

**BOROUGH OF INTERLAKEN  
MINUTES- PLANNING BOARD  
DECEMBER 19, 2022,7:30 P.M.  
BOROUGH HALL, 100 GRASSMERE AVENUE**

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A meeting of the PLANNING BOARD of the Borough of Interlaken, Monmouth County, New Jersey was held on December 19, 2022, at 7:30 p.m. in the Borough Hall.

Chairman Papp opened the meeting, announced that the meeting was being held in accordance with the Open Public Meeting Act and that Notice of the meeting had been published in the Coaster. The announcement was followed by the Pledge of Allegiance.

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**ROLL CALL:**

**Present:** Chairman Papp, Councilman Butler, Vice Chairwoman Umfrid, Mr. Tilton, Ms. Dalton, Mr. Wasilishen, Ms. Heinz, Mr. Weaver, Ms. Kane and Ms. Kapp

**Also Present:** Planning Board Attorney Sanford Brown, Planning Board Engineer/Planner Peter Avakian and Planning Board Secretary Gina Kneser

**Absent:** None

UPON MOTION of Ms. Kane seconded by Councilman Butler carried, the Board approved the minutes of the November 21, 2022, meeting.

**ROLL CALL:**

**In Favor:** Chairman Papp, Councilman Butler, Vice Chairwoman Umfrid, Mr. Tilton, Ms. Dalton, Mr. Wasilishen, Mr. Blasucci and Ms. Kane

**Opposed:** None

**Ineligible:** Councilman Butler and Vice Chairwoman Umfrid

**Abstain:** None

**Absent:** Ms. Heinz, Mr. Weaver and Ms. Kapp

**APPLICATION**

Jersey Central Power & Light  
Utility Pole  
Borough of Interlaken Right of Way  
Wickapeccko Drive

Mr. Beyel, Attorney for the applicant joined the table.

Board Attorney Brown noted that Borough Engineer Avakian had some comments regarding the application.

Board Engineer/Planner Avakian stated that he read the summary which has some interesting points and a good description for the rest of the Board in terms of a D1 variance and what the Board is looking to accomplish at this meeting.

Board Engineer/Planner Avakian welcomed the applicant and advised the Board that this matter has been going on for a long time in the Borough. The Borough did receive application for a construction permit to install this facility. The Board will hear the rationale behind it, why JCP&L needs the project and how the project is part of a regional planning effort being undertaken by JCP&L in the area for improvements and enhancements to the electrical grid. In the Borough's specific instance, what was found in discussions with the Zoning Officer is that the proposal represented a structure in accordance with the Borough ordinance and likewise that structure on residential property was not a permitted use and a D1 Use Variance was required. There were lengthy deliberations with the applicant over number of months and determined it would be best for the applicant to come before the Planning Board to resolve any issue associated with that proposed use. There are two other variances identified in the engineer review report. After deliberation with the applicant's attorney, Board Attorney Brown, the applicant's planner and the Board Engineer/Planner it was felt that those two variances were more building related than structure related. There is a difference. The Borough ordinance is very specific when defining a structure. A building is thought of as a principal use on a property. When looking at the three parts of the zoning review, the second one - principal use - is really not appropriate since that use is not a building. Likewise, the principal use exceeding the maximum permitted height of 35 feet is not appropriate, as the proposed use is not a building and the Borough ordinance specifically relates to building height when it references the 35 feet maximum permitted height, so all the Board is left with is the applicant's testimony tonight as to why this improvement is needed. The applicant will discuss the enhancements, will provide the reason why the location was chosen, the reason why alternative locations could not be fulfilled in this area and finally justification for the proposed use and the Board will hear about exactly where it is to be placed, and the size and all of the technical data.

Chairman Papp reiterated that the D6 variance is not required for the Board to address.

Mr. John Beyel, attorney representing JCP&L let the Board know that the applicant appreciates everyone taking time to participate, particularly around this time of year. The application is very important to JCP&L.

Mr. Beyel told the Board they were going to hear that this project is part of a critical sub transmission project. JCP&L proposes to install a pole to replace an existing pole located in the right of way along Wickapecko Drive at its intersection at Darlene Avenue. The pole itself is within the right of way but the foundation may somewhat encroach on the adjacent lots. That is why the applicant is in agreement with the Board attorney and engineer that a D1 variance is required because at least a portion of the foundation is within the adjacent lots and obviously a utility use is not permitted in the RA zone. A D1 variance is required because it is not a use permitted in this zone. The Borough does not permit a use such a utility in any zone. The Board will hear testimony from four witnesses Andrew Horn comes from West Virginia and is the Supervisor of Transmission Planning for JCP&L. Mr. Horn will discuss the role of government organizations in addressing reliability of the electrical grid that provides electrical power

to many customers of the state. The Board will hear testimony from Morgan Meehan, the Supervisor of Transmission Design, who will talk about details for the project which include the proposed pole, one of the components of the project, various circuits and how safety, structural stability and strength really dictate the requirements for the project. Ms. Meehan will also talk about the specifications for this particular pole. Next Jeff Morris from Boswell Engineering will be called. Mr. Morris prepared some of the drawings and will have them on the board. The drawings have been submitted as part of the application materials. Mr. Morris will discuss his responsibilities for the project. Lastly Mr. James Higgins, the applicant's planner will be called.

Mr. Beyel asked that the Board allow the applicant to put in the testimony from Mr. Horn, Ms. Meehan and Mr. Morris before asking questions as a subsequent witness may answer a question the Board member may have with their testimony. This is up to the discretion of the Chair and the Board to allow but would move the process along.

Chairman Papp agreed this to be a good idea, in the interest of time.

Mr. Beyel explained that after Mr. Horn, Ms. Meehan and Mr. Morris have answered all the questions, Mr. Higgins will testify and give the Board an evaluation of a project of this sort. This project is probably different from any other project that the Board has ever seen because it is for a utility. Mr. Higgins is going to explain that utilities are viewed as inherently beneficial uses. In granting a D variance the Board knows that there is the positive criteria and the negative criteria. When you are an inherently beneficial use the case law, particularly *SICA vs Board of Adjustment Wall Township*, says that by its very nature it satisfies a special reasons requirement or the positive criteria requirement. What Mr. Higgins will focus upon through his testimony is that even that is viewed somewhat differently in this setting. It is a balancing test. Mr. Higgins will explain that.

Mr. Horn, Ms. Meehan, Mr. Morris and Mr. Higgins were sworn in at the same time by Board Attorney Brown.

Mr. Tilton asked if these property owners joined the application.

Mr. Wasilishen questioned whether these property owners knew about the application.

Mr. Beyel stated that easements were purchased from the property owners. The pole will be in the right of way. The Board will hear testimony that there must be a concrete foundation. There were a number of internal discussions, including an adjustment to the foundation, so the project would not encroach on the lots but it was concluded that the applicant wants to be as transparent as possible. There was an attempt to position the project only within the right of way and not on those lots but when something is being built out in the field it may be two or three inches from where it thought it was going to be. The applicant didn't want to build the project and then find out the project encroaches a few inches. The project is so close, rather than go ahead with it and hope for the best that if fell exactly in the right of way and not on those lots, the better, more transparent, course was to come in and tell the Board what JCP&L is doing. The project may or may not actually encroach on those lots. The applicant is hoping to get the variance for this. This is also an opportunity to explain to the Board why this project is so important to JCP&L and so important for their reliability of the electrical grid in this part of the state.

Chairman Papp requested a good explanation of the easements because it does affect two residents of the Borough and actually the whole Borough.

Mr. Tilton questioned whether there was an owner's consent form signed by the property owners.

Mr. Beyel stated that JCP&L had company representatives talk to the property owners. There were several meetings. There are two different properties. For consideration for some an easement was secured from the owners of those properties so the applicant could construct a project including putting in a foundation.

Mr. Tilton stated that he looked at the easements. The easements did not say anything about pursuing the zoning application. It is a procedural matter for the applicant.

Board Attorney Brown asked if the applicant was planning to introduce copies of the easement agreements.

Mr. Beyel stated that he didn't want to necessarily tell the Board how much was paid for the easements because he did not know that the property owners were thinking that information would be revealed.

Board Attorney Brown asked if the right of way agreements were filed.

Mr. Beyel stated that there are right of way agreements in existence along the roadway, but the easements are different. The right of way is in existence from Wickapecko Drive to the lot. There is a specified distance from Wickapecko Drive to the lots and that is the right of way. The lots start on the easterly side of the right of way, so the applicant did get easements from the property owners based on the possibility that there might be some encroachment onto their properties.

Mr. Beyel stated that he could submit the document that show the description of the easement prepared by a group called Langan Engineering and Environmental Services which shows where the easement is placed on these properties.

Board Attorney Brown stated that there is an existing pole on the property in question so the right of way. Is the right of way the applicant is referring to an ancient right of way agreement that is recorded ages ago when it was originally obtained or is this a new easement that is based on consideration that was specifically given for this change.

Mr. Beyel stated that the easements obtained from these property owners are very recent and were within the last year from these property owners. The right of way is something that has been in existence for a very long time. Mr. Beyel could not quote exactly when the right of way was established but stated that the easements were obtained specifically for this project.

Board Attorney Brown asked if Mr. Beyel had an actual copy of each of the easements.

Mr. Beyel stated that he had a description of the easements but did not have the actual easements agreements with him.

Board Attorney Brown noted that Mr. Beyel had a meeting with Board Attorney Brown and Board Engineer/Planner Avakian where Board Attorney Brown asked questions about consideration. It was expected that the Board was going to ask questions about whether the landowners who granted the easements specifically knew the details of the tower. The applicant is before the Board to explain that the property owners are aware of the extent of what the applicant is asking.

Mr. Beyel stated that the easement was a standard type of easement which allows JCP&L to install all of the features associated with running of lines of this sort. That would include poles. Mr. Beyel noted that presently one property owner has guide wires that extend quite the distance on the property. The Board is going to hear that the type of pole being installed eliminates the need for guide wire. So the one property owner, as you face in that direction, the one to the left, will not have necessary guide wires any longer.

