

**BOROUGH OF INTERLAKEN
MINUTES- PLANNING BOARD
JANUARY 28, 2019 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 28, 2019 at 7:30 p.m. in the Borough Hall.

Chairman Papp opened the meeting, announced that the meeting was being held in accordance to 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: Mr. Papp, Ms. Umfrid, Mr. Menditto, Ms. Dalton, Mr. Tilton, Ms. Heinz, Mr. Weaver, Ms. Gatsch, Ms. Kane and Mr. Wentz

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

Late Arrival: None

Absent: Mr. Wasilishen

UPON MOTION of Mr. Weaver, seconded by Mr. Menditto, carried, the Board approved the minutes of November 19, 2018 meeting.

ROLL CALL:

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

Opposed: None

Ineligible: Councilman Butler, Ms. Gatsch and Ms. Kane

Absent: Mr. Wasilishen

Abstain: None

UPON MOTION of Ms. Heinz, seconded by Mr. Menditto, carried, the Board approved the minutes of December 17, 2018 meeting.

ROLL CALL:

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

Opposed: None

Ineligible: Councilman Butler, Ms. Gatsch and Mr. Wentz

Absent: Mr. Wasilishen

Abstain: None

The following members were sworn in by Board Attorney Brown:

Rick Menditto	Class I
Margaret Dalton	Class II
Councilman Butler	Class III
Katherine Umfrid	Class IV

Chairman Papp thanked members for participating on the Board to help the citizens of the Borough with their applications.

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

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 2019 is hereby approved.

ROLL CALL:

In Favor: Mr. Papp, Councilman Butler, Ms. Umfrid, Mr. Tilton, Ms. Dalton, Mr. Menditto, Ms. Heinz, Mr. Weaver, Ms. Gatsch, Ms. Kane and Mr. Wentz

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Wasilishen

Chairman Papp thanked the Board for their vote of confidence.

Chairman Papp opened the floor for nominations for Vice Chairperson.

Mr. Tilton NOMINATED Ms. Umfrid as PLANNING BOARD VICE CHAIRPERSON, seconded by Ms. Dalton.

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 2019 is hereby approved.

ROLL CALL:

In Favor: Mr. Papp, Councilman Butler, Ms. Umfrid, Mr. Tilton, Ms. Dalton, Mr. Menditto, Ms. Heinz, Mr. Weaver, Ms. Gatsch, Ms. Kane and Mr. Wentz

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Wasilishen

Chairman Papp congratulated Vice Chairwoman Umfrid.

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

Mr. Weaver NOMINATED Gina Kneser as PLANNING BOARD SECRETARY, seconded by Mr. Menditto.

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 2019 is hereby approved.

ROLL CALL:

In Favor: Mr. Papp, Councilman Butler, Ms. Umfrid, Mr. Tilton, Ms. Dalton, Mr. Menditto, Ms. Heinz, Mr. Weaver, Ms. Gatsch, Ms. Kane and Mr. Wentz

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Wasilishen

Gina Kneser was sworn in as Planning Board Secretary by Board Attorney Brown.

UPON MOTION of Ms. Dalton, seconded by Ms. Heinz, 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.

ROLL CALL:

In Favor: Mr. Papp, Councilman Butler, Ms. Umfrid, Mr. Tilton, Ms. Dalton, Mr. Menditto, Ms. Heinz, Mr. Weaver, Ms. Gatsch, Ms. Kane and Mr. Wentz

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Wasilishen

UPON MOTION of Mr. Weaver, seconded by Ms. Dalton, 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 25, 2019	August 19, 2019
March 18, 2019	September 16, 2019
April 15, 2019	October 21, 2019
May 20, 2019	November 25, 2019
June 17, 2019	December 16, 2019
July 15, 2019	January 27, 2020

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.

ROLL CALL:

In Favor: Mr. Papp, Councilman Butler, Ms. Umfrid, Mr. Tilton, Ms. Dalton, Mr. Menditto, Ms. Heinz, Mr. Weaver, Ms. Gatsch, Ms. Kane and Mr. Wentz

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Wasilishen

UPON MOTION of Vice Chairwoman Umfrid, seconded Ms. Kane, 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 2018 and for the term of one (1) year, effective January 1, 2019.

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.

ROLL CALL:

In Favor: Mr. Papp, Councilman Butler, Ms. Umfrid, Mr. Tilton, Ms. Dalton, Mr. Menditto, Ms. Heinz, Mr. Weaver, Ms. Gatsch, Ms. Kane and Mr. Wentz

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Wasilishen

Peter R. Avakian was sworn in by Board Attorney Brown. Board Engineer/Planner Avakian will remain under oath until the end of the term and will not be required to swear in at each meeting.

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

WHEREAS, There is a need for a Board Attorney, 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 SANFORD D. BROWN, ESQ. and the firm of Sanford D. Brown, L.L.C. as Board Attorney. These appointments are being made under the same terms and conditions as 2018 and for the term of one (1) year, effective January 1, 2019.

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 agreement with SANFORD BROWN, ESQ.

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

ROLL CALL:

In Favor: Mr. Papp, Councilman Butler, Ms. Umfrid, Mr. Tilton, Ms. Dalton, Mr. Menditto, Ms. Heinz, Mr. Weaver, Ms. Gatsch, Ms. Kane and Mr. Wentz

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Wasilishen

UPON MOTION of Ms. Heinz, seconded by Mr. Menditto, 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.

ROLL CALL:

In Favor: Mr. Papp, Councilman Butler, Ms. Umfrid, Mr. Tilton, Ms. Dalton, Mr. Menditto, Ms. Heinz, Mr. Weaver, Ms. Gatsch, Ms. Kane and Mr. Wentz

Opposed: None

Ineligible: None

Abstain: None

Absent: Mr. Wasilishen

UPON MOTION of Ms. Heinz, seconded Vice Chairwoman Umfrid, carried, the Reorganization portion of the meeting was closed.

MEMORIALIZATIONS:

501 Bridlemere Avenue, Block 30 /Lots 1, 2 & 3, Kessler

One story addition with roof-top deck and circular stairway: raised terrace and pergola; hot tub and stone patio and related site improvements.

