**BOROUGH OF INTERLAKEN**

**MINUTES- PLANNING BOARD**

**JANUARY 23, 2023 7:30 P.M.**

**BOROUGH HALL, 100 GRASSMERE AVENUE**

 A meeting of the PLANNING BOARD of the Borough of Interlaken, Monmouth County, New Jersey was held on January 23, 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.

ROLL CALL:

Present: Chairman Papp, Vice Chairwoman Umfrid, Ms. Dalton, Mr. Wasilishen, Ms. Kane, Mr. Weaver and Ms. Heinz

Also Present: Planning Board Attorney Kevin Kennedy, Special Planning Board Counsel, Sanford Brown, Planning Board Engineer/Planner Peter Avakian and Planning Board Secretary Gina Kneser

Absent: Mr. Blasucci, Mr. Tilton, Ms. Kapp

Late Arrival: Ms. Kane 7:37pm

UPON MOTION of Ms. Dalton seconded by Vice Chairwoman Umfrid carried, the Board approved the minutes of the December 19, 2022, meeting.

ROLL CALL:

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton, Ms. Kapp and Ms. Kane (late arrival)

Mr. Avakian advised the Board that he has worked with Mr. Kennedy for years on Planning Board and Redevelopment projects and also with the NJ State Planning Officials for Planning Board Certification courses stating that Mr. Kennedy is a great attorney, and he can’t say enough about him.

Mr. Kennedy stated that the appointment would be very much appreciated, and Mr. Kennedy will certainly do his best represent the interests of the board and look forward to working with you for 2023.

Ms. Kane arrived at 7:37 and joined the table.

**RESOLUTION APPOINTING KEVIN E. KENNEDY, ESQ.**

**TO SERVE AS COUNSEL TO THE**

**INTERLAKEN PLANNING BOARD**

**(2023)**

 **WHEREAS**, the Interlaken Planning Board is a duly organized Planning Board (hereinafter referred to as “Planning Board”) having principal offices at 100 Grasmere Avenue, Interlaken, NJ; and

 **WHEREAS**, there is a need for the Planning Board to retain the services of a Board Attorney in order to represent its legal interests; and

 **WHEREAS**, Kevin E. Kennedy, Esq., (hereinafter referred to as “Attorney”) has expressed an interest in representing the Planning Board in the said regard; and

 **WHEREAS**, the legal services to be provided are deemed to be “professional services” pursuant to the Local Public Contracts Law (N.J.S.A. 40:A11-1, et seq.); and

 **WHEREAS**, the Local Public Contracts Law authorizes the awarding of a Contract for “professional services” without public advertising for bids and bidding therefore, provided that the Resolution authorizing the Contract and the Contract itself are available for public inspection in the Office of the Municipal Clerk and that notice of the awarding of the Contract is published in a newspaper of general circulation in the municipality; and

 **WHEREAS**, the Planning Board having considered the matter, now wishes to authorize the awarding of a professional service contract to Kevin E. Kennedy, Esq., for the purpose of rendering necessary legal advice.

 **NOW, THEREFORE, BE IT RESOLVED,** by the Planning Board of the Borough of Interlaken as follows:

1. That the Interlaken Planning Board is hereby authorized to award a Contract to Kevin E. Kennedy, Esq. so as to represent its interests, as General Counsel, in connection with all Planning Board matters.
2. That the compensation associated with the said representation shall be $150.00 per hour, and the same shall be memorialized in a Contract for Legal Services, which is incorporated herein at length.
3. That the Board Chair, Vice-Chair, Secretary, and other appropriate representatives, are hereby authorized to sign the said Professional Service Contract, which shall be approved as to form by the Borough Attorney.
4. That the within Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5, et seq. of the Local Public Contracts Law of New Jersey, because the services rendered will be performed by persons authorized by law to practice a recognized profession.
5. That, in accordance with N.J. law, notice of the within appointment shall be published in the Borough’s official newspaper.

UPON MOTION of Mr. Wasilishen seconded by Vice Chairwoman Umfrid carried, the Board approved the appointed.

ROLL CALL:

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton, and Ms. Kapp

Chairman Papp stated that Mr. Sanford Brown was appointed as Special Counsel to continue work on the JCP&L Utility pole application.

**RESOLUTION APPOINTING SANFORD D. BROWN, ESQ.**

**TO SERVE AS SPECIAL COUNSEL TO THE**

**INTERLAKEN PLANNING BOARD**

**(2023)**

WHEREAS, the Interlaken Planning Board is a duly organized Planning Board (hereinafter referred to as “Planning Board”) having principal offices 100 Grasmere Avenue, Interlaken, NJ 07712; and

WHEREAS, there is an occasional need for the Planning Board to retain the services of Special Counsel in order to represent its interests in connection with various matters, including the pending JCPL Application and other designated matters; and

WHEREAS, Sanford D. Brown, Esq. (hereinafter referred to as the “Attorney” or “Special Counsel”) has expressed an interest in representing the Planning Board in the said regard; and WHEREAS, the legal services to be provided are deemed to be “professional services” pursuant to the Local Public Contracts Law (N.J.S.A. 40:A11-1, et seq.); and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a Contract for “professional services” without public advertising for bids and bidding

therefore, provided that the Resolution authorizing the Contract and the Contract itself are available for public inspection in the Office of the Municipal Clerk and that notice of

the awarding of the Contract is published in a newspaper of general circulation in the municipality; and

WHEREAS, the Planning Board having considered the matter, now wishes to authorize the awarding of a Professional Service Contract to Sanford D. Brown, Esq. for the purpose of rendering necessary legal advice / guidance in connection with various matters, as specifically designated by the Board;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Interlaken as follows:

1. That the Interlaken Planning Board is hereby authorized to award a Contract to Sanford D. Brown, Esq. so as to represent its interests, as Special Counsel, in connection with the specifically designated matters.

2. That the compensation associated with the said representation shall be $150.00 per hour.

3. That the Board Chair, Vice-Chair, Secretary, and other appropriate representatives, are hereby authorized to sign the said Professional Service Contract, which shall be approved as to form by the Board Attorney or the Borough Attorney.

4. That the within Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5, et seq. of the

Local Public Contracts Law of New Jersey, because the services rendered will be performed by persons authorized by law to practice a recognized profession.

5. That, in accordance with N.J. law, notice of the within appointment shall be published in the Borough’s official newspaper.