Chairman Papp questioned whether the easements that the property owners agreed to have given them enough description for the project and that they understand the positive and negatives of allowing the easement on their property.

Board Attorney Brown Sandy noted that the property owners were not in attendance at the meeting. Mr. Beyel stated that the property owners were noticed about the application.

Board Attorney Brown noted that the applicants received notice and if they were interested, they would look at the documents on file. Nevertheless, the focus is whether the property owners received specifically that the applicant was going to come into the Board and ask for a 76-foot-high metal tower because what Mr. Beyel is saying is that the documents in question are generic. They are like any other JCP&L easement that would be given for a regular pole like every one that exists now in Interlaken. It starts with consent. Assuming that question could be bypassed, the Board members are asking what the due process is. Whatever the property owners were paid, did they know that they were being paid for something that is going to be somewhat higher than the existing one that is not wood anymore. Board Attorney Brown noted that a request had been previously made to Mr. Beyel to research the matter so that question could be answered.

Mr. Beyel stated that he had knowledge that the homeowners were told that that JCP&L was going to be running a new circuit and that there would be a pole associated with that. At the time of those discussions, Mr. Beyel does not think that the applicant was under the impression that an application to this board was even going to be necessary, but they did secure the easement from the property owners. Reading notes from the client representative stated that the rough location of the easement was pointed out. It was also noted there would be a foundation for this structure. The notes state that JCP&L would require a tree easement and the property owners would be compensated for damages. At the time of the meeting, Mr. Gentile asked if there is a foundation structure in the area that could be viewed. An offer was made. The terms were agreed upon. There was more than one meeting with the property owners. The first meeting was on May 14, 2020. That was with the property owners the Gentile's and the first meeting with the folks who live at the adjacent lot Ms. Loconte and Ms. Fiorello also occurred on May 14, 2020. The representative described the project and the needs, then Ms. Fiorello said she wanted to have a meeting with her sister, so she was provided with the easements for their review. A follow up meeting was agreed to. So there are discussions with these property owners dating back to May of 2020.

Board Attorney Brown asked if there was any mention of the metal pole or any mention of height and at that point in time the larger wooden poles that were installed down Darlene Avenue were not present. Mr. Beyel agreed that those poles were installed much later.

Board Attorney Brown questioned the information provided at the time of the meeting for the easements. Counsel is saying that some consideration was granted. The documentation is what it is and it doesn't say anything specifically. There is no consent to the variance application. The Board could waive

consent. Board Attorney Brown agrees with Mr. Tilton that it is up to Board's discretion to grant that they certainly got notice. Board Attorney Brown stated that he looked at the proofs of notice and the homeowners were notified. It could be argued that the homeowners would have sufficient notice to see what the specifics are and if they looked at the file, they would see what JCP&L is proposing. The details of the metal pole and height were on file ten days prior. They were, specifically on the record.

Mr. Beyel stated that the applicant originally thought the application was going to be heard back in November, and submitted a complete application at that time, which included a description of the steel poles and the height of the poles. The property owners were aware that JCP&L had a project. The homeowners knew that the foundation portion may encroach onto their property. The property owners were told about that, and they granted an easement to JCP&L to allow this encroachment on to their property. Clearly, they were given notice. They were given notice of the hearing date on November 21 and then we noticed again for the hearing this night which include all the application materials. Anyone in the public could have seen the specifications.

Chairman Papp asked if the homeowners agreed to the easement based on a rendering or something of what it is going to look like in front of their house.

Mr. Beyel stated that he as reading from the notes that were requested from the gentleman who negotiated with the homeowners. The homeowners knew there was an easement, there was a need for the project and that the foundation would be irrelevant if there was not a new pole going into it. Mr. Beyel could not confirm that the homeowners knew precisely how tall the pole would be. They may or may not have been told. Clearly, if the homeowners had some measure or concern about it, they could have gone into the town and looked at the files. Mr. Beyel stated that when he checked with the Board Secretary the other day no one had come in to look at the file. The homeowners could have been present for this meeting if there was something more that they wanted to know. Mr. Beyel submitted that the homeowners have been adequately informed, not only by the discussions that they may have had with the JCP&L representative dating back to May 2020 about the project including about the fact that there may be some encroachment onto their property for a foundation. The foundation would be a base for a pole and that they were asked to give an easement for which in return they would get compensation. They did get compensation. They could have come to look at the file and they could have been at this meeting this evening. The homeowners are not in attendance. Mr. Beyel stated that he submits that the homeowners have had adequate notice of what being proposed and submits that the Board should hear the application.

Chairman Papp stated that this all does not preclude the homeowners from coming to the Board after the pole is put up and saying that they did not realize they were going to put up this type of structure.

Mr. Beyel stated that a number of people were specifically given notice because they are within 200ft. No one can come before this Board and say they did not know the Board was going to hear an application from JCP&L in which they are proposing to install a steel pole at this particular location.

Chairman Papp stated that the Board understands that the public is invited to the application, and they can certainly listen to it if they choose to.

Vice Chairwoman Umfrid asked whether the Board had a copy of the easement that these two homeowners signed.

Chairman Papp inquired about getting copies as a matter of record.

Mr. Beyel stated that he could give the Board a copy but did not have it here at the meeting.

Vice Chairwoman Umfrid asked how long the easement would be binding.

Mr. Beyel stated that an easement is perpetual like any other utility easement once it is recorded it remains in effect forever.

Board Attorney Brown stated that this matter is subject to the Board consideration. Framing this in the thought that the Board is going to move ahead. The Board can certainly waive joining in on the application. It is a property right so it is proper in asking in the context of who under the statute should join the application. There are rights of way, that you can argue it is not the same thing, but nevertheless let's assume that that there wasn't any easement per say. Think they are asking for the same relief. The bottom line is, based on due process standards, it would be much better if we knew the details, but Board Attorney Brown thinks it is safe to say the easement doesn't say anything about it being a 75 foot metal pole. But if you look at the notice that was provided twice, it does indicate and this would have gone specifically, because it is represented by an affidavit that in fact the relief included a D variance because the pole was 75ft. So based on standard due process, that is pretty important, especially for someone who has the pole on their property. The applicant attorney can say they will renote but the applicant has been through that several times and the applicant is are coming before us saying look, I have two witnesses out of state so if the Board goes along with what you are suggesting or you are going at your own risk. If the Board hears this. Let's assume this is granted. Board Attorney Brown stated that the application should be voted on at this meeting. The reason being that the Board does not want to have new board members that are appointed at the reorganization meeting to have to read the transcript, so it would behoove applicants' counsel to say, "I want to get through my witnesses."

Board Attorney Brown noted that no one in attendance has interest from the public.

Chairman Papp noted that it was surprising that JCP&L went ahead and asked Borough residents directly and the Borough did not know about the easements.

Board Attorney Brown stated that easements are obtained all the time and the representation is that at the time of that the inquiry and negotiations it was not believed that there would be a public application so there wouldn't normally be a process whereby any utility would need to or be expected to let the Board know about it. Easements are recorded all the time.

Mr. Beyel confirmed agreement with Board Attorney Brown.

Mr. Andrew Horn, Ms. Morgan Meehan, Mr. Jeff Morris, and Mr. Higgins were sworn by Board Attorney Brown.

Mr. Andrew Horn joined the table.

Mr. Horn stated that he worked at 5001 NASA Boulevard in Fairmont, West Virginia and that he is a 2010 graduate of West Virginia University with a dual degree in Electrical Engineering and Biometric Systems. Mr. Horn is a professional engineer certified in West Virginia.

Mr. Horn started right out of college in the utility business, Allegheny Power in Fairmont, WV. Through a few mergers and acquisitions, it became First Energy and Mr. Horn has worked for First Energy since then. Since 2010 Mr. Horn has been in the utility industry, specifically in Transmission Planning Engineering in a few different engineering roles mainly substation engineering, transmission line engineering, as well as, a year in the transmission substation services engineering group where he aided commissioned projects. Mr. Horn currently holds the position of Supervisor to the Transmission Planning Group with responsibilities that cover the transmission system of not only JCP&L but other states as well including Maryland and West Virginia.

Mr. Horn's main responsibilities in the Transmission Planning Group is to adequately plan the transmission system for the future. So, in a very broad sense the group works applicable criteria that is mandated through NERC and FERC. Those are the national bodies or commissions that mandate that the group has criteria and then that criteria is upheld from the transmission planning perspective. With that the group makes sure the transmission grid is adequate, not only for the immediate time but also for the future. The group looks out years into the future to make sure the transmission system will adequately and reliably serve all of customers in that footprint.

Mr. Horn explained that FERC stands for Federal Energy Regulatory Commission which was given power by the Federal Protection Act. So congressional approval put together FERC. Then FERC has the designation to make sure the transmission system serves the needs of the country. In turn NERC, North American Electric Cooperation was put together to essentially mandate standards to the entire electric system from CA to the east coast. NERC extends into Canada and Mexico that being why it is North American. The grid as a whole is interconnect. Something that might affect the states may also affect Mexico and Canada. So, the put together the standards that FERC mandated to specifically make sure that the electric grid meets the needs not only for now but for the future and to make sure the entities like JCP&L abide by those standards.

Mr. Horn stated that the RTO, Regional Transmission Organization is a little bit smaller as opposed to NERC and FERC, would be responsible for PJM, specifically a 13-state regional transmission organization, that is charged with operating planning and maintaining the transmission system so they put together that smaller regional transmission organization to help facilitate and meet the guidelines as prescribed by NERC.

Mr. Horn stated that NERC and FERC are the national bodies to develop and to make sure that the standards are met. PJM's role is more on the line to make sure the studies are completed, the engineering and analysis are completed, as well as, making sure the transmission system is operated appropriately. They are more on the localized level to where they all work day to day with that stuff and work with JCP&L specifically, as well as, the other transmission owners within their region. PJM is responsible for studying the transmission systems and performing those studies on an annual basis and from an operational standpoint daily to make sure it is adequate. Annual assessments are done projects are developed to fortify and to insure the reliability of the transmission system not just for the immediate needs but also for 5 years out and 10 years out cases.