**BOROUGH OF INTERLAKEN PLANNING BOARD
RESOLUTION WITH VARIANCES
TO KAREN KESSLER, 501 BRIDLEMERE AVENUE**

WHEREAS, KAREN KESSLER, hereinafter referred to as "Applicant", is the owner of certain property known as Block 30, Lots 1, 2 & 3.01, on the official tax map of the Borough of Interlaken ("Property"), which Property is located at 501 Bridlemere Avenue in the Borough of Interlaken, County of Monmouth, and State of New Jersey; and

WHEREAS, said Property is located in the R-A Single Family Residential Zone of the Borough of Interlaken; and

WHEREAS, a denial from the Zoning Official was received by Applicant dated September 7, 2018 indicating that the proposed improvement require a variance for rear yard setback and other as stated below; and

WHEREAS, Applicant is requesting approval for the construction of a one-story addition with a roof top deck, a second story balcony, and a conversion of the existing second story balcony into living space; the Applicant is also removing the putting green, concrete patio, and fire pit to construct a raised blue stone covered terrace with pergola, hot tub and paver walk and patio; and

WHEREAS, after proper notice, a public meeting on the within application was held on December 17, 2018 at the Interlaken Borough Hall; and

WHEREAS, the Board has considered the report of the Board Engineer, Peter R. Avakian P.E., P.P., dated December 6, 2018, and the documents and exhibits presented in support of the application, and comments of the public;

NOW THEREFORE, the Planning Board of the Borough of Interlaken makes the following findings of fact:

1. The Applicant is the owner of Block 30, Lots 1, 2 & 3.01 on the current tax map of the Borough of Interlaken, County of Monmouth and State of New Jersey.
2. The property is irregular in shape and has an area totaling 31,685 sq. ft.
3. The Applicant is requesting approval from the Planning Board for the construction of a one-story addition with a roof top deck, a second story balcony, and a conversion of the existing second story balcony into living space. Also, the Applicant is removing the putting green, concrete patio, and fire pit to construct a raised blue stone covered terrace with pergola, hot tub and paver walk and patio.
4. A denial from the Zoning Official was received by the Applicant indicating that the proposed improvements require a variance for rear yard setback and other as described below.
5. Zoning and Land Use.
 - A. The property in question is located in the R-A Single Family Residential Zone of the Borough of Interlaken. A single-family dwelling is a permitted principal use in this district.
 - B. The minimum lot area permitted per the zoned district is 15,000 square feet. The existing lot area is 31,685 square feet, which conforms.
 - C. The minimum lot width permitted per the zoned district is 75 feet. The existing lot width measures 137.9 feet, which conforms.
 - D. The minimum lot depth permitted per the zoned district is 150 feet. The existing lot depth measures 200 feet, which conforms.
 - E. The minimum front yard setback permitted per the zoned district is 50 feet except that no building shall be nearer to the street than the average alignment of existing buildings within 200 feet of each side of the lot and within the same block. The existing front yard setback along is 77.5 feet, which conforms.

F. The minimum side yard setback permitted per the zoned district is 15 feet. The existing north side yard setback is 27.1 feet, which conforms. The existing south side yard is 9.0 feet, which represents an existing non-conformity. The Applicant is converting the existing second story balcony into living space and proposing a south side yard setback of approximately 20 feet, which conforms.

G. The minimum rear yard setback permitted per the zoned district is 30 feet. The existing rear yard setback is 14.1 feet, which represents an existing non-conformity. The Applicant is proposing a rear yard setback of 12.7 feet to the one story addition with roof top deck. A variance is required. The proposed conversion of the existing second story balcony to living space has a rear yard setback of 29.5 feet. A variance is required. The proposed second story balcony from bedroom has a rear yard setback of 13.7 feet. A variance is required. The proposed coverage terrace is attached to the dwelling and shall conform with all building setbacks. The covered terrace has a proposed rear yard setback of 16.8 feet. A variance is required.

H. The maximum building height permitted per the zoned district is 35 feet as measured from the crown of the road. The architectural plan indicates a building height of 35.83 feet, which represents an existing non-conformity. The improvements do not exceed 35 feet, as indicated on the architectural plan. The improvements conform to the requirements of building height.

I. The maximum building area coverage permitted per the zoned district is 25% of the lot area. The Applicant is proposing a building coverage of 15.8%, which conforms.

J. The maximum impervious surface area permitted in the zoned district is 45%. The Applicant is proposing an impervious surface area of 37.4%, which conforms.

K. Swimming Pool (Hot Tub)

(1) The definitions of swimming pool is any water receptacles used for swimming, plunging or bathing designed to accommodate more than one (1) person at a time. This hot tub would be considered a swimming pool and shall comply with the swimming pool requirements.

(2) No swimming pool (hot tub) shall be constructed or installed nearer than 10 feet to any property line. The hot tub conforms with all setbacks.

L. No structures shall be erected within the boundary of any floodplain or within 25 feet of

the top of the bank of any stream, whichever distance represents the greatest setback from the stream. The proposed improvements are within 25 feet of Deal Lake. A variance is required.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Interlaken that the application for variance approval pursuant to N.J.S.A. 40:55D-70(c)(2)(flexible “c” standards) be and is hereby approved, in that as to this particular Property the benefits of the deviation will substantially outweigh any detriment of not granting said variance based on Applicant’s proofs that sufficient reasons exist for the same, that the improvements are aesthetically pleasing, and also based on that the relief can be granted without substantial detriment to the public good because the finding that the improvements will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance of the Borough of Interlaken, but subject to the following conditions:

- A. Applicant shall comply with the Board Engineer’s report dated December 6, 2018.
- B. Publication of a notice of this decision in the official newspaper serving the Borough of Interlaken, and return of proof of publication to the Board Secretary.
- C. Payment by the Applicant of all taxes, escrows and assessments to date. No building permit or certificate of occupancy is to be issued until proof is furnished to the Board Secretary that there are no taxes, escrows, or assessments due or delinquent on the property in question.
- D. The obtaining of all proper building permits for construction, and construction in accordance with the documents marked at the hearings, and in compliance with the testimony and stipulations of the Applicant at the hearing.
- E. Compliance with the requirements of all governmental agencies having jurisdiction over the development of the Property.
- F. Pursuant to Ordinance Section 25-3, Applicant shall have one year from the date of this Resolution to start construction; otherwise this variance approval shall expire, and once issued, the Applicant shall continue to complete the construction in a commercially reasonable time frame.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Secretary of the Planning Board of the Borough of Interlaken to be a true copy, be forwarded to the Borough Construction

Official, the Borough Clerk, the Borough Tax Assessor and Collector and the Applicant herein; and

BE IT FURTHER RESOLVED that this Resolution shall serve as one of memorialization of the action taken by this Board at its meeting on December 17, 2018.

The foregoing Resolution was offered by Ms. Dalton and seconded by Mr. Weaver and adopted on Roll Call by the following vote:

ROLL CALL:

In Favor: Chairman Papp, Mr. Tilton, Ms. Dalton, Mr. Menditto, Mr. Weaver and Ms. Kane

Opposed: None

Abstained: Vice Chairwoman Umfrid

Ineligible: Councilman Butler, Ms. Heinz, Ms. Gatsch and Mr. Wentz

Absent: Mr. Wasilishen

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of Interlaken on the 28th day of January, 2019.

501 Buttermere Avenue, Block 31/Lots 1, 2, 3 and 4.01, Bogardus/McLaughlin
Approval to allow playground equipment be maintained in front yard.