The following members were sworn in Board Attorney Kennedy:

Name Class Term Expiration

Marguerite Dalton Class II 12/31/2023
Thomas Papp Class IV 12/31/2026

Thomas Wasilishen Class IV 12/31/2026

Douglas Weaver Class IV 12/31/2026

Amanda Kane Class IV 12/31/2026

Jodi Heinz Alternate 12/31/2025

Board Attorney Kennedy congratulated the newly sworn members.

Ms. Kathy Umfrid NOMINATED Mr. Papp as PLANNING BOARD CHAIRPERSON, seconded by Ms. Heinz.

With no additional nominations, the Board voted and carried. The following resolution was adopted:

BE IT RESOLVED by the Interlaken Planning Board that the APPOINTMENT of Thomas Papp as Chairman for the year 2023 is hereby approved.

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton, and Ms. Kapp

Chairman Papp thanked the Board for their vote of confidence.

Chairman Papp opened the floor for nominations for Vice Chairperson.

Ms. Heinz NOMINATED Ms. Umfrid as PLANNING BOARD VICE CHAIRPERSON, seconded by Mr. Wasilishen

With no additional nominations, the Board voted and carried. The following resolution was adopted:

 BE IT RESOLVED by the Interlaken Planning Board that the APPOINTMENT of Kathy Umfrid as Vice Chairwoman for the year 2023 is hereby approved.

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton, and Ms. Kapp

Vice Chairwoman Umfrid thanked the Board.

 Chairman Papp congratulated Vice Chairwoman Umfrid.

UPON MOTION of Mr. Weaver, seconded Ms. Dalton, carried, the following resolution was adopted:

 WHEREAS, There is a need for a Board Engineer and Planner, and

 WHEREAS, FUNDS ARE AVAILABLE FOR THIS PURPOSE and the Local Public Contracts Law (N.J.S.A. 40A:11-1 et. seq.) requires that the appointments made without competitive bidding must be publicly advertised.

 NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Interlaken, that:

 The Planning Board hereby engages the services of PETER R. AVAKIAN, P.E., of Leon S. Avakian, Inc., as Board Engineer and Planner. These appointments are being made under the same terms and conditions as 2022 and for the term of one (1) year, effective January 1, 2023.

 1. These appointments are being made without competitive bidding because these appointments involve a member of a recognized profession, licensed and regulated by law, and are, therefore, exempt under N.J.S.A. 40A:11-5.

 2. The Planning Board Chairman and Secretary are hereby authorized and directed to execute agreements with PETER R. AVAKIAN, P.E.

 3. A copy of this Resolution shall be published in The Coaster as required by law.

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton and Ms. Kapp

 UPON MOTION of Mr. Weaver, seconded by Mr. Wasilishen, carried, the following resolution was adopted:

 BE IT RESOLVED by the Interlaken Planning Board that The Coaster and the Asbury Park Press are hereby designated as Official Newspapers for notices and matters as may be deemed necessary, according to law.

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton and Ms. Kapp

UPON MOTION of Mr. Weaver, seconded by Vice Chairwoman Umfrid, carried, the following resolution was adopted:

WHEREAS, the Open Public Meetings Act is the law of the State of New Jersey and provides for Public Notices to be given to certain requirements concerning meetings of the Planning Board of the Borough of Interlaken, and

 WHEREAS, the Planning Board of the Borough of Interlaken, and regular meetings and such meetings as may be necessary to carry out the business of the Planning Board and the Board wishes to adopt certain basic rules and regulations.

 NOW, THEREFORE, BE IT RESOLVED that the following schedule is hereby adopted by said Board:

 The regularly scheduled meetings of the Planning Board of the Borough of Interlaken shall be held at 7:30 PM on the third Monday of each month except in the case of legal holidays and other appropriate reasons when the meeting will be set forth as provided by law.

 In the event of the Board’s lack of business, notice will be given to an official newspaper of the Board on the cancellation of said meeting.

 All meetings shall be held in the Borough Hall, 100 Grassmere Avenue, Interlaken, New Jersey.

 THEREFORE, PURSUANT TO THIS RESOLUTION, the following dates for regular meetings shall be:

February 27, 2023\* August 21, 2023

March 20, 2023 September 18, 2023

April 17, 2023 October 16, 2023

May 15, 2023 November 20, 2023

June 26, 2023\* December 18, 2023

July 17, 2023 January 22, 2024\*

\*Meeting moved due to Holiday

THEREFORE, PURSUANT TO THIS RESOLUTION, the dates for work sessions shall be determined on an as needed basis and notice of work sessions will be published in The Coaster or the Asbury Park Press.

 BE IT FURTHER RESOLVED that in the event regular meetings or additional meetings have to be held at a date, time and place other than set forth herein due to unforeseen circumstances or in any emergency or for other appropriate reason, same shall be held at a date, time and place set forth by the chairman or according to law, and published in The Coaster or the Asbury Park Press and one in the office of the Borough Clerk.

 BE IT REOLVED that the Board requires that all applications and appropriate plans in support thereof be received at least fourteen (14) days prior to the regular meeting at which it is proposed that the matter be heard.

 THEREAFTER, the Board, at its discretion, will advise the applicant of the specific hearing date to appear for public hearing by the Planning Board Administrative Officer when the application and plans have been determined to be complete.

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton and Ms. Kapp

UPON MOTION of Mr. Weaver, seconded by Mr. Wasilishen, carried, the following resolution was adopted:

WHEREAS, the Planning Board of the Borough of Interlaken is required, pursuant to the N.J. S. A. 40:55D-70.1 and 40:55D-25c., reviewed at least once a year its decision on applications and appeals for variances, and to prepare and adopt by Resolution a report on its findings on Zoning Ordinance provisions which were subject of variance requests and its recommendations for Zoning Ordinance amendments or revisions, if any, and

WHEREAS, the Board has prepared a report, has discussed same, and find the report to be proper;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Interlaken, as follows,

1. The report, a copy of which is attached hereto and incorporated herein, is approved.

2. The Chairman of the Board is hereby authorized to execute the report.

3. A copy of the report and the herein Resolution shall be forwarded to the Mayor and Council.

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton and Ms. Kapp

Chairman Papp opened the floor for nominations for the Planning Board Secretary.

Ms. Kane NOMINATED Gina Kneser as PLANNING BOARD SECRETARY, seconded by Vice Chairwoman Umfrid.

