the Township to support a developer to bring public sewer and water into the Township at a cost up to $2,000,000. These funds could come from the taxpayer and/or the developer funded Affordable Housing Trust Fund. He stated since this township hosts a military base, a portion of new affordable housing should be guided to veterans. He also said we should maximize the amount of affordable housing which could be dedicated to seniors.

At 8:32 Mr, Tobia paused the public hearing, so the attendees could visit five interactive and informational stations regarding affordable housing. The stations included the following.

- Sanitary Sewer Map depicting public sewers, on-site sewer treatment plants and Treatment Works Permit holders.
- A map dividing the township into 5 zones where attendees could indicate their preference on where affordable housing should be directed.
- Affordable housing type preferences. Attendees could indicate their preference regarding extending controls, market to affordable, 100% affordable project, inclusionary 20% set-a-side project and accessory apartments.
- A board where attendees could indicate their preference on providing affordable housing directed to families, seniors, special needs individuals, veterans and transitional housing opportunities.
- A board where attendees could express their opinion on expanding the current Mixed Use Overlay zone along State Highway 34.

At 9 pm Mr. Tobia resumed the meeting and opened it to the public for comments

Lauren Franco Lucas, 18 Ravin Road. Ms. Franco Lucas questioned if the Third Round still has an outstanding 138 units in addition to the new 101 units in the Fourth Round – Yes. Ms. Franco Lucas then asked if we need to build 239 affordable units which would mean 5 times the number of units if delivered by a builder. Ms. McManus said maybe, it depends on the bonus credits received and what development options the township chooses to satisfy their obligation. She inquired if our obligation includes land area in Earle and was advised yes. However, the state calculations indicate Township does not have developable land.

Susan Davis, 89 Dutch Lane Road asked when the Grande's affordable controls expire can we use those units as part of our Fourth Round. She was told the Township is working on that and will be trying to record as many new deed restrictions extending those controls for another 30 years as possible.

Kevin O'Brien, 18 The Enclosure. Mr. O'Brien questioned why Ms. McManus was reaching out to the public for affordable housing solutions and recommendations. She is "the expert" and well paid. He said under state law governing bodies must have an open public comment portion but planning boards do not. He was first told is meeting would not have a public comment portion, and residents would have to write down their comments. He sent an email to 13 newspapers advising this meeting would not have public comment. Somebody then told him to "stand down". We all live in this community, and he is just advocating for transparency in this process. He is concerned about the impact developments will have on our schools, fire and first aid and roads. Mr. Tobia stated that the request to "stand down" did not come from the Board.

Patrick Lesbirel, 17 Water Street. Attended the League of Municipalities and asked if anyone attended the conference. There was a big meeting with the mayors and the land used in calculating affordable housing obligation. He is also an Architect in Princeton. Many towns are using basement apartments and accessory apartments to satisfy their obligation. The town should adopt the state's model accessory apartment ordinance. We should not allow a developer to come in and build at high densities to satisfy our obligation. We should update our Master Plan and create a real plan to achieve our obligation. Mr. Lesbirel said developers who receive additional density should pay a greater Affordable Housing Developers Fee rate.

Roseanne Scotti, 8 Troy Court. Ms. Scotti said we should fight this in court. We are living in a socialist state. The town should not make a Fourth Round commitment. Other towns are fighting it and we should join a municipal coalition. An important governor's election is in November which could end affordable housing.

Ms. Buss said no formal determination has been made regarding fighting the Fourth Round obligation. However, it's very expensive. The Committee must weigh the benefits vs. the cost. Other towns who have fought the mandates have not succeeded and are now paying a significant cost. Ms. Scotti said something has to be done. You have the attorneys and resources and should fight this even if we lose.

Dan Penny, Five Points Road. Residents are concerned about the fabric of our community and the liberal state policies which incentivize people to move to this community which results in overbuilding and other issues. Are there other ways we can achieve our mandate? Sometimes if you look a little harder you can come up with other ways.

Marianne Cucolo 67 Blackbriar Drive. Stated if you operate in a condition of fear, you always lose. Even if you win, you lose your dignity. She agreed with Ms. Scotti to join a consolidated lawsuit with other municipalities. At this point we are totally changing our town, county and state and this is a problem.

Gina Difazio, 48 Mine Brook Road. I am fortunate to have been able to save and move into our dream house 2 1/2 years ago from Brooklyn. It's heart breaking to see this beautiful town overrun with development. What will this community be like 10 -20 years from now for my children? Not a small town community. There has to be something we can do. Tell me what we can do to help you help us. If we need funds, let me help fund raising. I am willing to write the check. Please don't give up on us.

Daryl Sager, 181 Five Points Road. We are not really focusing on public safety. In the 25 years I have lived in my house I have seen several accidents. This is a 35 mile zone. I don't know how this location

was picked for 360 additional units. It's right across from a high school. Come sit on my porch and see the traffic, see the traffic coming from the high school. There is no consideration for public safety with 700 more cars.

Ms. Buss said I know what you are talking about with the traffic on Five Points Road. I live close and my daughter goes to high school. The one thing you must know is that the state doesn't care about safety. We care, and we take it very seriously and are working on Five Points Road without funding from the state.

Christine Tipton, 24 Crine Road understands we have experts advising us. However, if this was a healthcare issue you would get a second or third opinion. Spring Lake just put apartments above stores and are getting credits. Maybe someone else could think outside the box or find loopholes and we should get other opinions.

Kevin Knecht, 3 Handcock Pass. I am a volunteer fire fighter and a resident of a moderate income unit. I am someways in favor of affordable housing otherwise I wouldn't be here and volunteer. If the town was able to preserve more land, there would be less land eligible for development. Maybe we should budget more money for land preservation.

Kevin O'Brien 18 The Enclosure thanked Mr. Knecht for being a volunteer.

Mr. Viola said Colts Neck consists of roughly 20,000 acres. In 2024 we have preserved over 300 acres, bringing the total to approximately 2,300 acres or 10% of the township. We are targeting additional land for preservation and doing the best we can.

Dan Penny, Five Points Road. What is the next step in the process. Is there any opportunity for us to delay? I just heard one of the candidates running for governor and he said the state can take a more common sense approach to affordable housing.

Ms. McManus said the way the legislation is written municipalities must submit a resolution by January 31, 2035. If they don't, they will be subject to builder's remedy lawsuits on February 1st.

In closing Mr. Tobia thanked everyone for coming, especially the police officers and school personnel. He said the Township Committee will be having a meeting on January 29th to discuss the resolution declaring our obligation and seeking protection from builder's remedy lawsuits. Secondly, a survey was erroneously released to some residents. He recommended that if is going to be released again, it should be brought to the Affordable Housing Subcommittee first. Lastly, he thanked Ms. McManus for her professionalism.

A motion to adjourn was made by Lukowitz at 9:50 p.m., seconded by Taeschler and unanimously carried.

I hereby certify that the above is a true and exact copy of the Planning Board Meeting minutes for the meeting conducted on January 14, 2025, adopted by the Planning Board of the Township of Colts Neck at its meeting held on February 11, 2025.

Timothy Anfuso, Secretary
Planning Board of the
Township of Colts Neck