Mr. Horn stated that the project is a sub transmission project to help alleviate a significant event should it happen in the greater Monmouth County Area, as well as specifically the Borough of Interlaken.

Mr. Horn explained the transmission system would be somewhat like going down the path of a highway system. The transmission system would be your really large interstates and highways like the Garden



State Parkway. It would be your transmission system where it carries a lot of power from point A to point B, usually over long distances. The sub transmission would be a lower voltage thing. It would be a little lower of a highway, something like route 35 a state highway that is still a big thoroughfare for mainly the local area but not necessarily a city street area. The city street like this Avenue, Grassmere Avenue, that would be something like your distribution system which would be essentially what goes into your house.

Board Attorney Brown marked the photo first heard from Mr. Avakian which is dated 9/7/2022 would be B-1 and the photo Mr. Horn displayed marked at A-1 described on the label on the lower right hand corner A-1 Infrastructure Upgrade Project jc121326 Substation Service Area Map.

Mr. Horn continued using that example of the Garden State Parkway. There are criteria that are used to do engineering analysis to make sure the system is adequate for what is needed. Currently we have this green line. It is a transmission line. It would be comparable to the Garden State Parkway. It is actually two lines on a single common tower. It goes from Atlantic substation to Red Bank substation. The Board can see the path that it traverses. For a contingency analysis, what we do is take that facility out of service. Now we assume it would be taken out of service for a significantly long amount of time. Then what we do is analyze the remaining system to see what it is going to take to make sure that we can serve not only this area but the whole system as a whole to make sure it is adequate and make sure it meets the needs of our customers. We hope not to see that we have potential concerns where we either overload facilities or we have very low voltage or things like that. Where people's lights don't come on and in this specific case for a loss of this 230kV tower line. We have essentially a potential voltage collapse in this area of Monmouth County. What that means is it would be essentially a loss of power for all of Monmouth County and specifically Interlaken Borough. What this project is aiming to do is to fortify the underlying system which is from Allenhurst at Oceanview and build another 345kV circuit from Oceanview to Allenhurst to facilitate and boost up the area. This project itself is one project in about 10 projects to help boost up the area as a whole to alleviate the condition for that lost line.

Mr. Beyel noted the green line is the 230kV voltage line which is the transmission network. The orange line is part of the sub transmission and that is analogous to a Route 35, so if something happened to the parkway you can go on to a major road that will help traffic conditions to flow even though the main line is interrupted and that is what the sub transmission line represents and that is what this project solves.

Mr. Horn continued. If you are thinking that the green line is the Garden State Parkway and if you have a catastrophic event that would completely close it down. We all know what is going to happen to the secondary roads. They are going to get inundated by the people who need to get home and get wherever they need to be, so a different way of doing that is to put new secondary Route 35s into the surrounding system to essentially boost it up and get it back into service.

The next exhibit was marked A-2 Infrastructure Upgrade Project Exhibit One Infrastructure Upgrade JC-121326 General Overview Map.

Mr. Horn used A-2 to show a closer view of the 34.5kV line from Oceanview to Allenhurst. The exhibit dictates a little bit more detail in this case down Route 35 down Lawrence Avenue across Darlene Avenue and also all the way down into Allenhurst substation and specifically it shows the pole in question in the dashed circle.

Ms. Morgan Meehan joined the table.

Morgan Meehan works at 800 Cabin Hill Drive Greensburg PA. Ms. Meehan went to the University of Pittsburgh and received a BS in Civil Engineering in 2009. Ms. Meehan is a licensed engineer in the state of Pennsylvania and has 13 years of transmission design experience. Ms. Meehan was hired after graduation with Allegheny Energy in 2009 in 2011 First Energy and Allegheny Energy merged. Ms. Meehan was in the Transmission Projects group in both companies in 2017 as Acting Supervisor of the department and after 8 months was promoted to Supervisor and has been in that role ever since.

Ms. Meehan stated that Mr. Horn and the Planning Department provide a high-level scope of what needs to be done to support a project. In this case they said they need a new circuit between Oceanview and Allenhurst substations. They also provide what type of conductor size that needs to support the load that is anticipated. Once the preliminary route is chosen a transmission project group is assigned. As the Design Engineer we go in and look at what is needed to make that plan happen. We spec out structural locations, structure types, material structure, the geometry of the structure to support the design as well as make sure that the structures meet the national electrical safety code requirements. Ms. Meehan stated that lines currently exist between Oceanview and Allenhurst. That is why this route was chosen. There is currently existing three separate single circuit 34.5kV circuits. This project rebuilds portions of those circuits to make double circuit lines. That way there is new path between Allenhurst and Oceanview substations. The Oceanview substation is located in Neptune Township.

Board Engineer/Planner Avakian noted that it is off of Neptune Boulevard going southeast of the ShopRite on the opposite side of Neptune Boulevard. It a massive substation that can be seen from his office in Wayside.

Ms. Meehan stated that they looked at each specific site to make sure the design follows the national electrical safety codes including clearance requirements that are needed to maintain like clearance to the ground, other objects, between the wires on this structure. They also make sure the structure has the strength capacity for appropriate design loadings.

Board Attorney Brown marked the exhibit A-3 Infrastructure Updated JC-131236 Structure STR218 and a separate document A-4 Infrastructure Upgrade Project JC-1216 Structure 218 Exhibit Steel Monopole.

Ms. Meehan noted that the current structure number is based off the existing structure that is being replaced. Ms. Meehan stated that the project is to rebuild existing single circuit facilities. Structure 218 is an intersection between two separate circuits. One circuit that comes from north of Wickapecko Drive and comes down from north to south. There is a second existing circuit that comes up Wickapecko Drive and makes a left onto Darlene Avenue. The proposed design will come down from the north on Wickapecko Drive and make the right onto Darlene Avenue. Currently there are two existing circuits, and it will be going to go to three circuits on a common structure at this intersection.

Ms. Meehan used exhibit A-4 to provide a sketch of the structure which included the proposed pole height which is 75 feet. The pole also has top diameter which is one foot one inch and the base diameter which is 3 foot nine inches. The structure is mounted onto a concrete foundation which is a 6 foot in diameter. The foundation will be 29 feet deep.

Ms. Meehan stated that there is a number of circuits and wires that this structure has to support. At the top there is a shield wire that protects from lightning strikes and prevents outages associated with lighting. Then there are two layers of the 34.5 circuits. There is one that is at the top of the structure that is attached directly to the pole and then one is attached to the pole and the other is attached to a davit arm that is

about 5 feet away from the pole towards the road. Below that we have a series of distribution and communication wires. That is a lot of load on the structure. As you saw previously there are 90 degree turns, making this structure what we call a dead-end structure. What that means is that, in addition to the conductor weight and the icing load and the wind load requirement, it also has to support the tension of the conductor. Because there is all these wires and all the dimensions in all directions the structure wants to pull in one direction. This being a self-supporting steel pole, you do not need guide wires in order to keep it straight and upright and withstand the national safety code requirements.

Mr. Beyel questioned. It wants to pull in one direction because at the right angle it goes towards Darlene Avenue, so you need to have a pole adequately mounted into a very deep foundation so I will not tip over towards Darlene Avenue. The wooden pole that is there now does not have the same load in terms of circuits but what feature do you have with a wooden pole that you won't require with a steel pole.

Ms. Meehan stated that the need for guide wires is the biggest difference. This steel pole supports three circuits. A single wooden pole would not be able to accommodate that design. On this structure all of the circuits are independent of each other. This structure is self-supporting. It is designed so that for whatever reason one side of the wires are not installed, it can withstand that load differential a wood pole would require temporary guiding to support it to keep it upright.

Mr. Beyel asked Ms. Meehan if it isn't it true that in this case the pole was designed to have somewhat lesser visual impact than what would truly be a standard JCP&L steel pole.

Ms. Meehan stated that for this project there are three other triple circuit structures on this line and this proposed pole has the smallest foundation of all three. The diameter of the pole is lesser, for example, in the diameter than the steel pole on Route 35 so there was an intentional effort made to minimize the size of the pole because it is in a residential area as opposed to Route 35, which is a commercial area.

Mr. Weaver asked if the design would withstand 15 years.

Ms. Meehan stated it would.

Ms. Meehan stated the height requirement was dictated because of clearance requirements between all of the wires. There are spacing requirements between the shield wire and the 34.5 circuits. Within the three phases of the circuit, you have clearance requirements, as well as clearance to distribution as dictated by the National Safety Code.

Board Engineer/Planner Avakian asked about the pole's finish.

Ms. Meehan stated it was a galvanized steel pole.

Board Engineer/Planner Avakian stated that he has worked with telephone communication in the past and asked that consideration be given to the surface material. Something more benign say gray or beige in color would be more agreeable. They actually use a gray color, but they don't use blue because the sky is gray more than it is blue.

Chairman Papp stated his concern regarding rust.

Mr. Beyel stated that this pole will not rust.

Ms. Dalton questioned what is on the circuit beyond the pole and where do the wires from Darlene Avenue go.

Ms. Meehan stated that the wires will attach to Oceanview and to Allenhurst. Existing structures will continue further south on to Wickapecko Drive

Ms. Dalton asked if there would be new poles to Corlies Avenue.

Ms. Meehan stated the new line route will extend up Wickapecko Drive and up along Corlies Avenue.

Board Attorney Brown questioned whether new poles similar to the taller poles installed on Darlene Avenue would be installed on Corlies Avenue going east bound that will connect with the existing substation which is at the terminal in Allenhurst.

Ms. Meehan stated that a similar design that was used on Darlene Avenue will be used on Corlies Avenue.

Board Engineer Planner Avakian noted that the new poles were proposed to be on the Ocean Township side of Corlies Avenue not on the Interlaken side.

Ms. Kapp asked if this pole will be the only one in Interlaken.

Ms. Meehan stated that there will be at least three structures in Interlaken, but this is the only steel one.