With no additional nominations, the Board voted and carried. The following resolution was adopted:

 BE IT RESOLVED by the Interlaken Planning Board that the APPOINTMENT of Gina Kneser as Board Secretary for the year 2023 is hereby approved.

ROLL CALL:

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton and Ms. Kapp

Planning Board Secretary Kneser thanked the Board for their appointment.

APPLICATION

Jersey Central Power & Light

Utility Pole

Borough of Interlaken Right of Way

Special Counsel Brown joined the table.

Board Attorney Kennedy left the table and sat in the audience.

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

Mr. Beyel thanked everyone for their time and stated that the applicant was last before this body on December 19, 2022 where testimony was presented by Andrew Horn and Morgan Meehan about the need for this project. Mr. Beyel stated that Ms. Meehan described the poles and why they are selected. The poles were selected because of the need for strength, stability and to maintain safety. Mr. Beyel stated that there had been testimony from professional planner, Jim Higgins to acquaint the Board with the appropriate standard for review of this application. Mr. Beyel stated that the applicant also had Jeff Morris from Boswell Engineering testify. Mr. Morris was the one who had the drawings displayed for the Board. Mr. Beyel stated that the applicant was given two tasks. The first task was to submit to supply information to two neighbors, both of whom had received notice of the application, because they were within two hundred feet of the project and also had the opportunity to review that as published in the local paper. The neighbors on the two properties were Mr. & Mrs. Gentile at 50 Wickapecko Drive and Michele Loconte and Luanne Fiorillo at 737 Bridlemere Avenue. Following up on that request Mr. Beyel did assemble a package of material and particularly sent the neighbors those things that they would not have seen in the application materials because they were marked as exhibits. Mr. Beyel gave the neighbors the full-size drawings and pictures and schematics of where the lines went and all that sort of thing. Mr. Beyel indicated a willingness to meet with the neighbors and answer any question they might have and to do that in person to go through it with them and to present a form of consent to them. The Gentiles were kind enough to call Mr. Beyel and arrange a time to meet. Mr. Beyel met the Gentiles in their home for over an hour and went through the application as it was and explained what the Board was asking the applicant to do. As part of that presentation the Gentiles signed a form of consent. Mr. Beyel stated that he had not been able to schedule an appointment with Ms. Loconte or Fiorello because they haven’t responded to calls from JCP&L’s land agent. Mr. Beyel stated that, because they were literally around the corner, Mr. Beyel walked over to the Loconte/Fiorello home and knocked on the door. One of the owners opened the door a crack and acknowledged that she received the papers that were sent Federal Express. The owner declined to speak to Mr. Beyel. He was not able to speak to her.

Mr. Beyel asked that the recorded property easements be marked into evidence along with the consent that the Gentiles executed. The original consent was sent to the Board Clerk.

Special Counsel Brown marked a copy of the easement for Mr. & Mrs. Gentile at 50 Wickapecko Drive as A-7 and the easement for Loconte and Fiorello, two individuals, at 737 Bridlemere Avenue as A-8.

A copy of the Consent, signed by the Gentiles and notarized by Mr. Beyel was marked as A-7 by Special Counsel Brown and included a cover letter that it was sent to the Board as well. .

Special Counsel Brown revised plans dated January 20, 2023, titled “Shifted Structure Away From Road” as exhibit A-10.

Special Counsel Brown distributed the one-page document marked A-10 to the Board to pass around to be able to look at it while the applicant described it.

Mr. Beyel stated that he does not think it was disputed that this Board does not have jurisdictional authority over matters such as placement of the sidewalk along this property. It was an item of interest that this Board had. Because it is a project within the right of way, it was more properly considered by the Mayor and Council.

Mr. Beyel stated that he appeared before the Mayor and Council where he highlighted the need for this project and why JCP&L is seeking approval for the project. The meeting participants did not rehash the application before the Planning Board. That probably would not be appropriate. Mr. Beyel stated that the applicant did hear the Mayor and Council express their strong interest in JCP&L working, if at all possible, to redesign and reposition the foundation such that there would be adequate space for a sidewalk. The Mayor and Council made it clear that it was the municipality’s desire that JCP&L do that and further that JP&L agree to bear the cost of constructing such a sidewalk.

Mr. Beyel stated that JCP&L redoubled its efforts. The process culminated in the drawings that the applicant’s engineer presented. The applicant was able to leave adequate room for the guide rail, the sidewalk and the pole. The adjustment results in moving the project into the property more than the applicant had originally planned or intended. JCP&L has a 25ft wide easement and are not using the full portion. JCP&L is utilizing more than had originally been intended. The project was redesigned to meet the concerns from this body and expressed by the Mayor and Council.

Mr. Beyel stated that the revised plans were sent to Board Engineer/Planner Avakian by email. With that the applicant completed the tasks assigned. Mr. Beyel stated that when he met with the Gentiles, he advised them of the meeting. Mr. Beyel told the Gentiles what the status of the application was and what will be presented at the meeting. Mr. Beyel told the Gentiles that JCP&L would work, if possible, to accommodate the sidewalk. Mr. Beyel invited the Gentiles to attend the meeting and the Gentiles are in attendance.

Mr. Beyel noted that he never got a chance to talk to Ms. Loconte or Ms. Fiorello as they chose to have no communication.

Mr. Morris joined the table.

Special Counsel Brown stated that Mr. Morris testified at the December meeting and he is still under oath.

Mr. Morris used exhibit A-10 to describe the project revisions. Mr. Morris stated that the Board requested to have room between the back of the guide rail and the pole.

Mr. Morris handed out copies of exhibit A-10.

Mr. Morris stated that he was requested to determine the amount of space between the actual new pole and the back of the guide rail so a legal sidewalk can be placed in between. Several reiterations were considered but the final design was that the pole location testified to at the December hearing would be moved back 28 inches into the properties. The original encroachment was 2 inches into the property. The current proposed encroachment is 30 inches into the property. The revision moves the entire foundation five foot away from the guide rail so a four foot sidewalk can be accommodated without even having to go on top of the foundation even though the foundation is flush. Mr. Morris stated that that the foundation is four inches high. The sidewalk was going to be constructed flush with the foundation. Finally, JCP&L engineers figured out a way to get the pole moved 28 inches. There will be a six-foot diameter base and another five-foot area between the back of the guide rail and the foundation. That is all that was redesigned.

Chairman Papp opened the floor to questions.