**BOROUGH OF INTERLAKEN PLANNING BOARD
RESOLUTION WITH VARIANCES
TO EVAN BOGARDUS AND MAUREEN McLAUGHLIN, 501 BUTTERMERE AVENUE**

WHEREAS, EVAN BOGARDUS AND MAUREEN McLAUGHLIN, hereinafter referred to as “Applicant”, are the owners of certain property known as Block 31, Lots 1, 2, 3 & 4.01, on the official tax map of the Borough of Interlaken (“Property”), which Property is located at 501 Buttermere Avenue in the Borough of Interlaken, County of Monmouth, and State of New Jersey; and

WHEREAS, said Property is located in the R-A Single Family Residential Zone of the Borough of

Interlaken; and

WHEREAS, a zoning/code violation notice was issued to Applicant for the location of the fence and playground equipment in the front yard. The notice indicates a violation of the Ordinance for the placement of the newly installed fence and without any landscaping. Also, the notice indicates a violation of the ordinance for the location of the playground equipment in the front yard; and

WHEREAS, Applicant is requesting approval to allow playground equipment in the front yard; and

WHEREAS, after proper notice, a public meeting on the within application was held on December 17, 2018 at the Interlaken Borough Hall; and

WHEREAS, the Board has considered the report of the Board Engineer, Peter R. Avakian P.E., P.P., dated December 6, 2018, and the documents and exhibits presented in support of the application, and comments of the public;

NOW THEREFORE, the Planning Board of the Borough of Interlaken makes the following findings of fact:

6. The Applicant is the owner of Block 31, Lots 1, 2, 3 & 4.01 on the current tax map of the Borough of Interlaken, County of Monmouth and State of New Jersey.

7. The property is irregular in shape and is a corner lot with three (3) frontages. The property contains an area totaling 27,529 sq. ft.

8. The Applicant is requesting approval from the Planning Board to allow playground equipment in the front yard.

9. The Applicant received a zoning/code violation for the location of the fence and playground equipment in the front yard. The notice indicates a violation for the placement of the newly installed fence and without any landscaping. Also, the notice indicates a violation of the ordinance for the location of the playground equipment in the front yard.

10. The Property in question is located in the R-A Single Family Residential Zone of the Borough of Interlaken. A single family dwelling is a permitted principal use in this district.

11. The lot complies with the requirements of lot width, lot frontage, lot depth, lot area, building

coverage, and impervious coverage.

12. The minimum front yard setback permitted per the zoned district is 50 feet except that no building shall be nearer to the street than the average alignment of existing buildings with 200 feet of each side of the lot and within the same block. The existing front yard setback is 62.4 feet along Buttermere Avenue, 60.3 feet along Scarba Street, and 25.5 feet along Woodmere Road. The existing front yard setback along Buttermere Avenue and Scarba Street conforms to the front yard setbacks. The front yard setback along Woodmere Road represents an existing non-conformity.

13. The minimum side yard setback permitted per the zoned district is 15 feet. The existing east side yard setback is 14.3 feet, which represents an existing non-conformity.

14. The minimum rear yard setback permitted per the zoned district is 30 feet. This lot does not have a rear yard setback.

15. The variance plan indicates the playground equipment is located along the Scarba Street frontage, which is not allowed. The Applicant is requesting a variance for the location of the playground equipment in the front yard.

16. Fences.

A. The municipal ordinance in place at the time of the application for permit to construct the existing fence stated the following: "Fences in no event shall be erected, permitted or otherwise located in the front of the building line or in the front yard, except for corner lots, in which case fences located in front yards facing the architectural side of the building, fences shall be setback a minimum of fifteen (15) feet from the street right-of-way line. Such fences located within a front yard shall be no higher than four (4) feet and shall be landscaped along the outside in a manner which softens their appearance."

B. The architectural sides of the dwelling are long Scarba Street, Bridlemere Avenue and Woodmere Road and the architectural front is along Buttermere Avenue. The Applicant constructed the fence along these architectural sides, 15 feet from the curb line, not the property line, in violation of this ordinance.

C. The Applicant has relocated the fence on the variance plan. The variance plan indicates a proposed setback from Scarba Street, Bridlemere Avenue, and Woodmere Road of 15 feet, which conforms

with the former ordinance. The Applicant is proposing landscaping along the fence, which will soften the appearance

D. The Board notes that the Mayor and Council recently rescinded this ordinance, and replaced it with an ordinance which prohibits construction of fences along areas of street frontage.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Interlaken that the application for variance approval pursuant to N.J.S.A. 40:55D-70(c)(2)(flexible “c” standards) be and is hereby approved, in that as to this particular Property the benefits of the deviation will substantially outweigh any detriment of not granting said variance based on Applicant’s proofs that sufficient reasons exist for the same, that the improvements are aesthetically pleasing, and also based on that the relief can be granted without substantial detriment to the public good because the finding that the improvements will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance of the Borough of Interlaken, but subject to the following conditions:

G. The fence shall be relocated within thirty (30) days of the adoption of this resolution, weather permitting.

H. The plantings required to be done along the fence as part of this approval shall be done in the spring.

I. Publication of a notice of this decision in the official newspaper serving the Borough of Interlaken, and return of proof of publication to the Board Secretary.

J. Payment by the Applicant of all taxes, escrows and assessments to date. No building permit or certificate of occupancy is to be issued until proof is furnished to the Board Secretary that there are no taxes, escrows, or assessments due or delinquent on the property in question.

K. The obtaining of all proper building permits for construction, and construction in accordance with the documents marked at the hearings, and in compliance with the testimony and stipulations of the Applicant at the hearing.

L. Compliance with the requirements of all governmental agencies having jurisdiction over the development of the Property.

M. Pursuant to Ordinance Section 25-3, Applicant shall have one year from the date of this Resolution to start construction; otherwise this variance approval shall expire, and once issued, the Applicant shall continue to complete the construction in a commercially reasonable time frame.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Secretary of the Planning Board of the Borough of Interlaken to be a true copy, be forwarded to the Borough Construction Official, the Borough Clerk, the Borough Tax Assessor and Collector and the Applicant herein; and

BE IT FURTHER RESOLVED that this Resolution shall serve as one of memorialization of the action taken by this Board at its meeting on December 17, 2018.

The foregoing Resolution was offered by Ms. Dalton and seconded by Mr. Menditto and adopted on Roll Call by the following vote:

ROLL CALL:

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

Opposed: None

Abstained: None

Ineligible: Councilman Butler, Ms. Gatsch, Ms. Kane, Mr. Wentz

Absent: Mr. Wasilishen

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of Interlaken on the 28th day of January, 2019.

217 Bendermere Avenue, Block 12/Lot 20, Antonelli

Expansion of non-conforming structure to the rear and side on the first floor and an expansion of second floor from 1.5 story to 2 story

**BOROUGH OF INTERLAKEN PLANNING BOARD
RESOLUTION WITH VARIANCES
TO SAMANTHA AND MICHAEL ANTONELLI, 217 BENDERMERE AVENUE**

WHEREAS, SAMANTHA AND MICHAEL ANTONELLI, hereinafter referred to as "Applicant", are the owners of certain property known as Block 20, Lots 11 and 12, on the official tax map of the Borough of Interlaken ("Property"), which Property is located at 217 Bendersmere Avenue in the Borough of Interlaken, County of Monmouth, and State of New Jersey; and

WHEREAS, said Property is located in the R-B Single Family Residential Zone of the Borough of Interlaken; and

WHEREAS, a denial from the Zoning Official has been received by the Applicant dated October 19, 2018 indicating that the improvements require a variance for front yard setback; and

WHEREAS, Applicant is requesting approval for the construction of first and second floor addition to the existing dwelling; and

WHEREAS, after proper notice, a public meeting on the within application was held on December 17, 2018 at the Interlaken Borough Hall; and

WHEREAS, the Board has considered the report of the Board Engineer, Peter R. Avakian P.E., P.P., dated December 6, 2018, and the documents and exhibits presented in support of the application, and comments of the public;

NOW THEREFORE, the Planning Board of the Borough of Interlaken makes the following findings of fact:

17. The Applicant is the owner of Block 20, Lots 11 and 12 on the current tax map of the Borough of Interlaken, County of Monmouth and State of New Jersey.