Mr. Beyel stated that he understands the confusion but the reason why the applicant is here is not so much because of the pole but because of the foundation. As Mr. Avakian explained at the beginning, this process was back in January by an application to the construction department with a permit to install that foundation. That is what triggered the application. A permit was needed to install the foundation. The wooden poles are direct drill. There is no foundation. They just go into the ground. The applicant is here because there is a concrete foundation that encroaches onto the adjacent lots or might and so a D variance is needed. The pole itself is not what really triggered the application. It is the foundation that is encroaching onto the adjacent lots, and it is the only pole in Interlaken which will be a steel pole the others are wood.

Ms. Kapp questioned whether there will there be additional new poles installed in Interlaken.

Ms. Meehan stated that there will be three new poles installed in Interlaken.

Ms. Heinz questioned the location.

Ms. Meehan explained that from structure 218 the next two structures to the north 217 & 216 are on the Interlaken side of Wickapecko Drive and 219 is being replaced in a similar design that is existing.

Board Attorney Brown asked if existing meant wooden.

Ms. Meehan stated that it would be wooden, essentially rebuilding that structure. There is no shield wire. It is the older style design.

Ms. Heinz and Ms. Kapp questioned the height.

Ms. Meehan stated that 219 structure will be maintaining the existing facilities. From 218 north the double line circuit will be rebuilt.

Ms. Kapp asked for a height comparison for the poles to the north.

Ms. Meehan stated that the poles would be similar to the design of the poles on Darlene Avenue.

Ms. Kapp asked if the poles would exceed 35 feet in height.

Mr. Beyel stated that a variance would not be required for that.

Mr. Wasilishen asked why the whole project could not be located on the Ocean Township side of Wickapecko near the Women's Club which is seldom used.

Ms. Meehan stated that the line route was the minimal impact on everyone. Existing facilities are being rebuilt. Additional poles would be required if the project was relocated to the other side of Wickapecko Drive. Estimating it could be approximately five additional poles.

Mr. Wasilishen stated that the project should be shifted to the Ocean Township side, as they already have the ugly poles installed.

Mr. Beyel stated that the visual impact along Wickapecko Drive will be the same whether it is on one side or the other.

Ms. Meehan stated that wooden poles were used rather than a steel pole additional poles and span guides and guide wires to support the conductor would be required. It would be a more visual impact with more wires, more poles and also the footprint would be much larger. A 6-foot foundation that is the only footprint of a steel pole.

Ms. Kapp questioned Board Engineer/Planner Avakian's report dated September 7, 2022 in #2 C 3 it states that as a principal it has exceeded the permitted height of 35 feet and would require a height variance. It has just been stated that the height of 35 feet would be exceeded.

Board Engineer Avakian stated that, as stated earlier, when the parties met to review the ordinance together it was represented that that height section of our ordinance is specifically related to buildings, not to use, and if you read that section of the ordinance it does specifically reference 35ft height for buildings, so they respectfully requested that that compliance not be required since they are not proposing a building and it is a utility and it is an inherently beneficial use is what they are testifying to.

Ms. Kapp questioned why the definition for building or structure is being considered and asked for follow up as to why you are considering this a building or structure when clearly there is something designated as essential services in our definition.

Board Engineer/Planner stated that it is specifically related to buildings.

Ms. Kapp stated that there are height limits on things like flagpoles because somebody cannot build a flagpole that is 100ft tall in their front yard or anywhere on their property. Ms. Kapp questioned the height of normal residential pole.

Ms. Meehan stated that normal is relative to the needs of the area. The existing structure is 51 ft above ground.

Chairman Papp noted that the ordinances seem a little open ended if you can have any height you want as long as it is not a building.

Board Engineer Avakian stated that the ordinances state specifically that they may be erected to a height that can be demonstrated to the satisfaction to the Planning Board as necessary to accomplish their intended functions. That is what the Board is hearing and that is the applicant's testimony and that is what is being said that it is not a building. The Board will hear Mr. Higgins' testimony, because this is a Planning issue, that it is not really appropriate to apply the building criteria to the utility pole.

Ms. Kapp stated that it is important to know that we know there are more than this structure that will be exceeding our 35ft height limit.

Board Engineer/Planner Avakian agreed.

Mr. Beyel stated that many towns have a definition of essential services and in many of those cases the towns define essential services to include work like the applicant. The utility use and those ordinances typically say that those uses are permitted in all zones. Interlaken's definition of essential services is different. It is very limited to only those utility uses which specially and uniquely that are put forward by your governing body. It is a very narrow and unusual definition of essential service, but the applicant has to work within the ordinance. The ordinance does not define essential services the way Mr. Beyel would want it. By the same token when we are talking about the height of the structure as your engineer/planner pointed out, it is really linked to the height of the building. The applicant is benefitted by one part of the ordinance and have a bigger hurdle with another. We all have to work within the ordinance.

Board Attorney Brown advised with collateral comments. If you look at the definition section of the Borough ordinances under 26-4 the definition for building is included. There is also a separate definition of structure. As Board Engineer/Planner Avakian indicated they are different. If you look under the uses and the bulk provisions under R-B single family residential for the maximum height, it is 35 ft.

Mr. Beyel called Mr. Morris to the table.

Mr. Morris joined the table.

Jefferey Morris of Boswell Engineering, works at and 330 Phillips Avenue South Hackensack, NJ briefly summarized his education and experience.

Mr. Morris received his BS in Civil Engineering from Lehigh University and has been employed by Boswell Engineering for 42 years. For the last 18 years has run the Private Land Development Division at Boswell Engineering. Mr. Morris has testified in front of over 200 boards in the State of New Jersey. The closest ones to Interlaken are Colt's Neck and Howell. Mr. Morris also is a professional engineer, professional surveyor and planner tonight.

Board Attorney Brow confirmed that Mr. Morris has a New Jersey license as a PE, PP and Surveyor.

Mr. Morris stated that the engineers at JCP&L gave Boswell Engineering a location where they want to place the pole. Boswell Engineering was given the responsibility to find out where, within the right of way, the pole can be replaced and how to protect the traffic flow from the pole, since it is a steel pole. Mr. Morris stated that the pole was placed within the right of way and the foundation of the pole encroached outside the right of way onto the property by about 3 inches.

Board Attorney Brown marked exhibit A-5.

Mr. Morris used exhibit A-5, a site plan for the pole in question at Darlene Avenue and Wickapecko Drive. The pole lands right at the property line between lots 22.01 and 22.07, just inside the right of way. Boswell Engineering tried to move it as far back from the curb line as possible to keep it from being an obstruction.

Mr. Beyel asked Mr. Morris regarding the design the features adjacent to that pole to protect it from traffic.

Mr. Morris stated because it is a steel pole, as opposed to a wood pole, The Department of Transportation required that traffic is protected. It is required to install a guide rail along the back of the curb for required distances on both sides.

Ms. Kane asked if the guide rail would be installed after the pole.

Mr. Morris stated that the guide rail is being installed while the pole is being installed.

Ms. Kane confirmed with Mr. Morris that there is no guide rail currently at the location of the pole.

Mr. Morris stated that the guide rail will be approximately 150 feet long and 3 feet high.

Mr. Morris stated that the guide rail is mandated by the Department of Transportation. The reason for the length is that the Department of Transportation dictates that entry and the egress have to be a certain amount of feet to protect a car hitting it straight up. That is why there are continuing pieces that spring away when a car hits them.

Chairman Papp stated that the guard rail is in the right of way, so the Board does not really have any jurisdiction.

Mr. Beyel stated that the right of way runs the entire street.

Board Attorney Brown stated that the Board is questioning whether or not anybody knew about the guide rail. In the public notice the applicant clearly indicates they are asking for a variance to permit a utility pole and a concrete foundation to be placed in the right of way of Wickapecko Drive adjacent to the two lots that are mentioned and easements related there to having a pole height of 75 ft. Anyone who would look at the notice would know about 75 ft pole. There is no mention at all about the guide rail. Board Attorney Brown does believe that the applicant provided some documents that someone looking very carefully might see indicated.

Mr. Beyel stated that the notice does not specifically flag the guide rail, but the applicant is not coming to this Board for any variance relief relating to the guide rail. The rail is something that as Mr. Morris testified to that the State requires to be installed. It is in the right of way. There is no relief required from this Board. The most requirement is to give a fair assessment to the members of the public of what the project entails and give them an opportunity to look at the drawings. Everything has been provided, including this drawing. Notice was given twice in writing, and it was also published. People could have come in to look at it. The applicant does not come before this Board for permission to install a guide rail. It is not our choice but when a steel pole is used what Mr. Morris has said is that there is no choice. It must be installed.

Board Attorney Brown asked if a wooden pole was installed would a guide rail be required.

Mr. Morris stated that it typically would not.

Board Attorney Brown questioned why documents pertaining to the guide rail were included with the application documents.

Mr. Beyel stated that the applicant is not coming before the Board for any relieve related to installing the guide rail. The documents were included because the applicant wanted to be thorough and wanted the Board to see it is a pole, the height of the pole, the features associated with it. If Mr. Beyel was on Board and later find out a guide rail was being installed and the Board was not told about it, Mr. Beyel might be offended. No relief is needed but the applicant is trying to be as transparent as possible. This is a very important project to do, and this is going to cost the company money. Unlike most applications, the company is not making any money by installing this project. Money is being put into this project. It is mandated that it be done from MERC, FERC and PGM and all of the other initials that Mr. Morris told the Board about. This is something that has to be done in order to be able to enhance the reliability in this area. Electricity does not affect one person. To embellish to Mr. Morris's analogy of the parkway. It is not a joy, if there is an accident. It is snarled but you do have Route 35 and other roadways. That problem on the parkway gets itself resolved in less than a day. If the company suffers the type of interruption to that 230kV line, one of the models that these agencies say we must address, that is not an issue that gets resolved in a couple of hours. If a roadway problem impacts people who are on the road. If you are sitting at home and are not driving that day, it does not impact you. Electricity absolutely impacts everybody in their area. Most of us lived through Sandy and know what type of impact that could be. It affects everyone's life for days or more. A problem on that 230kV line could impact this area of the State for a very long time and everyone could be out of power. That is why those agencies said a solution has to be designed. This is the solution the company came up with. It has got to comply with all those different codes. Ms. Meehan said the NESE dictates the size of the pole, so you have your clearances. The foundation has to be as deep as it is so that it can support that pole. A steel pole is needed a wooden pole wouldn't suffice because there are three circuits and one of which comes off at a right angle. There is no need for guide wires. This is the project that needs to be installed to meet the obligations to the various government agencies and it is the right thing to do to maintain reliable power to the citizens of Interlaken and to the citizens of the State.