Special Counsel Brown noted to the Gentiles that questions could only be asked at this time and that after the testimony and Board Engineer/Planner comments they would have the opportunity under oath to say what they want to say.

Mr. Gentile asked the circumference of the pole.

Mr. Morris stated that the pole is 3 feet 9 inches at the base and gets more slender as it goes up.

Board Engineer/Planner Avakian made summary comments to the Board. Board Engineer/Planner Avakian stated that everything heard at this hearing is absolutely correct. Subsequent to the last meeting one key issue that was being deliberated had to do with easement and consent of installation of the pole on, not within our right of way, but within the easement on these two properties. Easement documents have been provided. The documents had been filed with the county clerk. As indicated in the cover letter that accompanying the easements that was distributed, the Board said the rights were fairly broad and we bring it to JCP&L within those documents to allow for the installation of structures, poles, cables and wires for transmission of electrical facilities for JCP&L. It is a typical JCP&L easement for transmission of poles and transmission lines. That is what was granted by this easement, signed by property owners back in 2021. To Board Engineer/Planner’s mind as a planner, that satisfies the municipal land use laws. That satisfies the consent of the right to use the property. The Board did not have these documents at the last hearing, that is why board member Tilton raised the question. The Board has the documents now, further that the JCP&L attorney went and tried to meet with the property owners to further describe the influence.

Special Counsel Brown would like to concur with what Board Engineer/Planner Avakian. Special Counsel Brown and Board Engineer/Planner Avakian spoke regarding this summary. Special Counsel Brown would also concur from a legal point of view. Under the MLUL. the issue of due process, which is what the consent is all about, has been satisfied and it is in part represented by the fact that the Gentiles are in attendance. At the last hearing the Board determined that there was jurisdiction to hear the application, because everybody had been properly sent the notice pursuant to the statutes of municipal land use law. Because of the particularities of the Gentiles providing easement, the Board was a little uncomfortable and wanted to make sure that JCP&L would advise the Gentiles and as much as possible Ms. Loconte and Ms. Fiorillo what the details were. Mr. Beyel has represented that he provided the Gentiles with the various documents, so they were made aware. The Board went out of its way to try to make sure that the property owners were aware of what was going on. Special Counsel Brown made recommendation that the Board have a procedural vote to verify that everyone is in agreement that there is no due process issues and jurisdiction is confirmed along the lines of what Mr. Tilton brought up at the last hearing.

Chairman Papp stated that he was the Board can recall that this was one of the Board’s main concerns and has apparently been put to rest.

Chairman Papp stated that he was in attendance at the Council workshop to hear the presentation by JCP&L.

Special Council asked for a motion that the Board is satisfied that due process has been sustained by the applicant in giving the consent to the Gentiles and making all reasonable efforts to notify the owners of 737 Bridlemere Avenue.

Vice Chairwoman Umfrid made motion seconded by Ms. Kane

ROLL CALL:

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton, and Ms. Kapp

Board Engineer/Planner Avakian stated he arranged for himself, Mr. Beyel and Chairman Papp to be at the Council workshop on January 18, 2023. Board Engineer Avakian stated that he made a brief presentation, very carefully not discussing the overriding aspect of the land use application, because that is the Board’s jurisdiction. The municipal land use laws dictate that you should not discuss that. The discussion focused on the right of way issues, which is what the Mayor and Council were concerned with. Those right of way issues were two-fold which included the guardrail and the sidewalk. Mayor and Council were I will say cautions about the guiderail, questioning the need for the length. Mayor and Council were very emphatic about the need for the sidewalk. They are probably the only properties left in the borough without a public sidewalk. The Mayor and Council were emphatic about having a sidewalk and we appreciate that being part of the project.

Board Engineer/Planner Avakian stated that the sidewalk is always the responsibility of the property owners. Normally if there is not sidewalk or if there is a gap in the sidewalk. During the CO inspection at change of ownership, the inspector will note there is no sidewalk. To be issued a CO you have to install a sidewalk. In this case JCP&L is making the offer to cover the cost of the sidewalk

Special Counsel Brown noted, especially for the Gentiles, this is a use variance application. The application it is sort of unusual. It requires five of the members who are allowed to vote who are in favor. Mr. Beyel, through the witness that testified at the last hearing has to prove that the SICA standards are satisfied. The standards are called prongs. The third prong is mitigation of the harm that might be done by the improvements that are argued to be inherently beneficial.

Special Counsel Brown asked Mr. Beyel if he is arguing that by offering th sidewalk improvements and moving the pole is part of the mitigation.

Mr. Beyel stated that he does not think it is part of mitigation. It is a commitment that that the applicant is willing to make. Ordinarily that is a burden on the property owners and so JCP&L has agreed to bear the cost of construction. It could be viewed as part of the overall project. More particular as one of the prongs is to mitigate the potential impact. The Board may recall the testimony from JCP&L’s engineer that this particular pole was specially specked out differently. Poles of this height would normally be larger. This pole is smaller in size, and the foundation is somewhat smaller in size. It cost JCP&L more to utilize a different grade of steel but JCP&L committed to doing that. Also there was a request that JPC&L colorize the pole so it wouldn’t be the traditional metal steel pole. Mr. Beyel was told that that it is possible to do. It is an anodizing process. It is not something that is painted on that might chip off. The applicant is able to do it. The coloration will be somewhere between a bronze and a brown. Similar to which is on those existing poles going down Darlene Avenue. Mr. Beyel and the applicant think that those things satisfies the need for the application to the extent possible to mitigate the impact and the sidewalk is kind of an added bonus.

Special Counsel Brown noted that if the application gets the approval votes details regarding the anodizing can be sent to Board Engineer/Planner Avakian for review as a condition of approval.

Mr. Beyel agreed details would be provided.

Chairman Papp opened he floor for questions.

Mr. Gentile stated that he had a comment.

Chairman Papp stated that procedure dictates questions only at this time.

Board Engineer/Planner confirmed so that all Board Members understood the Ordinance 18-2.1 Mandatory Construction of Sidewalks and Curbs states that the owners of land in front of all streets, roads or highways in the Borough of Interlaken where there is no sidewalk or curbing shall construct sidewalks or curbing along said streets, roads or highways in accordance with the provisions of this section. Board Engineer/Planner Avakian noted that this section includes specific construction details that were provided to the Borough for this purpose.

Chairman Papp confirmed with Board Engineer/Planner Avakian that the ordinance includes that if there is no sidewalk the homeowner is responsible to put a sidewalk in.