18. The property is rectangular in shape and measures approximately 100 feet in width by 138 feet in depth, with an area totaling 13,892 sq. ft.

19. The Applicant is requesting approval from the Planning Board for the construction of first and second floor addition to the existing dwelling.

20. A denial from the Zoning Official has been received by the Applicant indicating that the improvements require a variance for front yard setback.

21. The Property in question is located in the R-B Single Family Residential Zone of the Borough

of Interlaken.

22. The minimum lot area permitted per the zoned district is 12,000 square feet. The existing lot area is 13,892 square feet, which conforms.

23. The minimum lot width permitted per the zoned district is 75 feet. The existing lot width measures 100 feet, which conforms.

24. The minimum lot depth permitted per the zoned district is 100 feet. The existing lot depth measures 138.92 feet, which conforms.

25. The minimum front yard setback permitted per the zoned district is 35 feet. The existing front yard setback along Bendermere Avenue is 33.7 feet to the dwelling and 25.7 feet to the covered front porch, which both represent an existing non-conformity. The existing front yard setback along Staffa Street is 30.3 feet to the dwelling, which represents an existing non-conformity.

The Applicant is proposing a front yard setback along Bendermere Avenue of 33.7 feet to the renovation front door area. This represents an expansion of an existing non-conformity and a variance is required. The Applicant is reconfiguring the roof of the covered porch, which has a front yard setback along Bendermere Avenue of 25.7 feet. This represents an expansion of an existing non-conformity and a variance is required.

The proposed second story addition has a front yard setback of approximately 36 feet, which conforms.

The Applicant is proposing a front yard setback along Staffa Street of 30.3 feet to the first and second floor addition. This represents an expansion of an existing non-conformity and a variance is required.

26. The minimum side yard setback permitted per the zoned district is 8 feet. The existing east side yard setback is 24.6 feet, which conforms. The Applicant is proposing a side yard setback of 15.27 feet, which conforms.

27. The minimum rear yard setback permitted per the zoned district is 20 feet. The Applicant is proposing a rear yard setback of 52 feet, which conforms.

28. The maximum building height permitted per the zoned district is 35 feet. The Applicant is

proposing a building height of 32 feet, which conforms.

29. The maximum building area coverage permitted per the zoned district is 25% of the lot area.

The Applicant is proposing a building coverage of 22.67%, which conforms.

30. The maximum impervious surface area per the zoned district is 45%. The Applicant is proposing an impervious surface area of 31.99%, which conforms.

31. An accessory structure requires a minimum setback of 5 feet from the side and rear property lines. The existing detached garage has a side yard setback of 47 feet, which conforms. The rear yard setback to the existing detached garage is 2.3 feet, which represents an existing non-conformity.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Interlaken that the application for variance approval pursuant to N.J.S.A. 40:55D-70(c)(2)(flexible “c” standards) be and is hereby approved, in that as to this particular Property the benefits of the deviation will substantially outweigh any detriment of not granting said variance based on Applicant’s proofs that sufficient reasons exist for the same, that the improvements are aesthetically pleasing; and also based on that the relief can be granted without substantial detriment to the public good because there are no architectural or visual negatives caused by the proposed first and second floor addition and the finding that the improvements will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance of the Borough of Interlaken, but subject to the following conditions:

N. Publication of a notice of this decision in the official newspaper serving the Borough of Interlaken, and return of proof of publication to the Board Secretary.

O. Payment by the Applicant of all taxes, escrows and assessments to date. No building permit or certificate of occupancy is to be issued until proof is furnished to the Board Secretary that there are no taxes, escrows, or assessments due or delinquent on the property in question.

P. The obtaining of all proper building permits for construction, and construction in accordance with the documents marked at the hearings, and in compliance with the testimony and stipulations of the Applicant at the hearing.

Q. Compliance with the requirements of all governmental agencies having jurisdiction over the

development of the Property.

R. Pursuant to Ordinance Section 25-3, Applicant shall have one year from the date of this Resolution to start construction; otherwise this variance approval shall expire, and once issued, the Applicant shall continue to complete the construction in a commercially reasonable time frame.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Secretary of the Planning Board of the Borough of Interlaken to be a true copy, be forwarded to the Borough Construction Official, the Borough Clerk, the Borough Tax Assessor and Collector and the Applicant herein; and

BE IT FURTHER RESOLVED that this Resolution shall serve as one of memorialization of the action taken by this Board at its meeting on December 17, 2018.

The foregoing Resolution was offered by Ms. Dalton and seconded by Ms. Heinz and adopted on Roll Call by the following vote:

ROLL CALL:

In Favor: Chairman Papp, Vice Chairwoman Umfrid, Mr. Tilton, Ms. Dalton, Mr. Mendifto,

Ms. Heinz, Mr. Weaver and Ms. Kane

Opposed: None

Abstained: None

Ineligible: Councilman Butler, Ms. Gatsch, Mr. Wentz

Absent: Mr. Wasilishen

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of Interlaken on the 28th day of January, 2019.

APPLICATION

316 Bridlemere Avenue, Block 33 /Lots 1, 2 & 3, Menicucci (continued)
Application amendment

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

There was a brief discussion between Board Attorney Brown and Mr. Steinberg, regarding the composition of the Board members present at this meeting and at previous meetings. There are Board members and also alternate Board members present.

Mr. Steinberg stated that the statute calls for a seven member Board, in the case of this application, as it is a Board of Adjustment matter.

Mr. Steinberg agreed that all members present, including Alternate members, be permitted to sit at the table and ask questions. This would ensure eligibility of Alternate members, should the need arise for a future meeting.

Board Attorney Brown sited Cox to give information regarding the historic rational for the seven member Board. Some boards had appeals before the Council of the municipality. That is no longer the case in Interlaken, therefore the organic rational for precluding the Mayor's representative and the Council representative is not necessary here. The seven member Board selection can be based on practical matters and chosen at the time of a vote.

There was a brief discussion regarding the eligibility of Board members, including those that were not at the previous hearing and would need to listen to or read the meeting transcripts.

Board Secretary Kneser stated that all members present were eligible. Transcripts were read and affidavits were executed.