Chairman Papp asked if there is any opportunity to keep the pole on the Ocean Township side and run it down to Corlies Avenue.



Mr. Beyel said that, as Ms. Meehan explained, the engineering for that option has not been done but what Ms. Meehan said was that to push the line over on the other side of the street would require four or five new poles and in the area of the structure 218 you would have more than one pole.

Chairman Papp stated that a guide rail would not be needed.

Mr. Beyel stated that Mr. Morris did say it would not have a guide rail.

Vice Chairwoman Umfrid asked about guide rail not being at the pole at Logan Road and Lawrence Avenue, as well as the one that is at the Ilan High School. There are no guard rails at those sites.

Mr. Morris stated that the Department of Transportation requirements are that the pole must be out of the clear zone. The clear zone is 15 ft so if the pole is 15ft off the roadway than it would not require the guard rail.

Vice Chairwoman Umfrid stated that the pole at the corner of Logan Road and Lawrence Avenue is right at the corner, and it does not have a guard rail.

Ms. Heinz agreed.

Board Attorney Brown stated the Board is looking at another picture that has been provided within the 10 days as a potential exhibit.

Mr. Beyel stated that the application tonight is for a D1 variance because there is a principal use in the RA zone. It was explained why the project is necessary, how it is designed and what the structural components of that project are. Quite properly the Board is interested in understanding what this pole might look like and how it would differ from other poles in the area. Ms. Meehan will talk about the various poles in the area. We don't really think it is a part of the application, understanding it is not germane to the relief, but we do want to be transparent. We want to show what the poles look like, where they are installed, that some are wood, and some are not so we can have a dialog but to maintain the record this is not essential to the application.

Board Engineer/Planner Avakian stated that what may be germane could be the fact that the orientation of the curb line along Wickapecko Drive from Bridlemere Avenue north to the extended project is going to be different. There is going to be a massive utility pole. There is going to be a guide rail. The curb may be coming out and being replaced and there will be curbing striping.

Mr. Morris stated that there will be pavement striping but the curb will stay. The pavement striping will keep to the clear zone.

Board Engineer/Planner Avakian wanted the Board members understand and it is something for the Council to understand. They should know this is occurring. It is shown on the drawings, but no relief is being requested.

Board Attorney Brown marked the photos Ms. Meehan will be using during her testimony.

Mr. Weaver asked if the property owners that the easements were purchased are aware that there is going to be a guard rail.

Mr. Beyel stated that he could not tell the Board whether they are not. Mr. Beyel would hazard to guess they were not told about it because the representatives were talking about getting the because of the encroachment on their property.

Ms. Meehan used an exhibit photo marked as A-6 stating it is of the existing structure on Darlene Avenue and Wickapecko Drive. It is a wooden pole approximately 51ft off ground and does have guide wires that extend into the property owners. The remaining examples are of current structures that have been associated with this project. A-6b is a photo looking down Darlene Avenue towards the structure 218. These are the new poles that were installed this summer. Structure one and structure two next to them are 74.5ft above the ground. Structure one has temporary guiding because structure two and three have guiding associated with them. The next photo is structure 18 down Lawrence Avenue. It is a dead-end structure. It is approximately a 90 degree turn that supports two 34.5 circuits and the reason why this was highlighted is because the existing structure that is being replaced already had stand guides and anchors that were also replaced. There was space in this particular location to use a wooden pole design because we could span guide over the existing roadway. It had the right existing easement to do so and install the guide wires. The guide wires extended 10ft further than the previous guide wires and that was a result of the taller structure. The anchors needed to be extended out further. The span guide connects the two poles together and transfers the loads on the main structure onto the supporting structure to the supporting into the anchors. The guide wires are way on the other side of the street.

Ms. Meehan stated that structure 25 has been highlighted because it is one of the triple circuit structures on the line and is essentially the same design as structure 218 with the shield wire, the top circuit, one circuit attached to the pole and the third circuit attached to the davit arms.

Chairman Papp confirmed with Ms. Meehan that the structure does not have a guide rail.

Mr. Morris explained that that structure is set back outside the clear zone of the of highway, so it does not require one. The clear zone is typically 15ft from the travel way not from the curb.

Ms. Meehan noted that this structure is a bulkier pole than proposed at 218. JCP&L worked with them to make this diameter smaller in order to reduce the foundation size. In order to do that they had to use more steel and thicker anchor bolts, but the footprint is smaller.

Mr. Beyel asked why Ms. Meehan wanted to reduce the appearance of the size of the pole and also the and the foundation at 218 in contrast to this structure.

Ms. Meehan stated that they wanted to be mindful that the pole is in a residential area.

Ms. Meehan displayed a photograph of structure 16 in Ocean Township. The structure is a few spans away from structure 19. This was highlighted because, while it is a steel pole, it is a direct imbedded structure. It is a tangent structure it does not have the requirements that the steel pole structure 218 has. There is a slight line angle. There was an attempt to accommodate the existing facilities to that slight line angle but were not able to install a span guide anchor across the road because of the existing driveways, so to support that load. They had to go with a direct imbedded steel pole. It is a little bit beefier than the wood pole. It is embedded a little bit deeper to withstand the loading, but it not does not meet the needs to require a foundation. It is less than a 5-degree angle.

Ms. Meehan displayed a photograph of the steel pole at the school. It is a few spans away from the two previously discussed. The existing structures was closer to the school and the guide lead length needed from the pole to the anchor was not sufficient for the structure height. The guide wires needed to be extended further which would have been in conflict with the school, so we opted for a steel pole in this location as well. This also has two circuits as opposed to three.

Board Engineer/Planner Avakian stated that he had concerns that the Borough Council doesn't have knowledge of what is proposed in their right of way, and it would be beneficial to make them aware. Board Engineer/Planner Avakian does not know if there is opportunity for a formal application or there could be some sort of advisory submission to them, so they know. Now that there is testimony regarding the limits of the guiderail and where it would be located, we want to insure that there is no interference with access to any of the adjacent lots.

Mr. Beyel stated that that is a reasonable request. Mr. Beyel is not aware of any application that can be filed but if the governing body would like Mr. Beyel and Mr. Morris would talk about the guide rail in the right of way. Mr. Morris will be able to explain the design and why it is required and can be there and answer any questions.

Board Engineer/Planner Avakian stated that it could be beneficial for the process to move forward.

Mr. Beyel stated that they want to move forward as quick possible. The applicant is hopeful that the Board will approve the application tonight. It is known that the application has to be memorialized in January and there is a 45-day period for an appeal.

Mr. Beyel and the Board had a brief discussion on how to arrange to meet with Council. Mr. Beyel is to contact Borough Administrator, Lori Reibrich.

Board Attorney Brown asked to clarify the right of way in relation to the easement, so it is clear to the Board. Looking at the site plan, the existing pole appears to be 100 percent in the right of way so the rights that have been granted have nothing to do with Mr. Morris' comment about gaining an easement from the adjacent property owners. Renumeration was paid to the owners of the easement and guide wires that were in the easement are being eliminated. Board Attorney Brown asked how much of the proposed pole will be within the new easement.

Mr. Beyel stated that the applicant does not believe that any of the pole itself will be on the adjacent lots but were concerned that a portion of the foundation might encroach onto those lots. It is a potential encroachment of a about 3 inches on the lots and because the encroachment may be 3 inches the applicant in case that would occur.

Board Attorney Brown asked if the 6 foot diameter foundation could be moved 3 inches toward the street.

Mr. Beyel stated that it is not as easy as common-sense relocation of other lines that come in parallel. It may be moved but when you are in the field sometimes some things happen, and it may be 3 inches over onto the neighbor's property.

At this time, Ms. Kane excused herself and left the meeting.

Board Attorney Brown asked that at the time of the compensation granted to the adjacent property owners, it was not necessarily for any foundation that was going to be on their property.

Mr. Beyel stated that it was always known that the project would involve a foundation and a steel pole but could not be sure that it could all be located without possibly encroaching on those lots. If we went through the whole process and then installed and it was 3 inches over on the neighbor's property than we would have a problem having to undo and resolve things. The applicant tried to be proactive. The property owners were told that there is a project that is going to be involving this new circuit line. There will be a new foundation put in. Mr. Beyel specifically knows they talked about the foundation for the pole.

Board Attorney Brown asked if the adjacent property owners were told about the guide rails.

Mr. Beyel stated that he had no idea if they were told or not.

Chairman Papp asked if that would that be detailed in the easement agreement.

Mr. Beyel said not necessarily.

Mr. Beyel stated that for the pole a variance is needed because it is possible the foundation will encroach.

Board Attorney Brown asked if the applicant is essentially relying on their rights as a utility of an existing right of way.

Mr. Beyel said yes.

Board Attorney Brown questioned whether there could be a sidewalk in the right of way.

Mr. Morris stated that he did not think the existing conditions would warrant a sidewalk because these poles are just behind the curb.

Ms. Heinz stated that she lives on Bridlemere Avenue and rides her bike in the area and is concerned when making a right on Bridlemere Avenue to get to Corlies Avenue because there is no sidewalk she rides in the street. If a guide rail is placed there, then she will be farther into the street. It is dangerous. Somebody could get hurt doing this. Ms. Heinz believes that JCP&L must think about how they could make it safe for people to go from Bridlemere Avenue to Corlies Avenue. Ms. Heinz also believes the new poles on Darlene Avenue are aesthetically hideous. Now additional poles will be going down Corlies Avenue. Ms. Heinz asked if anything has been done in the past to make these poles look nicer.

Mr. Beyel stated that the poles are big structures. They have to be. They cannot be made smaller. They have to conform to the code requirements. This particular pole cannot be less than 75 ft in height. One thing that is being done is that there will not be guide wires, but the pole must be installed where it does fit to be in line with the guide wires in order to satisfy the regulatory requirements which are imposed upon JCP&L to come up with a design for this sub transmission highway power to be transferred pole to pole.