Board Engineer/Planner Avakian stated that at the time Vice Chairwoman Umfrid was on Brough Council the Borough received a onetime grant to make sidewalk and Council chose not to do it so as not to affect sidewalks on private or in front of private residential properties because of this ordinance.

Special Counsel Brown clarified with Board Engineer/Planner Avakian that it would be fair to say that the Gentiles would have to be asked to pay for what the municipality directed its engineers or its contractors to install.

Board Engineer/Planner Avakian confirmed that if that was the course that the Borough chose to take then yes, the Gentiles would be asked to pay.

Special Council Brown stated that the Gentiles not necessarily should have done it in the past.

Board Engineer/Planner Avakian stated that it is just the responsibly.

Board Engineer/Planner Avakian stated that another item discussed in testimony were the revised plan drawings. In effect the utility pole was located slightly to the east to allow for the sidewalk construction to be unencumbered though the right of way area. The sidewalk will be 100% within the right of way. So everyone understands, the sidewalk currently ends at Bridlemere Avenue. It does not run along either of the two lots in questions nor the third lot to the north, but it does run down from Corlies Avenue to the south along the frontage of the one lot that was constructed with the major subdivision along Corlies Avenue many years ago.

Board Engineer/Planner Avakian stated that that is the extent of the testimony. If the Board has any questions pleas ask, but be very comfortable that the applicant has answered all the questions and gone beyond what the Board asked for, in terms of answering questions, because the applicant attended the council meeting with Board Engineer/Planner Avakian and met with Council.

Chairman Papp opened the floor to public comment.

Special Council Brown stated for the record that there are no more witness from the applicant.

Mr. and Mrs. Gentile were sworn in by Special Council Brown.

Mr. Gentile stated he and his wife have some problems with what has come up at this hearing. He does not like the way it is going. Mr. Gentile stated that he and his wife did not sign on for a pole to be pushed 28inches or more to be put on their property. They don’t want a sidewalk because that means they will have to have to take care of it and shovel. Mr. Gentile stated his home insurance will probably go up and also he does not want a guard rail in front of his house. That has to be the ugliest thing you ever seen in front of a residential house. The guard rail it is going to look like the turnpike. Mr. Gentile stated that if you look at the pictures ow what were sent to him, there is no guard rail on those telephone poles so why would you put a guide rail in front of Mr. Gentiles house. Mr. Gentile stated that it is bad enough to have the pole. He agreed to the pole. He realized something was going to eventually happen and there is not aa whole lot he could push back on. The pole is fine where it was originally supposed to be. Now it is 28 inches more ono his property. It is getting pretty close to his house. Mr. Gentile stated that he does not agree to it and will not accept it. Mr. Gentile does not want a sidewalk. That wass not in the original agreement that we signed on to.

Board Engineer/Planner Avakian stated that testimony was provided at the December meeting on the guide rail.

Mrs. Gentile stated that she and Mr. Gentile were both there and it felt like this has all been added on. This is not what we wanted to do. Ms. Gentile agreed with Mr. Gentile. They did not agree to any sidewalk or any of the other extra things that have been attached to this.

Mr. Gentile stated that no one told them about that.

Mr. Beyel stated that at the hearing we talked about this the guide rail. The guide rail is actually not on their property. It is in the municipal right of way, whether or not easement was procured. In fact that topic came up as Mr. Morris indicated in his testimony, the guide rail is not something that JCP&L itself is proposing nor would install if it was left up to JCP&L. The guide rail is a DOT requirement. Mr. Morris spent some time in his testimony explaining why it was necessary here but not at the other locations. It is an item of expense that if JCP&L did not install it, if the municipality at some point in the future wanted to obtain some governmental funding for different projects in the town, in all likely hood the DOT would require that the municipality install a guide rail at its own expense, and we have included it in the project.

Chairman Papp asked if the DOT dictated the length of the guide rail.

Mr. Morris stated that the length is dictated by the speed limit of the road five miles over the posted speed limit. There are specific guidelines for the lead in attenuator, the amount of guide rail you need and your lag are dictated.

Mr. Beyel noted that the majority of the guide rail is on the Mr. Gentiles neighbor’s property.

Mr. Morris stated that 35 feet would be on Mr. Gentile’s property.

Mr. Gentile stated that that is a lot of ugly steel guard rail and it is going to be right on his property in front of his lawn.

Mr. Wasilishen stated he is not a realtor but believes it will affect the property value.

Mr. Gentile agreed and said it is not fair.

Ms. Kane questioned Special Counsel Brown. If this does not pass what are the next steps? What kind of liability does the Borough have based on the information we have.

Special Council Brown stated that JCP&L would have the right to appeal it would proceed to superior court or take another route.

Mr. Beyel stated that he understands there are probably three different courses. One is to appeal to this governing body, to appeal to superior court or to appeal to the Board of Public Utilities.

Ms. Kane asked if there would be legal cost ramifications of the town.

Special Counsel Brown stated that he really hasn’t seen an appeal to the municipality under the most recent amendments to the MLUL. Regardless, the applicant has the right to go to the superior court and this is a particular application, because it is under the Board of Public Utilities in certain respects the MLUL has certain provisions. For the benefit of the Board and the Gentiles, there are multiple avenues which would mean that the Board, and presumably also the municipality, would have to defend the decision. Just because it is an unusual use variance, you have to have a minimum of five votes

Mr. Beyel stated that moving the sidewalk was not a plan that JCP&L itself proposed to make a further encroachment. That has been done to accommodate the concern of the municipality and this Board. The the guide rail was in the right of way. Again, it is not something that provides a meaningful benefit to JCP&L. It is something that the DOT requires. As was explained in some detail at the prior hearing, JCP&L is spending a great deal of money on this project, because FERC, Federal Energy Regulatory Commission and PGM, which is a regional authority and the Board of Public Utilities have all told JCP&L that this is an essential project that has to be installed to enhance the reliability of the electrical grid that serves not only the citizens of this community, but this area of Monmouth County. It is not as though, should we still get the five votes, that we will go home disappointed and you will never hear from us again. This is a project that must get approved. We came before the Board to explain the project so you and the citizens would have every opportunity to learn about it and hear about it and some portions you have seen on Darlene Avenue. Some of it is already installed. There is still work to be done. It is a critical project to enhance the reliability of the electrical grid and something that will have to be done.