Mr. Steinberg stated that he represents the applicants, Liz and Michael Menicucci. The application was before the Board on November 19, 2018. In 2017 the same applicants came in front of the Board and asked for variances to convert part of the portico and exterior into a two-story addition and to erect a new garage that would have access from Buttermere Avenue, which required a front yard setbacks from Buttermere Avenue and Westra Street. The Board granted that application. The applicant went forward and started to renovate the house. It has been an ongoing process. Part of the application process is to submit plans to the municipality. There are inspections as you proceed. It turned out that, although the applicant may have represented certain things at the hearing, the applicant went ahead and submitted plans that included a garage door on the front of the new garage facing Bridlemere Avenue. It was mentioned that it would not happen. The applicant later expanded the driveway off of Westra Street to include a turnaround. The driveway expansion was not on the plans and not mentioned. It was not even a thought at the time of the original application. Basically, the applicant would probably not even need approval for either of those items had they been included as part the original application and/or had they been done after everything else was finished. Those two items do not require variances. In any event, all this lead to the Borough's inspectors questioning the garage door being permitted, although it was approved on the Construction plans submitted. There were some questions about the driveway. As a result of this questioning an "as built" was done. The "as built" revealed that the front yard setback off of Buttermere Avenue was about two feet off and the setback off of Westra was two or three inches off. The applicants are coming back to the Planning Board now at the November 19th hearing to tell you that the applicant made that mistake. It was nobody's intention to fool anybody or to not do what they were permitted to do.

Mr. Steinberg stated that the architect is present to give testimony that the garage was moved a bit to line things up with the existing structure.

Mr. Peterson, Architect for the Applicant and previously sworn, joined the table.

Mr. Steinberg referenced Mr. Avakian's previous letter stating that the finish for the driveway was discussed at the last hearing. It would be a solid surface. There was also a question regarding the number of driveways. The second most easterly driveway off of Buttermere Avenue will be removed and landscaped.

Board Attorney Brown wanted to clarify a couple of points noting that Mr. Steinberg was not at the 2017 hearing.

Board Attorney Brown asked for clarification of Mr. Steinberg's previous comment that the plan submitted did not include the widening of the driveway itself. Board Attorney Brown noted that, as heard in the November hearing, in fact, did indicate that the existing driveway was going to be reduced by a certain amount. Board Attorney Brown asked Mr. Steinberg to stipulate that, on behalf of the applicant, Mr. Steinberg is not taking the position that any of the revised plans, which may have included the garage door on the north side, resulted in an approval.

Mr. Steinberg stated that it was an approval. The permits were issued to construct. Although Mr. Steinberg's client received the appropriate permits it was not based on the plan that was approved by this Board. There was no intent to fool anyone.

Mr. Steinberg stipulated that the plan submitted to the Building Department was not the same plan that this Board approved.

Board Attorney Brown questioned Mr. Steinberg's position. Whatever the Borough officials did Mr. Steinberg is not taking the position that equates to a legal approval for a garage door on the north.

Mr. Steinberg agreed that it is not a legal approval by this Board who granted a variance based upon the plans that were submitted.

Mr. Steinberg agreed with Board Attorney Brown that the Construction department signed off on plans that were not approved by this Board, so technically they were not the correct plans and they should not have been signed off on. Mr. Steinberg cannot say that the Construction department did not sign off on them. The Construction Department signed off and the applicants built.

Board Attorney Brown asked that Mr. Steinberg agree that he is not taking the legal position that whatever the Construction Department signed off on, that was on those revised plans, resulted in an approval for construction of the north garage door, correct?

Mr. Steinberg agreed.

Board Attorney Brown stated that this stipulation means that Board Attorney Brown does not have to protect the Board and do some arguing at a later time on some collateral approval.

Mr. Steinberg so stipulated.

Mr. Petersen testified that two front yard setback variances were approved by the Board and what was actually constructed is slightly closer to the two front yards than what was proposed. The reason for that was that the contractors out in the field, on their own, took the setbacks that the garage addition would be behind the front face of the house along Buttermere Avenue. Due to an existing construction of the chimney it made sense to pull the garage forward 1.4ft.

Board Attorney Brown noted the a prohibition of hearsay testimony and asked Mr. Petersen to indicate that Mr. Petersen did not make the decision but explain how he knows it was the builder who made the decision

Mr. Petersen stated that he spoke to the builders. You cannot see the deviation of a foot over 20-25 feet out in the field. When the results were received that the measurements were off by about a foot on one side and a couple of inches on the other side, Mr. Petersen spoke to the contractor. The contractor said it was moved forward because the chimney was there. There was an access that was needed to get down in the basement. There was also a tree root there, so they moved it by what, they thought, was an insignificant amount. However, it is a significant amount because, there is a prior approval.

Mr. Petersen believes that the inspector would have never have picked up the difference. Mr. Petersen stated that he believes that the contractor simply did not know

Ms. Gatsch questioned who the contractor was.

Mr. Petersen stated the contractor was Vinny Scheidt.

Mr. Petersen stated that the contractors worked off of existing dimensions and that the garage was behind the front face. The contractor's understanding was that they were not coming in front of the existing front of the house. The applicant does not gain anything by making the change.

Mr. Weaver questioned the setback measurements on the "as built".

Board Engineer/Planner Avakian stated that on the survey prepared by Mr. Rogers, revised through 09/26/2018 referenced in the engineering report, a variance was granted for a front yard setback on Buttermere Avenue of 26.2ft and the house was constructed 24.8ft from Buttermere Avenue resulting in the garage being 1.4ft closer to Buttermere Avenue than the Planning Board approved. On Westra Street, which we have not heard testimony on, and do not know if that was the same the situation that caused the setback deviation, the setback approval was 42.4ft and the front yard setback measures in the "as built" as 42ft which resulted in the garage being 4/10ths of an inch closer to the Westra Street right of way on that front.

A Board member noted that by eye you would not determine that it was more than it was supposed to be.

Mr. Petersen stated that he went to the site often and did not pick up on the difference. The variation was not known until the “as built” was done.

Mr. Petersen stated that no body directed the contractor to do it or try to hide it. They did it. They honestly thought they were doing something good.

Mr. Petersen confirmed to Mr. Steinberg that he submitted additional plans to the town as the construction went along. One of which was with a garage door facing Bridlemere Avenue.

Mr. Petersen testified that as Mike and Liz Menicucci got more familiar with the house, they realize that access to the basement was very tough through the existing interior stairs, so they asked about the feasibility to have a set of stairs in the garage. They desired to have access to the basement that would be a wider with more grandiose set of stairs. We were able to do that which reduced the garage by one bay. In addition to that it was requested to put another garage door on at the Bridlemere Avenue side so that if someone was parked in the garage with two cars parked in the driveway on Buttermere Avenue a car could get out of the garage, rather than jockey cars in and out.

Mr. Papp who asked who requested the garage doors.

Mr. Petersen stated that the homeowner asked for the doors. The construction drawings were revised, which happens periodically as you go through a project for structural and mechanical construction revisions. The revision showed the stairs on the drawing and the garage door on the outside. The plan was approved. It was an update to the building permit and it was constructed it that way. However, after the door was put in, the Construction Official came out and said that the garage door was not noticed as part of the revision. He did not see that. Mr. Petersen noted that this was not a drawing that the Planning Board had seen. It was an update to the permit.