Mr. Beyel respectfully disagreed that having this here would not make it safe to travel on that road. Ms. Heinz is traveling on that road and there is a pole on that role now. As to aesthetics, the Borough Engineer inquired whether there can be a finishing technique, so it is not a galvanized steel look.

Ms. Heinz suggested greenery be used.

Mr. Beyel stated that he did not see how you can install greenery. Bushes cannot really be put at the bottom of poles but may be able to accommodate the request about adjusting the color. There is a process that could be done.

Chairman Papp stated that some of the other Board members have some concerns whether that the two residents are aware that there will be a metal fence in front of their houses and questioned whether this plan has this been reviewed by emergency services. Is that rail going to be an obstruction if they have to go to a house fire there? Chairman Papp stated that he understands that this is not part of application, but it has ramifications for the whole area.

Mr. Beyel stated that Chairman Papp was right. It is not part of the application, but Mr. Beyel has indicated a willingness to have Mr. Morris to speak before the governing body to talk about issues like that. Mr. Beyel stated that he is not qualified to answer these questions sitting here at this meeting but will try to answer them when talking to the governing body.

Board Attorney Brown stated that he and Board Engineer/Planner Avakian have been having a side bar regarding the recent zone change in that area to permit houses of worship. There could be a house of worship in that area soon where the congregation may be walking to the area. We don't want to get into a problem without considering what Ms. Heinz is pointing out. There could be a site plan application not too long from now for a house of worship in the area that was contemplated just for that reason and the Board may be questioned how people are going to walk from their homes in Interlaken or for that matter Wanamassa safely.

Board Engineer/Planner Avakian asked whether the dimension between the guide rail and the utility pole is more than four feet which is the standard width of a sidewalk.

Mr. Morris stated that the foundation would not preclude a sidewalk being on top.

Board Engineer Avakian stated that is something that could be considered, not necessarily encouraging people on motorized bicycle going between the guiderail and a steel pole with a 6-foot diameter footing with a steel pole on it, but that may be the only alternative.

Board Attorney Brown asked the applicant to consider whether they want to have a vote at this meeting or if there are enough questions raised. This is the last meeting before the Board's reorganization. Every member of the Board is here tonight including alternates, so there will be enough members in January.

Mr. Beyel stated that it was fair that Board Engineer/Planner Avakian raised the question and Mr. Morris responded that it is possible but who knows whether the Borough is ever going to install a sidewalk in this area but there is space between the guide rail and the pole. That point is kind of mute, the applicant is not building it because we don't control that. It is possible to put a sidewalk there.

Mr. Beyel stated respectfully that this is not an issue that is germane to the application. There has already been a committed to have Mr. Morris to appear before the municipal body where we will have some time to talk about things like the sidewalk and the guide rail so that Mr. Morris and anybody else who might need to responsibly respond to the questions that have been proposed and would seem more properly be proposed by the governing body rather than as a part of this application for a D1 variance.

Board Attorney Brown stated that that makes sense unless the Board grants the approval and for some reason there is an objection from the municipality because the Planning Board granted the variance for the pole then there is a problem.

Mr. Beyel suggested the Board be asked to vote on the application and it is approved subject to approval from a County Planning Board or subject to getting something from the Soil Conservation District. This body will have done what was asked of it but there are still requirements to get approvals from some other people who have jurisdiction to consider other issues.

Board Attorney Brown questioned whether Mr. Beyel was saying that the Borough Council specifically has jurisdiction to consider the impact of the right of way.

Mr. Beyel stated that he thinks the Borough Council has the right to understand what the right of way is and what is being proposed in the right of way. Mr. Beyel gathers the right of way is owned by the municipality, so they have some authority to talk about spaces. The guide rail, according to Mr. Morris is dictated by the Department of Transportation. Mr. Beyel does not think this is an issue that a governing body has to rule on but something like the sidewalk and the desire to potentially have a sidewalk there if the Borough is willing to pay to have a sidewalk built, things like that, is properly the jurisdiction of the governing body. Phrased in that way the approval can be subject to appear before that body to decide what is in their jurisdiction. Again, the guiderail stuff is Department of Transportation dictated but things like thoughts for a sidewalk and Mr. Morris stated that the foundation extends above ground 4 inches how that can be accommodated as a part of the sidewalk. The applicant wants to work with the community and the residents of the community to get this project built. There are some things that maybe we can do along the way to try to accommodate the legitimate concerns that have been expressed.

Mr. Jim Higgins joined the table.

Board Attorney Brown stated that the Board would stipulate that Mr. Higgins can qualify as a certified professional planner.

Mr. Higgins confirmed his license is current.

Mr. Higgins stated that he wanted to make a point regarding the discussion about height. There were some things that were not quite correct. First there is nothing in the ordinance that says the height of a building is limited to 35 feet. The ordinance says the height of a single-family residence is limited to 35 feet so you could have other buildings in the zone, for example this building could be 60 foot tall and not have a height limitation because of the way your ordinance is structured. It is only single-family residences that have that height limitation.

Board Engineer/Planner Avakian stated that only single-family residential buildings or structures are permitted in that zone.

Mr. Higgins stated that there are other uses permitted in that zone municipal uses are permitted.

Board Engineer/Planner Avakian noted that the municipality doesn't have to comply with their zoning regulations.

Mr. Higgins stated that there are also communities' residents that are developmentally disabled who are permitted but thinks they would be restricted to the height of a single family because of the municipal land use law but the point is that the ordinance limits single family residences to 35 feet. It also limits accessory uses to 15 feet but exempts certain elements such as antennae and stuff like that that need to be higher. There is a situation here. This isn't an accessory. It is not a building. A building has to have something with a roof that can be occupied and clearly a utility pole is not a building, so there is no restriction on the height of a utility pole. Mr. Higgins would like to see one as much as Board members would like to see one. One of the hardest things Mr. Higgins must as a planner is to separate personal feelings from professional opinion. Mr. Higgins must go what the ordinances were saying and what Mr. Higgins believe a court would say if they were reviewing the testimony in the application and the Board's decision. In this case there really is no height restriction as far as these utility poles go. Mr. Higgins looked at this application and determined that there is a D1 variance. There is a municipal land use law that does require a D1 variance for a use of a D1 structure. That is not permitted, and, in this case, you do have a foundation that is part of the principal structure of the pole that extends all of 3 inches of the residential portion of the property. To be clear, it is a circular foundation so the maximum it would extend onto the residential property and that would taper down to zero inches and the width would be based on the 6-foot diameter. Mr. Higgins does not know the exact width of the encroachment. The encroachment would be a maximum 3 inches and would taper down to zero. It is 4 inches high. Anyone would be challenged looking down Wickapecko Drive to look at that structure and say that extends 3 inches onto the residential property. There is no way anyone would look at that and would even realize that it wasn't within the right of way. The impact is minimal. The use itself is inherently beneficial. Inherently beneficial, according to the land use law, is a use that is universally considered to be a value to the community because it fundamentally serves the public good and promotes the general welfare. In this case, clearly, this type of facility of an electrical transmission line promotes the general welfare promotes the safe provision of electrical service. The lack of interruption of electrical service is not just an inconvenience. To some of us it's an inconvenience but some people who have medical conditions that require electricity to run medical equipment that they may need to survive or maintain their health or just to maintain their comfort. If anyone has tried to crank a hospital bed you know you need electricity to do that. Clearly this is an inherently beneficial use and the test for inherently beneficial use is a four-part test that was developed in the SICA case that was referend to earlier. That test is, first of all you have to establish the magnitude of the public benefit. The Board has heard testimony from the prior witnesses. The whole purpose of this entire application is to improve the sub transmission line so that the area that the electrical service in the area will be more reliable and more resilient. If the major transmission line were to fail, there would still be a backup which would allow electricity to go to the many areas that are serviced by this sub transmission line. So clearly there is significant public benefit. Then you have to look at where there are any detriments. In this case Mr. Higgins does not see any substantial detriments. What we are looking at is a 3-inch encroachment of a 4-inch-high foundation. The applicant has already talked about the fact that maybe this entire foundation could be put within the public right away and not have a variance. But rather than have the thing constructed and find that it extends an inch, or two or three on the residential property and have to come back to the Board and say, "Hey guys there was a minor error. Here we are three inches into the property. We need a use variance." The applicant is to preempt that by getting a use variance now. There is no substantial negative impact on that encroachment because you couldn't tell if it was encroaching on the residential property or not

unless you have a survey and could show with a survey that there was an encroachment. The applicant has anticipated that there could be some potential detrimental impact, so what they have done is have the pole and the foundation specifically designed to be reduced in size so that the negative impact would be significantly reduced, and the magnitude of the variance would be reduced. So now the anticipation is that it will be no more than 3 inches onto the residential properties, and it may not extend at all. The applicant has anticipated mitigation. There has been some discussion obviously with regard to the guide rail and again that is really not associated with this specific variance that is before the Board. One possibility would be to put some vegetation within the easement area. Mr. Higgins has read the documents. It seems to Mr. Higgins that this something that could be done to soften the impact of the guide rail. When Mr. Higgins looks at the guide rail requirement, he cannot understand why there is no guide rail requirement for a guide rail on a wooden pole. It is not going to be much difference than if you hit a metal pole with a car. Also, the existing pole is right on the curb. Mr. Higgins can't believe the pole hasn't been hit some time in the past, but apparently it hasn't. That is not a safe situation either. The situation with the guide rail is much safer than the situation that currently exists. Then you have to do a balancing test. That is the fourth step. You have to balance the benefits versus any potential negative impacts. The balance test under SICA is different than the balance used by a Board normally. When looking at balancing, you want to show the benefits substantially outweigh the detriments. Under SICA the Supreme Court has said you should approve the application unless the detriments substantially outweigh the benefits and, in this case, clearly Mr. Higgins does not think there are any substantial detriments. There are substantial benefits and if the applicant were able to move the foundation 3 inches to the west there would be no variance request. So really the negative impacts are minimal. The positive impacts in terms of improving the resiliency and reliance of the transmission system are substantial so Mr. Higgins says, clearly under the SICA test the application can be approved.