Special Counsel Brown asked to possibly benefit the Gentiles that Mr. Beyel reiterate what was discussed about possible litigation. There was a question of where the pole could be moved further east to completely avoid the DOT regulations.

Mr. Beyel stated that he recalled the testimony. JCP&L would have to move the pole 15 ft into the property, which the applicant felt might be less palatable to the property owners but also it created significant engineering problems. You can’t simply go in a straight line down Wickapecko Drive then suddenly move in 15 ft for a new pole and suddenly come back out. There would have to be additional poles and guide wires and supports in order to do that. So part of making an effort was involved in consideration of the degree by which we could move from the perfectly strait line into the property without needing guide wires for support. I am told we are at the max of what we can do. The project could not move forward like this and put the pole 15 ft onto the property so as to avoid the guiderail without having to redesign the project which would require what Ms. Meehan explained. There was a variety of options. To replace the existing pole there would be two poles with guide wires with the new pole there will be no guide wires. So, the applicant tried to make something that would be least visually intrusive yet meet the operational needs of JCP&L.

Special Counsel Brown stated that JCP&L witnesses did state several times that one of the reasons for the metal monopole was so that guide wires on the Gentiles property could be eliminated. . Also for the benefit of the Gentiles and also for the Board there was another discussion of why the length of the guide rail and why is it needed here. Why is a guide rail not needed on every pole on Wickapecko Drive.

Mr. Beyel stated that Mr. Morris discussed wooden poles not needing guide rails. Mr. Beyel does not recall the particular testimony but it may be required because it is a metal pole and probably because it is at an intersection. Ms. Meehan specifically testified that the national electric safety code required specific distances between all the lines that this pole will carry. That is why it has to be as tall as it is and also by being steel it can carry more load. So those are a couple of factors that came into play plus JCP&L is upgrading two existing circuits and adding a new third circuit. The steel pole is needed because JCP&L is adding a third circuit and because it branches off to go across the street over to Darlene Avenue there is a right angle turn there. If there are wires puling at a 90 degree angle on a pole towards Darlene Avenue then that pole will want to move across Wickapecko Drive over the years. The only way to counterbalance that would be significant guide wires in the other direction which the applicant wanted to avoid. They are a nuisance to homeowners. They are there presently and will be able to be eliminated.

Mr. Gentile stated that he has guide wires already and has no problem with them. Mr. Gentile asked if there was another alternative. Can a wooden pole be used like on Darlene Avenue. There are all wood poles, and they are 75ft tall. Mr. Gentile also asked if it was said that two wooden poles could be used instead of the one steel pole.

Mr. Beyel stated that he thinks the witness stated last time that you could redesign with two poles in that area that could be wooden but then you would have to have guide wires and a lot of other things that would make it less visually attractive to people in the area.

Mr. Weaver what other things would be needed.

Mr. Morris stated there would be guide wires and guide poles you. That design would have to have two more poles and two more guide poles on the other side. Those poles would all be 75ft.

Ms. Dalton asked for confirmation that there would be a need for four poles.

Mr. Beyel stated that there would be a lot of extra poles in that area. The company spent a great deal of time and effort to design a project that meets it needs and meet the needs for the project to satisfy the regulatory authorities to which they must respond and yet minimize the visual impact . The job must be done. It has to be done safely because that is paramount for everybody. The applicant presents the application and that is what it is. Mr. Beyel asked if the Board would permit that his brief summarization then submit this matter to vote.

Mr. Gentile asked how are more visually negative than a guide rail across his lawn.

Board Engineer/Planner Avakian stated that the Board had the same questions in December that Mr. Gentile has now because the Board had not seen plans with a guide rail on them until we received these plans. The Board had not discussed a sidewalk until the Board’s December meeting. There was a sequence of events that has brought us to the place where we are. The first was the testimony that the pole carries transmission lines from there different directions. It carries the lines up Wickapecko Drive and those existing poles are located between the curb and sidewalk along Wickapecko Drive. The lines are close to the travel way so you can’t reflect that into the property. It has to keep somewhat along that same line of the Wickapecko Drive right of way. It continues on to the north to Corlies Avenue then crosses Corlies Avenue and goes east on the Ocean Township side of Corlies Avenue. The key element that was testified to was by Ms. Morris. It was that the Darlene Avenue line, that line coming in from the west, is what causes, I will call it, the instability of the pole that required it to be a steel pole, required it to be so deep, so high and so wide in diameter. Because of that steel pool, and Jeff Morris explained this, the DOT does not view that as a breakaway structure, as they do wooden poles. Because it is not a breakaway structure the DOT requires a guide rail. When the applicant was before the Mayor and Council, they were adamant that if the guide rail is there within the Borough right of way, people are going to walk on the street side of the guiderail unless there is a sidewalk there to provide pedestrian access from Bridlemere Avenue to Corlies Avenue. They were pretty emphatic that a sidewalk is needed there. It started with we want a wooden pole. We can’t because it won’t carry the load. We have to have a steel pole. The steel pole requires the guide rail. The guide rail requires a sidewalk and now we have a more substantive project in front of the Gentile’s property than ever was originally intended. That is what the Board has seen in terms of sequence of events. Reasonable, yes, but visually certainly different and unattractive to people, yes.

Special Counsel Brown asked Board Engineer/Planner Avakian if he could see any way, and maybe going beyond his expertise, that JCP&L can get around what their engineer has been stating is a DOT mandate for the 115 feet guide rail.

Mr. Morris stated that the guide rail is 35ft on the Gentile property and 75ft on the other side.

Board Engineer/Planner Avakian stated he could not see a way around the guide rail. Listening to the testimony of the experts, first Mr. Horn then from Ms. Meehan, the Board cannot sit here and tell JCP&L what type of pole to use. That was Board Engineer/Planner Avakian’s first response and that was the zoning officer’s response. What the heck is going on here? Every pole around here is wood. Yes, they are high, but they are wood. Why is this one so different? The Board has been advised and has seen that it is a termination of the line at the change in direction.

Special Council Brown noted that there are other poles that discussed at the December meeting including one at Darlene Avenue and Logan Road and one actually in the middle of the school there which seemed to be much bigger.

Mr. Beyel stated that if the pole was wooden the applicant wouldn’t be here tonight.