Mr. Steinberg noted that often revisions are made periodically.

Mr. Petersen stated that there are two types of revisions. One is when things that are necessitated by the construction, the other are changes that the homeowner or clients desire to make, as they go along in the project.

Board Engineer/Planner Avakian noted that the applicant was at the original hearing and that he knows that Mr. Petersen was present. None of the Borough’s construction officials were present.

Board Engineer/Planner Avakian asked Mr. Petersen, “Didn’t you remember that the Board voted for the garage door not to be on the Bridlemere Avenue face with very specific testimony to support that? Board Engineer/Planner Avakian continued, “Didn’t you know when you put it on the plans that it really should have come back to the Planning Board for review at that time, which would have minimized all of this happening?”

Mr. Petersen stated that he took the basis of the approval to be that the project is being done and there was not going to be a garage door. It was going to be a window. Not on the basis of you should approve this because we are not going to have a garage door.

Mr. Steinberg noted that it was the Planner that had some of the testimony on that.

Board Engineer/Planner Avakian stated that he has to accept that, because what happens in projects like this is that you become so immersed in the minutia of it, because that is all that you look at. We are looking at specific issues Board Engineer/Planner Avakian stated that he read the original transcript and did listen to the testimony.

Board Engineer/Planner Avakian stated that the plan came to the Borough's construction officials. Board Engineer/Planner Avakian stated that this is not hearsay, because he saw the plan. Mr. Petersen stated that the revision was clouded. The stairway that was being revised internal to the garage had a cloud symbol around it. That is what the Construction Official reviewed. The garage did not and that is not what he reviewed. Board Engineer/Planner Avakian noted that the Construction Official was kind of embarrassed and stated that he never looked at the garage door. It was not on the plan for him to look at. It was the stairs that were there for him to look at. That is how that occurred. Board Engineer/Planner Avakian noted that Construction Official cannot be faulted. It is just how it occurred. Board Engineer/Planner Avakian also noted that he accepts Mr. Petersen's testimony, because Mr. Petersen has been very factual throughout.

Mr. Petersen stated that the decision by the homeowner to widen the driveway came about as they were there pulling into that site. It was more torturous than they anticipated. Since they are within the overall coverage and still are within the overall coverage they widened the driveway under the theory or concept that had they built everything, five years from now it may not have been required to come before the Board. That is what they did. It was not something anyone was trying to hide.

Chairman Papp noted that the plans were pretty clear.

Mr. Steinberg stated that the professionals were under the understanding that they only came before the Board for the garage change.

Board Attorney Brown noted that not only were the plans clear, but the plans said that the area of the driveway was going to be reduced by a very specific area of the driveway.

Mr. Petersen agreed and stated that the page was showing that the area that the garage was being put would be the reduction.

Board Attorney Brown stated that there was not any indication, at all, that the driveway would be widened.

Mr. Steinberg agreed that there was no indication that the driveway would be widened.

Board Attorney Brown stated that, at the time of the application, under the then ordinance and still existing ordinance, you were only allowed to have one driveway. The proposal was for more than one, so there was actually a variance granted. The variance included the continuation of the existing driveway on the side street and the driveway, as is, which had been there for a very long time on Westra Street.

Mr. Steinberg stated that the applicant is not being contrary to anything. The applicant understands what was approved, but are trying to explain to the Board how it got to be where it is today.

Board Attorney Brown noted that there are new Board members who were not here in 2017.

Mr. Steinberg stated that when you have a single family dwelling, a site plan is not reviewed. Only the specific variances are reviewed, but the applicant submitted certain exhibits and certain comments that would help the Board to approve the setback variances. The applicant understands that.

Ms. Heinz stated that, it was important to her and she went back to look at the original plan. The plan said the driveway would extend to the carport and not have any access to the back of the garage. It was very clear what Ms. Heinz was going to vote for.

Board Attorney Brown stated that the grant of the variances were conditioned upon satisfaction of all the representations made by the applicant.

Mr. Steinberg stated that the applicant does not want to beat a dead horse. That is the approval that the Board gave the applicant and we are in a situation today where it is different from the approval. The applicant is trying to prove to the Board that the condition that exists today is a reasonable one and are looking for approval. The Board can't beat the applicant up continuously. The applicant knows it was done wrong and is here to rectify the situation, as best as we can.

Board Attorney Brown stated that the Board is not beating up the applicant. The Board is trying to clarify and trying to be especially helpful to new Board members and members of the public who are here tonight, who have a right to hear the history. If they have not been here before and even if they were here they do not have the responsibility as the Board members who were here, but they should have the full story and I am sure you would agree with that being a board attorney.

Ms. Gatsch stated that she was not here, but has read the transcript. The plans are not the same. Ms. Gatsch does understand that we run into issues with older homes and even new homes. Ms. Gatsch believes that the Mr. Petersen knows that when you go for a variance, that the applicant is getting approval on what was presented to the Board, because it is denied in the first place. Mr. Petersen is an architect and engineer and should know the need to come back for approval.

Mr. Petersen stated that that is why the applicant is back.

Mr. Steinberg asked that the Board look at it in another way. You have a single family house, which doesn't require a site plan. A garage was built that does not require a site plan. The project is under the lot coverage. The variances here were to replace the carport with a usable garage, which turned out, even with approval, half is not even usable. All that accumulated to why we are here tonight fresh.

Ms. Gatsch made comment regarding putting the garage on the north side of the addition. If there is a car in the garage and you have two parked out. The Borough does not allow parking on the street.

Residents have to figure it out or call the Deal Police to say they have visitors and we have to have the car on the street.

Mr. Steinberg stated that a hat is being hung on the on the fact that the applicant said they would not put a garage door and asked if it deters from the beauty of the home.

Ms. Gatsch and Ms. Heinz stated that it does.

Mr. Steinberg stated that a variance is not needed for a garage door. A variance is not needed for a driveway.

Ms. Gatsch stated that they are needed because of the initial application.

Board Attorney Brown stated that the applicant went before the Board and asked for what was asked for in 2017 were the key variances, build a garage that extended in violations to the then and still existing setbacks. If applicant came here today and asked for what has been built, would the Board have granted that approval? Even if the Board would have voted for what is now proposed, would the Board have then prohibited the garage doors on the side or prohibit the expansion or elimination of the driveway out on to Westra? The Board votes based on the information it has before them.

Chairman opened the floor to questions of Mr. Petersen.

Jennifer Wentz, 224 Windermere Avenue, read from the transcript Mr. Petersen's testimony, asking: On July 17, 2017, Mr. Petersen was testifying in sworn testimony that the house is going to reflect the neighborhood and that the applicant was going to conform to the current architecture. Mr. Petersen stated that the styling of roofing, windows, and overhead garage doors will be in keeping the plan. Mr. Petersen stated that when all is said and done, someone driving by a year from now the project will look like it was always meant to be there and was always part of the original. A board member asked about the driveway on Westra that was just going to extend to the car port. Not any access to that back of the garage no not at all. Petersen: It is just the existing driveway that comes up. It gives them some additional parking and when people want to come up to the front of the house. Which would be the public front of the house. Then it goes under the existing car port. It does not connect to this garage on the back of the garage. It is just a regular three foot door.