Board Attorney Brown stated that it is not directly germane, so you may not be able to help when you look at the proposed pole. Except for 3 inches, it is all within the right of way. Board Attorney Brown asked Mr. Higgins if he was saying that whatever is in the right of way is irrelevant.

Mr. Higgins said that he was not saying it is irrelevant. He was saying it doesn't require a use variance.

Board Attorney Brown questioned is it relevant to the Council's decision then within the right of way when the applicant goes before the board which Mr. Beyel has consented to. What rights would the Council have in order to consider whether or not what is proposed is satisfactory or permitted.

Mr. Higgins, stated, that in terms of rights, that is a legal question. In terms of practicality in Mr. Higgins experience, if the Borough Council were to prohibit the pole, the applicant would have to appeal to the Board of Public Utilities and in all likelihood the Board of Public Utilities would approve the pole. Mr. Higgins says that for certain. That has been Mr. Higgins experience.

Board Engineer/Planner Avakian stated that he wanted to clarify something that he utilized for the Planning aspect of the review of this application. So the Board members understand, the applicants secured easements. There are two easements each 25 feet approximately on the two properties. It is 25 feet wide by 50 feet long easement area incorporating both properties. The pole is right in the middle of them. The real reason the easement is needed is because they can't take down the transmission lines on the existing poles before they put the new pole up. You can't say why don't you push the new pole right up against the curb line because the existing pole is there. So, they are pushing the pole to the east. Board Engineer/Planner Avakian utilized the easement as part of the project site for the evaluation. Board



Engineer/Planner Avakian is not talking about 3 inches. Board Engineer/Planner Avakian is saying the applicant can put the pole within the right of way and easement areas and have the approval to do that.

Board Engineer/Planner Avakian is not talking inches but talking area. The applicant's testimony is the same. It is just that Board Engineer/Planner Avakian doesn't think we are going to worry about where that pole ends up being, as long as it is located in a safe place for the Borough. Board Engineer/Planner Avakian thinks the testimony was valuable.

Board Attorney Brown asked if the applicant cares if the pole is located in the easement rather than the right of way and would that alleviate the need for the guide rail?

Mr. Beyel stated that there are engineering issues about wanting to have the poles in a straight line.

Ms. Meehan stated that issue would cause similar issues as moving the lines to across the street. Pushing the lines too far back onto that private easement would have negative impacts to the adjacent structures and to the vegetation and clearing for at a few spans past structure 218.

Ms. Kapp asked if the pole could be placed 15 feet off of the road in the same line it is in, so it is continuing the straight line.

Mr. Morris stated that would impact usually two poles on either side, so you have to tie those poles together.

Ms. Meehan stated that moving the pole 15 feet back toward the property owner would not impact the wires towards Darlene Avenue. It would impact the wires up and down Wickapecko Drive. Moving the line angle here increases the line angle on the adjacent structures.

Chairman Papp stated that guide lines are not as impactful as a guard rail. When we talk about negative and positive criteria guide lines are not as impactful as a guide rail.

Ms. Meehan noted that a majority of the guide rail is behind the trees that are currently there.

Ms. Kapp stated the guide rail is 145 feet.

Mr. Morris stated that the lead attenuator is much longer than the lag attenuator.

Mr. Beyel stated that the applicant is here for the D1 variance. Mr. Higgins explained the SICA standard that governs it. The applicant spoke about many things and tried to indicate to the Board what the project entails. The applicant would like to reemphasize the critical nature of this project and why it is so important for not only Interlaken citizens but the citizens of the State. JCP&L has committed its resources to this project because it feels it needs to do so. So do FERC and MERC and PGM and all of the other bodies that supervise it. This is an essential project. We have to move forward with the application. It is really quite straight forward. There may be an encroachment for the foundation on those two lots and the applicant needs a D variance for that because that would represent potentially a commercial use in this residential zone. There has been discussion regarding many things, the guide rail and other things that are of interest. The applicant is willing to have some ongoing dialog with the governing body about these things, but they don't really have anything to do with the application. It is a very straightforward application. As Mr. Higgins has indicated under the SICA test for special reasons,

part of the analysis has already been satisfied because it is an inherently beneficial use. The statute says the variance should be granted unless the relief cannot be granted without substantial detriment to the public, not modest or slight detriment, substantial detriment to the public good. Allowing the applicant to put a foundation potentially 3 inches onto someone's adjacent property, it would be hard to support a decision to say doing that in some way represents substantial detriment to public good. Also, there will not be substantial detriment to public good and also it would not substantially impair the intent and purpose of the zone plan. The SICA case said that any project involves some impact, but the test is whether there is a substantial impairment to the intent and purpose of the zoning plan and 3 inch encroachment for a foundation onto two adjacent lots simply does not represent a substantial impairment on the intent and purpose of the zone plan. Mr. Beyel asked for an affirmative vote so the applicant can move forward with this critical project.

Chairman Papp stated for the record there is no public present.

Ms. Heinz questioned whether there could be a sidewalk installed between the pole and the guide rail.

Board Attorney Brown brought up a procedural point the applicant has finished its presentation, including a summation, with no members of the public here we have a motion to close the record.

UPON MOTION of Vice Chairwoman Umfrid seconded by Mr. Weaver carried, the Board closed the record.

#### ROLL CALL:

In Favor: Chairman Papp, Vice Chairwoman Umfrid, Mr. Tilton, Ms. Dalton, Mr. Wasilishen, Ms. Heinz, Mr. Weaver and Ms. Kapp

Opposed: None

Ineligible: Councilman Butler and Mr. Blasucci

Abstain: None

Absent: Ms. Kane

Board Attorney Brown suggested that someone offer a motion to either approve or not approve than the Board can have discussion on the motion.

Vice Chairwoman Umfrid asked about the details of the easements that the homeowners Fiorello, Conti and Gentile signed. The Board does not even know what was in them.

Chairman Papp agreed and asked if the Board could make a legitimate determination if this application is approved or not because the Board does not feel that those easements have the detail that is needed to make a decision.

Vice Chairwoman Umfrid stated that the detail might be in the easement agreements, but the Board has not seen the agreements.

Board Attorney Brown stated that the Board could have that discussion. If it is a consensus of the Board if it wants to indicate this or other things the Board could make a request of the applicant. If the applicant says they want to vote without it, Board Attorney Brown supposes the Board could follow the request and vote without it and that can be part of the determination.

Mr. Wasilishen questioned whether easements normally have to be filed by with the County.

Board Attorney Brown stated that normally they do.

Mr. Tilton stated that the easements are on the County site. The whole matter is an appeal of an application and if the Board looks at the application for which this emanates, it was just left blank. It seems to contemplate that the whole application was in the right of way, and it turns out that at least 3 inches will be in the easement area. Mr. Tilton did take a look at the easement and his takeaway away from those easements it was that it was more about the maintenance of the utility poles. Mr. Tilton did not see anything about 75-foot towers and guard rails etc. To Mr. Tilton, as a procedural matter, the Borough has two residents in our town that Mr. Tilton is not sure that they know what they are in for. And regardless of that, Mr. Tilton does not know if the Board has jurisdiction to it hear the matter if a portion of the application, be it one inch, 3 inches or 30 feet it doesn't matter a portion of this application, is on private property. Mr. Tilton does not see on those recorded easements that JCP&L has the right to pursue a variance on behalf of the homeowners. Mr. Tilton questioned why the property owners didn't join the application. It is a procedural question for whatever person has to look at all of this depending on how this goes.

Board Attorney Brown noted the comments. There is one evidential issue and also a jurisdictional issue. Mr. Tilton brought this up before. There was not a formal determination by the Board. Board Attorney Brown supposes it was necessary to hear the testimony tonight. Mr. Tilton is very knowledgeable in that area. The question is, if there is no waiver of the issue of gaining a consent or even if it is not necessary, if there is a concern about the document itself or testament produced which may or may not give jurisdiction then you could adjourn. Board Attorney Brown does know what the time frame. Normally, the applicant will grant an extension of time, if necessary, because of the need for more information. This Board's decisions are decided pretty quickly, as a matter of formality the Board still has applicants sign waivers. The issue now is that the Board still has a question about the language of the easement. The Board does not have that so is it fair to ask if the Board requesting that it be provided with that easement to discern basic jurisdictional issues and also based on other issues giving fairness that be part of the record in order to make a determination.

Board Attorney Brown stated that Vice Chairwoman Umfrid and Mr. Tilton brought up concerns to the Board about what the easement actually says and whether the applicant is entitled to or not. Board Attorney Brown does not know if this Board can make a decision what actually those easements gave JCP&L the right to do. The logic also is that an owner is the one who makes application and so the owner in fee simple is with the owners in question who are not part of the application. JCP&L makes, generally speaking, that an easement has been granted in 2021, that JCP&L have rights but haven't produced anything that specifically indicates this. Maybe JCP&L does but the Board does not have it.

Chairman Papp stated that the drawing is dated July year 2022 and the easement was agreed to two years prior to that.