Board Engineer/Planner Avakian stated that the applicant is here because the steel pole requires a structural foundation six feet in diameter 28 ft in depth. We have gone through that the zoning officer required a construction permit for that. The Board required a D1 variance, so it was a series of events that lead to where are now. It is not satisfactory to everyone, probably not even the Borough but it is the issue we were given here and the Board has to make a determination. Board Engineer/Planner Avakian stated that Special Counsel Brown very succinctly advised the alternatives but would add that his office is in Neptune Township, very close to Ocean Place which is the substation on Neptune Boulevard that is initially in this resiliency project. It runs down Neptune Boulevard, down the Asbury Park Circle, down Route 35 goes all the way down Darlene Avenue in Ocean Township. Interlaken is the last leg. JCP&L has installed 80-85% of this resiliency project already and JCP&L is not going to stop because we do not like the color of the pole. We don’t like the guard rai. We don’t like the height and we don’t like any of that, but it is not going to stop the project.

Mr. Beyel stated that the issue for this Board tonight is whether to grant the D1 variance because Interlaken’s ordinance does not allow the public utility use such as the one JCP&L is proposing in a residential area. The question before this Board is whether the D1 variance can be granted. As Mr. Higgins testified the D1 variance typically would require an applicant to satisfy what he referred to, and what the MLUL refers to, as positive criteria and the negative criteria. The positive criteria is the showing that special reasons exist to grant the variance. As he explained, in an application such as this one where you have a project which serves the public good and deemed to be inherently beneficial, its very terms satisfies the so called special reasons test for the positive criteria. Then you look at what the negative criteria are. Again ,more typically, you have to prove that it does not substantially impair the intent and purpose of the Master Plan and a number of other things. For an inherently beneficial use there is a different test, a special test, which was established by the Superior court in New Jersey. In a case entitled SICA vs. Board of Adjustment in the Township of Wall 127NJ152 1992 opinion. There you pursue what is known as the SICA balancing test. As your attorney referenced, it has several aspects to it. Has the applicant done what they can to address some of the concerns of the community? We talked about that. By downsizing this pole and downsizing the foundation to the extent possible and also willing to colorize the pole and also whether directly related to this or not willing to agree to install a sidewalk, the cost of which the property owners might otherwise be called upon to bear we think that we have gone more than enough to satisfy that. It is a balancing test. This board is to consider whether, on balance, a grant of the variance would cause a substantial detriment to the public and does the benefit of this project, which serves the public good, outweigh the detriment. And the Superior Court went out of its way to say that in a context such as this any nonresidential use is bound to have some adverse effect but that is not what the test is. It must have a substantial detriment to public good. It must be more than a 50 percent substantial detriment. JCP&L is confident that the record presented to the Board for consideration and the Board’s vote takes into consideration all of the requirements. The SICA test puts it to the Board to pursue that balancing test. Whether on balance the benefits on this project, which we spent a lot of time talking about, would be such that it would outweigh the detriment from the project itself and whether that detriment is not simply some detriment but whether it is a sufficiently substantial detriment so as to outweigh the benefit from the good from the project.

Ms. Heinz stated that she heard from the Gentiles that they wouldn’t have signed on to this project if they had known about the guiderail and that concerns her. If they hadn’t signed something what would JCP&L do and can something aesthetically be done.

Ms. Dalton stated that you could put shrubs inside the guard rail. You have the guard rail on the inside you won’t even see it. That would mitigate quite a bit. Ms. Dalton thinks the Board we cannot not allow the pole. Ms. Dalton does not think this is a question. As a municipality, it is something that has to be done. It is a continuation of the project. Knowing from living here 45 years the electricity is always the first down and always the last up. This is a necessity. Ms. Dalton stated that she is sorry it is the Gentile’s house but thinks that things can be done such as putting shrubs inside.

There was a brief discussion between Ms. Dalton and Mr. Gentile regarding the need for the guide rail and plantings along the guide rail.

Mr. Beyel asked the Board to keep in mind that the guide rail is on the easement. It is not on the Gentile’s property. JCP&L secured the easement. Mr. Beyel is sure it was at an early enough stage that no one knew a guide rail was required.

Mr. Gentile stated he would not have signed the easement if there was a guide rail.

Mr. Beyel stated that JCP&L has an easement that allows them to do what they have to do.

Mr. Weaver questioned what determines the length of the guiderail. If it is based on the speed of that road, what would that speed need to be to eliminate the guide rail.

Mr. Morris stated that he did not know.

Board Engineer/Planner Avakian stated that the road is evaluated at 25mph plus 5 for the design. This is a 35mph road.

Mr. Weaver asked what would happen if section of the road was lowered.

Board Engineer/Planner Avakian stated that would not be possible. He and Mrs. Gentile have been living here for 23 years. They really like Interlaken. This going to mess up everything. It is going to mess up the real estate value. It’s going to mess up what my home looks like. It kills the curb appeal. Nobody here would want a guard rail in front of their house.

Mr. Wasilishen stated that he asked at the last meeting if there was a study done regarding putting the project to the other side of the street on Ocean Township side and if the answer is no. Why not?

Ms. Dalton stated that it is because of the continuity of the project. It has to line up a certain way.

Mr. Wasilishen asked if the project is going to make a 90 degree turn on the Gentile property why can’t they make that turn at the Ladies Club and go down Corlies Avenue.

Mr. Beyel stated the he recalls Ms. Meehan giving a thorough answer to that as to why you can’t jump back and forth sides of the street because you have existing lines and poles in one spot. This has to feed off of that. You can’t willy nilly say, “ Not in my backyard. I want to put it on the other side of the street. Somebody driving up and down the road will see the poles whether they are on the right side or the left side.

Ms. Kane stated that the guide rail is hideous, and we all agree but that is a safety factor too. Someone driving that road at least 35 mph and hits that pole they are dead.

Mr. Gentile stated that they would be dead from the wooden pole to. Mr. Gentile has been there 23 years no one has hit that pole.

Special Counsel Brown asked if the applicant would be amenable to put some shrubbery on the interior of the ugly guide rail with Board Engineer/Planner Avakian’s examination of the details.

Mr. Beyel stated that there would have to be an examination of the detail because you know you have the curb, the guider rail and four feet sidewalk and then the foundation. If it is possible to do some plantings in that area in front of their home, not the whole guiderail, they are the only ones here to speak to it, that is an engineering detail to work it out.

Special Counsel Brown confirmed that the offer of mitigation would be that, if it is possible according to a review of your supplemental plan on this area for landscaping, if Board Engineer/Planner Avakian says it is doable, JCP&L would offer that.