Ms. Wentz asked if that was Mr. Petersen's sworn testimony.

Mr. Petersen stated that that was correct.

Ms. Menicucci, homeowner, joined the table.

Ms. Menicucci was sworn in by Board Attorney Brown.

Mr. Steinberg referenced a landscape plan and asked if this plan was basically what would be planted on the property and submitted the exhibit to be marked into evidence.

Board Attorney Brown noted that there are different qualities of proof. Normally a Board will not accept documentation, unless it is sealed by a professional. So what is being heard is that apparently the plan of a lay presentation.

Mr. Steinberg stated that the plan was prepared by a professional, but is not a sealed plan. This is what the applicant has engaged someone to plant.

Board Attorney Brown confirmed with Mr. Steinberg that what he was asking is that the plan be marked for identification, but there is no plan to have it marked into evidence.

Mr. Steinberg stated that is correct. The plan will be used for the purposes to identify the landscaping that is proposed, but if the Board feels that the applicant has to be bound by the plan than we could.

Chairman Papp noted that he believes the Board would like to see the plan and have input.

Mr. Steinberg distributed copies of the plan and it was marked into evidence as A-7.

Board Attorney Brown noted for the record that this document was not on file with the Board 10 days before the hearing, so therefore, no one in the public had the opportunity to take a look at it.

A copy of the landscaping plan was put on an easel in front of the room for public view.

Board Attorney Brown stated that it is certainly possible that in certain variance applications if an applicant indicates that they are going to do a landscape plan and they want that considered to grant a variance that certainly can be conditioned. Board Attorney Brown does not in 2017 recall any specific plan offered, but does remember Mr. Menicucci saying that it will be beautiful.

Board Attorney Brown noted that if the applicant does not want the Board to rely on this plan, than it should not have been presented.

Ms. Menicucci stated that the plan is showing what is proposed.

Mr. Steinberg noted that he thinks that the Applicant's Planner will want this exhibit.

Mr. Weaver stated that he doesn't see that the plan has anything to do with what is on the table. This is a beautiful plan. This a beautiful layout. Mr. Weaver does not think anyone in the world is going to have a problem with it.

Mr. Weaver noted that the project is done and asked where the Board goes from here.

Board Attorney Brown stated that the subject was raised because he wanted to see if the plan is being offered for mitigation, because the applicant is basically asking for new variance relief, so if the Board is inclined to grant any relieve, it can be on condition to satisfy certain landscaping conditions.

Mr. Weaver noted that the only place of any concern are those deviations that you cannot see with the naked eye.

Mr. Steinberg stated that the variances that are needed are the front yard setback on Westra Street that you cannot see with the naked eye and the one on Buttermere Avenue that is close to a foot. It lines up with the house. The contractor let it line up with the house instead of where it should be. Those are the only two variances needed. When getting the initial approvals there was testimony that the driveway would go a certain way and we would not have a garage door, so now that we are here at your behest for reapproval there is a situation where we do have a garage door and we do have a widened driveway. As a mitigating factor to that, the applicant is going to spend a substantial amount of money landscaping the property. Mr. Steinberg has personally viewed the property and they have improved it phenomenally.

Mr. Steinberg submitted photos of the current condition of the house that were taken by the applicant about three weeks prior to the hearing.

Board Attorney Brown marked the packet of photos A-8. The photos were each marked, a, b, c for future reference.

Ms. Menicucci stated that they substantially renovated this home. And this is going to be permanent home. The applicants live there now, very happily. Ms. Menicucci moved into the house after the garage improvement on October 12, 2017 and had not realized the configuration. Backing out on to Westra Street is a nightmare. Cars come flying around the end. Ms. Menicucci asked her husband if there was a way to make a turnaround. The applicants thought that because they were still within the lot usage, it was okay. Clearly we were not. We made a mistake. Ms. Menicucci lives in the home with her husband and two children. There is no parking on any of the three streets that front the property.

Chairman Papp opened the floor for questions to Ms. Menicucci.

Harry Barr, 312 Bridlemere Avenue, stated that he had not yet seen the landscaping plan. There is a lot of foliage and looks nice. Mr. Barr's bedroom is to the east and has French doors to the bedroom that open up and asked what was happening in that area.

Ms. Menicucci stated that a patio and BBQ were planned. A patio was there previously and was just expanded to reach the porch.

Mr. Barr asked what 'not included' meant as referenced on the plan.

Ms. Menicucci stated that it meant the item was not on the previous plans.

Mr. Steinberg noted that it had to do with lot coverage.

Mr. Barr asked if Ms. Menicucci is planning to extend the concrete and blue stones into this area that says not included.

Ms. Dalton asked what is there now.

Ms. Menicucci stated that it was currently dirt.

Mr. Barr asked would construction of these structures that will be permanent require a building permit?

Mr. Steinberg stated that he understands that they do not require building permits and based on these plans does not exceed lot coverage.

Ms. Umfrid asked how far from the property line was to the edge of the patio.

Board Attorney Brown stated that, generally, plans that are being submitted that change the application, need to be on file 10 days before, so the public can look at and must also be submitted within sufficient time for the Borough Engineer to review. Mr. Steinberg stated that the plan is not being introduced to be relied upon and yet Mr. Steinberg is making representation that Mr. Barr has concerns about.

Board Engineer/Planner Avakian stated that there is additional lot coverage on the plan that has not been calculated.

Mr. Steinberg stated that the patio will not be enlarged without permission.

Ms. Menicucci stated that she would have gone to the Borough to enlarge the patio.

Mr. Steinberg stated that the patio is ‘not included’ and the applicant would make an application before doing it.

Mr. Barr stated that he had concerns because the neighbor on his other side had summer parties that extended until 1 and 2 am and the neighborhood had difficulty sleeping.

Mr. Steinberg stated that he was sure am sure his client has no intention of that.

Mr. Menicucci stated that that property has a pool and she is not having pool parties. The area in reference is the only yard space.

Mr. Steinberg noted that Mr. Barr was not sworn in.

Board Attorney Brown noted to Mr. Barr that he has full right to make your comments. Mr. Steinberg’s objection is that at this point in time it is only supposed to be questions.

Mr. Barr stated that it is in connection to my questions. Mr. Barr sees a large patio being planned there and in the past if someone wanted to put a pad for a generator, they had to get a building permit.

Chairman Papp stated that he is not comfortable looking at the plan. There can be an issue with lot coverage. The applicant is very close to lot coverage now. There is a history of things happening that do not coincide with what we have seen are approved by this Board.

Mr. Steinberg stated that the purpose for the plan was for mitigation.

Board Engineer/Planner Avakian stated that patios indicated on the conceptual landscape plan were not included as impervious surface. It is shown as grass area in the ‘as built’ survey. Anything beyond what is on that “as built” survey would have to be reviewed.

Mr. Steinberg stated that the applicant would agree to that.

Mr. Steinberg stated that the plan would only be used for the landscaping part. The applicant will be back if it does not meet the criteria of the Borough officials.