Mr. Beyel stated that he knows from the notes of the person who negotiated it, the negotiation began on May 14, 2020 but does not know the date it was memorialized. Mr. Beyel asked the Board to assume the easement is a generic JCP&L easement. These property owners have suffered no loss. In the due process rights they had every opportunity to look at the drawing. They had every opportunity to be at the meeting tonight. If they read the paper, they would have seen or just read the notice that was mailed to them, it was mailed to them twice, that this is a project it is going to involve a steel pole, that is going to be 75 feet in height and the applicant wanted all the waivers and approvals necessary for approval. Whether the easement says, by the way the pole might be steel, and it might be 75 feet in height, it doesn't have anything to do with this Board's jurisdiction and decision. If anything, it is a private property issue between those folks and JCP&L. If after the Board votes, the homeowners decide that they want to challenge JCP&L's right to go forward, Mr. Beyel guesses they will do that. Mr. Beyel does not really think they would do that. If the property owners were that interested, they would have called somebody. They would have come in and looked at the drawings. They would have attended the meeting tonight. They could have found out chapter and verse what it was that JCP&L is proposing to do and the give and take with this Board about what other concerns there might be. They would have heard all that testimony. They could have done it. That is the purpose of the notice. That is what the statute says. Give them notice. They have a chance to come in just like any other person of the public. The issue the Board is raising is a hypothetical question they might have. Would the homeowners come in and say, "Well we got paid money so that there could be an encroachment on my property. Gee, it might only be 3 inches but I am getting paid money so you can build an enhancement to your transmission network." Did the easement say 75-foot pole? It probably did not, because of the general easements from the company Mr. Beyel has never seen one that is that precise. Mr. Beyel does not expect this one would be. That is a property rights issue between that owner and JCP&L. Arguing that the JCP&L did something more than what was contemplated by the easement, that would be their legal claim. That is between them and JCP&L. It is not a matter that concerns this Board. The Board's jurisdiction is to decide whether this inherently beneficial use project satisfies the special reasons test. Is the impact by this encroachment something that will substantially impair the intent and purpose of the zoning ordinance. That is the issue before this Board. That is the issue this Board decides. It is not a matter that this Board gets to negotiate on behalf of property owners who didn't show up who didn't respond to any notice and who didn't exhibit a level of interest or concern. One property owner has wonderful ever greens in front of their home but likely it will screen a lot of this pole. Mr. Beyel is absolutely certain from their front yard the homeowners won't see a 3-inch encroachment on their property. The other property has guide wires. Those guide wires on their lawn will disappear if a steel pole is put up. These would be legal issues the property owners would have with JCP&L about the easement itself and whether the full scope of what JCP&L might choose to do under the authority of the easement. If they say it wasn't broadly drafted enough or they didn't give an easement that allowed JCP&L to do that then the homeowner has a fight with JCP&L and that has to be worked out somehow. We've been talking about quite a bit that does not concern this Board. The Board does not have jurisdiction to decide sidewalk and stuff that goes in the right of way. That may be being addressed with the governing body. It was indicated that the applicant will talk to governing body, and it is unknown what their requirements might be, and applicant has to live within the requirements imposed by the Department of Transportation. The applicant is willing to have a dialog but that is not something that this Board has to decide and that is not something that this board can decide.

Chairman Papp stated that a motion be made that includes the applicant going before the governing board for discussion about the impact of what is actually put in place.

Board Attorney Brown said the matter should be an approval not a discussion.

Mr. Tilton stated asked whether the Board needs the owner's consent. A third-party applicant is requesting relief on a private property. Mr. Tilton heard there was an easement, but shouldn't the owner be joining the application?

Board Attorney Brown stated that the applicant is making a representation that under the easement rights, they have a sufficient interest to ask for the relieve they requested. The challenge the Board has is that the Board does not know what the easement says. It is not here and that is logically why Vice Chairwoman Umfrid would ask. It is normal and under due process that if an applicant is appearing on behalf of an owner who has rights, that there is a consent. Board Attorney Brown does not believe that was provided. The Board could waive the consent but there is a concern about whether or not there is a joining in. There is knowledge that JCP&L is exercising their easement rights for a third party. The Board could decide that they don't have jurisdiction. Board Attorney Brown is not saying it could be right or wrong. It was raised in the beginning. It is still obviously a concern so there is a request for a decision. If the Board would decide there is no jurisdiction for the reasons that have been discussed than do so. That would be the end of it. If the Board decides that it wants to waive or determine that in this particular case a consent is not required and whatever rights that are in the easement are as represented by the testimony and the Board can vote on the merits that Mr. Higgins testified to.

Mr. Beyel asked if the issue becomes mute if JCP&L gets a letter from the two affected property owners saying that they reviewed the application to their satisfaction and give their consent to it.

Board Attorney Brown stated that it would.

Mr. Beyel stated that the applicant would do that.

Board Engineer/Planner Avakian stated that it would make sense.

Chairman Papp and Vice Chairwoman Umfrid agreed.

Mr. Beyel stated that much as the as the Board is saying that the applicant appears before the governing body to talk about the project and the interplay. That is fine. Certainly, getting a letter a letter, Mr. Beyel does not think it has to be more formal than that from those property owners consenting to the application.

Board Attorney Brown stated that he wanted to be clear that there is a determination from the Borough review of the matter that approval is somehow imparted. It is just not discussing the matter. Board Attorney Brown wants to keep that opportunity available. The Board is not indicating that we have the ability of or making a recommendation and it is just a discussion.

Mr. Beyel stated that maybe there is some wordsmithing on Board Attorney Brown's part on the resolution between now and the date it is memorialized. It can be figured out if there an application process with the municipal body, probably through its attorney.

Board Attorney Brown suggested getting a notarized letter from the homeowners.

Papp the letter should include that the homeowners reviewed the site plan.

Mr. Beyel stated the homeowners will be given everything that the Board has been given, which is what they could have gotten if they have come to the meeting. Essentially, we are renoticing them in another way, but we are giving them the documents.

Board Attorney Brown stated that everybody does not need to be notified just the two property owners.

The Board wants to have those letters before a decision is made. There will be an adjournment to this application if Mr. Beyel would consent to extend the time. Board Attorney Brown asked that the applicant come back with the letters at the next hearing date of January 23, 2022.

Mr. Beyel asked that the Board approve the application conditioned upon the applicant coming in with that typed letter. Mr. Beyel's expectation is that the letter will be gotten before the decision is memorialized.

Board Attorney Brown stated that as a board attorney for 40 years he has never done a resolution subject to something substantive like this but could help by submitting himself to prepare a resolution of memorialization which would technically be a resolution with the understanding that the applicant supply the proof and that the applicant satisfies the Board and between now and then. The applicant's engineer and Board Engineer/Planner Avakian can consult with the Borough representative so this Board will be educated of what the scope of review would be. It would be very short at the next hearing, and everything can be done at that time.

Chairman Papp stated that the Board would have everything they need.

Mr. Beyel stated that it would be prudent to grant an extension of time.

Board Engineer/Planner Avakian noted that the next Planning Board meeting is pushed a week later due to the holiday, so there will be a Council meeting prior to the next Planning Board meeting.

Chairman Papp asked the Board if they were comfortable tabling the application to the January meeting.

Mr. Weaver asked if time was of the essence for the applicant considering the cost of the project.

Mr. Beyel stated that it seems like there is an effort by the Board to try to move forward as expeditiously as possible. The Board has given a window of time to talk to the property owners. The applicant will have a discussion with Council and will be back on January 23<sup>rd</sup>. That is fair and appreciated.

Board Attorney Brown stated that as a matter of pragmatics what he offering to do, with the authorization of Chairman Papp, is to set it up so there is no loss time because their rights aren't affected until 45 days after publication and it would never have been in publication until after the January meeting anyway. Time is of the essence, but as you heard, the process is not losing any time.

There was a brief discussion regarding what members would be available for the January meeting and who is eligible to vote.

Board Secretary Kneser noted that January meeting is the reorganization meeting.

Board Attorney Brown suggested that the applicant wait until the January meeting.

Mr. Beyel noted that it seems there are a number of members of the Board who are reluctant to vote yay or nay. The procedure that has been outlined has been fair and reasonable and the applicant will do its part to get the consent to the Board.

There was a brief discussion of who to contact and how to arrange a meeting with Council.

Board Attorney Brown stated that the motion will be that the notice to the general public does not need to be made. It is just that counsel for the applicant is representing that he will speak to the owners.

Board Engineer/Planner asked if the Board felt the need to get any additional information from the applicant's expert witnesses.

The Board had no additional need.

There was a brief discussion regarding the need for the professional witnesses at future meetings. It is believed that it will not be necessary to have the out of state witnesses come back.

UPON MOTION of Mr. Weaver seconded by Vice Chairwoman Umfrid, carried, the Board tabled the application noting that the applicant will be speaking with the adjacent property owners regarding the easements, but the general public does not need to be noticed.

ROLL CALL:

In Favor: Chairman Papp, Vice Chairwoman Umfrid, Mr. Tilton, Ms. Dalton, Mr. Wasilishen, Ms. Heinz, Mr. Weaver and Ms. Kapp

Opposed: None

Ineligible: Councilman Butler and Mr. Blasucci

Abstain: None

Absent: Ms. Kane (left early)

The applicant and all of the witnesses left the table at this time.

Councilman Butler gave an update to the Board regarding the Land Continuity Review given to Borough Council. The review was discussed at Council's August workshop where every line item was reviewed. The Mayor Nohilly, Councilman Butler and Borough Administrator, Lori Reibrich had additional review at a November 18, 2022 meeting. Council took action to put in place an ordinance regarding cabanas and amended the ordinance pertaining to accessory fixtures. Councilman Butler believes that Council will be reviewing ordinances pertaining to garages next. Council will be going through the list and addressing a majority of them but will not be considering all of the suggested changes.

Ms. Kapp asked about whether the subject of swimming pools and hot tubs could be brought up, as it was not part of the initial review sent to Council.

Councilman Butler stated that Council did talk about pools and hot tubs at the November 18, 2022, meeting because the definition of the pool is that it can't be anything more than 12 inches above ground.

Chairman Papp noted that garages are important. Garages needs to be addresses as soon as possible.

Ms. Heinz asked about floor to area ratio.

Chairman Papp stated that he heard some indication that floor area ratio is not going to be changed. The Board will find out the reasoning.

Ms. Heinz questioned the height restriction of the House of Worship zone.

The Board had a brief discussion regarding height restrictions for Houses of Worship.

UPON MOTION of Ms. Kapp, seconded by Vice Chairwoman Umfrid, carried, the Board adjourned the meeting.

In Favor: Chairman Papp, Councilman Butler, Vice Chairwoman Umfrid, Mr. Tilton, Ms. Dalton, Mr. Wasilishen, Ms. Heinz, Mr. Weaver and Ms. Kapp

Opposed: None

Ineligible: None

Abstain: None

Absent: Ms. Kane (left meeting early)

Approved: \_\_\_\_\_  
Mr. Papp, Chairman

Attest: \_\_\_\_\_  
Gina Kneser, Secretary