Mr. Beyel state that in respect to the sidewalk the applicant has agreed to bear the cost that the homeowner would normally be the cost to bear, but once done it will be the municipally owned right of way. It would be the municipal sidewalk. As with the plantings JCP&L is not coming out to check on the condition of the sidewalk or the plants. It is akin to a subdivision where there is a road and once it is approved it gets dedicated it and becomes a public sidewalk that is maintained by the municipality just like it maintains all the other sidewalks, so the homeowner doesn’t have the burden either.

Special Counsel Brown stated that he agreed with Mr. Beyel’s analysis and Board Engineer/Planner Avakian will concur.

Chairman Papp closed the floor to public comment.

Special Counsel Brown asked for a quick hand vote to close the hearing portion.

Mr. Weaver made motion seconded by Ms. Dalton.

ROLL CALL:

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton, and Ms. Kapp

Special Counsel Brown stated that there is no more public comment but welcomed the Gentile’s to stay at the table. Special Counsel Brown noted to the Board that it is time to deliberate.

Chairman Papp asked the Board for comment.

Chairman Papp stated that he questioned the need for a metal pole but thinks it has been made clear. Chairman Papp also noted that one of the Board’s biggest concerns what whether the homeowners had knowledge that the guide rail was going up. The discussion was tabled for the applicant to take time to do that.

Special Counsel Brown suggested someone make a motion and then have dialog.

Mr. Weaver made motion that the Board grant the D1 variance as a positive benefits to the community significantly outweighs the negatives. Ms. Dalton seconded.

Vice Chairwoman Umfrid stated that she understood JCP&L’s position and the power grid issues. Vice Chairwoman Umfrid understands the homeowners’ issues very clearly. Speaking about Mr. Gentile not wanting the sidewalk in front of his home, Vice Chairwoman Umfrid confirmed with Special Counsel Brown, Board Engineer/Planner Avakian and Chairman Papp that the appropriate place to bring up the concern about whether there is a sidewalk or not is Borough Council. It is not at this Board.

Special Counsel Brown stated that if the motion to approve is granted then it would be subject to the offer of JCP&L to pay for the sidewalk and suggested that it be put into the resolution. The Gentile’s have a right to appeal.

Chairman Papp asked that the plantings be part of the resolution.

Special Counsel Brown stated that that would be an offer subject to the details that Mr. Beyel indicated subject to the review and approval by Board Engineer/Planner Avakian.

Ms. Dalton stated that evergreens could be used and typically cost about 3 for $30 after Chairman Papp noted that Ms. Dalton was a master gardener.

UPON MOTION of Mr. Weaver, seconded by Ms. Dalton, carried, the Board adjourned the meeting.

ROLL CALL:

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

Opposed: Mr. Wasilishen

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton, and Ms. Kapp

Board Secretary Kneser noted 6 votes in favor one opposed.

Special Counsel Brown asked Mr. Weaver, who offered the resolution, to go over what the conditions would be that have been discussed and then will ask the people who voted in favor of the passage of the application to confirm whether or not what Mr. Weaver is suggesting is true.

Special Counsel Brown noted to Mr. and Mrs. Gentile that procedurally at the next meeting, presumably, this board will vote on what is called a resolution memorialization. It is a written summary of what has happened during the meetings in December and tonight. What happens after that is that counsel for the applicant has an obligation to publish a short summary in the local newspaper. Special Counsel Brown told the Gentile’s they should watch for that and they have a right to appeal this decision within 45 days and that they should really talk to an attorney what their rights may be.

Special Counsel Brown reviewed with Mr. Weaver the conditions proposed in the resolution and would be included that the plans for all the improvements provided within the right of way which include: a beam, guide rail, concrete curb and pavement, and the sidewalk should be submitted to the Borough Engineer/Planner and are subject to approval. The applicant shall add a coating on the monopole of the particular shade or color as testified to tonight and shall submit that to the Board Engineer/Planner subject to his review and approval prior to or upon completion of the installation of the monopole. The applicant at its own cost shall construct a sidewalk along the full length of the properties subject of the two easements in questions, the details of which will be submitted to the Borough Engineer/Planner and subject to his approval. Special Counsel Brown believes a caveat should be included that the Borough Council, between now and time that the construction permits could be issued, wants to indicate that they don’t want a sidewalk there that could be done.

Mr. Beyel asked if there was an ordinance requiring a sidewalk.

Chairman Papp indicated that there is.

There was discussion between Special Counsel Brown and Mr. Beyel to include the mitigation by JCP&L to cover the cost of the sidewalk to the landowner and also include the installation of plantings.

Special Council Brown stated that mitigation for the plantings and the construction for the sidewalk and all those details should be submitted by the applicants engineer to Board Engineer/Planner Avakian for his review and approval. Other conditions will be very standard.

 Ms. Heinz stated that she knows the other homeowners are not at the meeting but as a resident of Interlaken and coming down Darlene Avenue and going to Wickapecko Drive it is going to look a lot better on the Gentile’s property there but the first thing you see when you come down Darlene Avenue belongs to the other house. Ms. Heinz suggested that should be installed to at least past Darlene Avenue that way it looks prettier when you come into town. It is really not that much of a cost to JCP&L and that is really peanuts to everything else that is going on.

Mr. Beyel stated that the applicant will agree to add the plantings.

Special Counsel Brown state that the ability to put plantings there will be determined by Board Engineer/Planner Avakian.

Ms. Dalton stated that she believes planting will be able to be accommodated.

Special Counsel Brown asked for a subsequent resolution that joins to Mr. Weaver’s motion in terms of the conditions that would be included in the resolution and memorialization.

UPON MOTION of Mr. Weaver, seconded by Ms. Dalton, carried, the Board approved the variance.

ROLL CALL:

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton and Ms. Kapp

Special Counsel Brown thanked the Gentiles for appearing at the hearing and noted that there were no other public present for this, the only application on the agenda for this meeting.

Mr. and Mrs. Gentile, Mr. Beyel and Mr. Morris left the table.

Special Counsel Brown thanked the Board and left the table.

Board Attorney Kennedy rejoined the table.

Board Secretary Kneser stated that the next meeting would be February 27th, 2023, and noted that February 20, 2023 is a holiday.

 UPON MOTION of Mr. Weaver, seconded by Ms. Kane, carried, the Board adjourned the meeting.

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Blasucci, Mr. Tilton, and Ms. Kapp

 Approved: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Mr. Papp, Chairman

Attest:

 Gina Kneser, Secretary