Mr. Barr stated that he thinks it is a total picture and cannot be isolated and expanded over what is previously approved and further expanding closer and closer to his residence, affecting the tranquility the ability to enjoy the home since 1970.

Board Attorney Brown noted that Mr. Barr’s question may have expanded into comments.

Mr. Barr was sworn in by Board Attorney Brown.

Mr. Barr stated that the way it functioned in the past was that the plans people are intending to perform should be reviewed in advance. The applicant reviewed with you what they would like to do. This patio in view of the property of the east of Mr. Barr’s property. This is a huge patio and gives Mr. Barr concern. Parties going on in the summer will disturb his ability to enjoy the home. This is huge.

Mr. Steinberg stated that the applicant would stipulate that, if there is going to be a patio, a permit will be applied for and the setback requirements would be honored for same. If this cannot be accomplished the applicant will have to come back for that issue.

Ms. Menicucci stated that plans change and noted that that will be an entertainment space, if there is a patio there or not.

Chairman Papp called for a 10 minute recess.

Upon return from recess Board Attorney Brown stated for the record that during the break, Mr. Steinberg had a discussion with Board Attorney Brown and Chairman Papp.

Mr. Steinberg stated that seeing the concern of the Board for the landscape plan Mr. Steinberg believes the applicant should supply the Board with a full landscaping plan, with dimensions, under seal, which would be submitted at least 10 days before the meeting, so all could see. There may be changes to this or that and there will be something official in place to base those changes on.

Mr. Steinberg asked that the application be carried to the March 18, 2019 meeting and stated that the applicant grants all statutory extensions of time in which the Board must make a decision.

Mr. Steinberg stated that if the public has some brief comments and the chairman wants to entertain those, the applicant has problem with hearing them. Those that comment tonight can also comment at the next meeting.

Chairman Papp announced that the Board will allow the applicant to be carried to the March 18th meeting.

Mr. Steinberg stated that within a few weeks the applicant will supply a full landscape plan and submit it so that the Borough Engineer/Planner can review and comment before meeting.

Chairman Papp opened the floor for public comment.

Don Fields, 408 Buttermere Avenue was sworn in. Mr. Fields appreciates the Planning Board coming out and dealing with this. I have also heard the comments of the minutia of this I am in the antique German car restoration business and we call it mission creek and these things do happen and tend to get a bit out of hand. Mr. Fields summarized what he has heard at the meeting. Mr. Fields also stated that he has heard hammers swing on Sundays and has reached out privately twice to the applicant and called the police once. Mr. Fields stated that he believes what he is hearing is a willful disregard of everything that goes on here and asks the Planning Board what they are going to do. He thanked the Planning Board for their time.

Mr. Keith Smith, 510 Bridlemere Avenue was sworn in and asked the Board to consider what precedent is being set if this application is approved. Everyone knows it is easier to ask for forgiveness than ask for permission. This seems to be a case of ‘we already did it, so we would just like you to forgive us and look it over’. What he said it is a lack of respect shown for the Board by not asking permission and doing what they want to do. If you are waiting until March what else is going to be done. Will there be a stop work order be put in place so no more construction will be done or are they going to continually ask for forgiveness. Mr. Smith asked that this be considered when they make their move.

Ms. Wentz, 614 Windermere Avenue was sworn in and stated that she would like to ask the Board investigating to consider the testimony of the expert witness believed a planner in July who stated that: “this home is located on a property that I would consider to be a gateway for the Borough. It’s one of the first properties that people entering Interlaken from Ocean Township would see, so it is a visually significant beyond other properties in the Borough. The proposed garage addition, however is designed to have those garage doors face Buttermere, so they are not visible from the roadway as it enters the borough. If the garage addition were located fronting on Bridlemere of what could be a conforming though challenging location, it would have a much more impact on the visual character and have a negative impact to that character of that property that is located at a key gateway point. This changes the public face and visual character of what is already a beautiful home and if by including the garage door on the façade that it’s the front that faces the lake as proposed though the garage structure will not have a significant impact at the gateway location.” Ms. Wentz stated that everyone that drives down Monmouth Road to approach the bridge to go into Interlaken sees the garage. That is the house that sets the look of Interlaken. It does not conform to the way the house used to look. Ms. Wentz loved that house for years and years and years and the fact that it was changed makes such a significant impact. Ms. Wentz does not understand how it can be permitted to stand. Ms. Wentz stated that she

does not know what changed the witness' mind. There has not been much testimony about that. It really is not good and landscaping does not block that visual of the door.

Ms. Wentz stated that her question was quoted from the transcript of July 17, 2017.

Mr. Steinberg stated that that was quoted from the professional planner who is present tonight prepared to retestify regarding the conditions. That will be done after a full landscape plan is submitted.

Ms. Gatsch asked if the planner could speak tonight.

Mr. Steinberg stated that it was accurate that the planner made those statements, but has additional testimony. The planner viewed the property since it has been constructed differently and has additional planning testimony. The planner and Mr. Steinberg prefer that the landscaping plan be reviewed and comment on before the planner submits her testimony.

Board Attorney Brown noted that Mr. Steinberg is making an offer of proof. The planner from 2017, Allison Coffin and has indicated that if the application continued tonight she would have testified.

Ms. Gatsch stated that she does not feel that the landscaping design right now has a bearing on any decisions. The garage door and the driveway have nothing to do with landscaping.

Mr. Steinberg stated that he respectfully submits that as an applicant he has to have the ability to put in the full case. Because if the decision is not appropriate and this goes to an appeal he needs to have all that testimony before a judge. He can't just piece meal that now and say don't consider the landscaping plan because we feel it is an important issue. Mr. Steinberg stated that he thinks he knows how Ms. Gatsch feels and asked that she hold her decision making until he puts in the full case.

Ms. Gatsch stated that if she understand the rules, it is not up to the Board to approve the landscaping.

Mr. Steinberg stated that the plan is offered for mitigation of the situation that is existing now, also the driveway expansion and the garage doors do not require variances. The problem is that certain statements were made when the original variance for the setbacks were given. If you bear with the applicant they will present a full case and the Board will make its decision.

Ms. Wentz stated the permeable or impermeable coverage in a lot does require a variance. If it is going to go over the percentage, it is not allowed.

Mr. Steinberg we are going to prove that it doesn't.

Ms. Wentz stated that Mr. Steinberg says there is no variance required for the expansion of the driveway. There is.

Mr. Steinberg stated that there is only a variance required, if it exceeds the lot coverage as permitted.

Ms. Wentz stated that she agrees with her fellow residents that, from observation, people move into town. If they don't want to obey the ordinances and don't want to respect the Planning Board, they

should move someplace else. Everyone comes into town. They do exactly what they want and they beg forgiveness. All of these things have a significant impact on our little Borough and on our property values. The disrespect shown to the Planning Board, because they say let's go to litigation, then our property taxes go up. It is disrespectful. Ms. Wentz feels for the Planning Board, because everyone here puts their time and effort into trying to do the right thing, to be respectful and trying to be nice. Ms. Wentz does not think it is serving us very well. Ms. Wentz is sorry for everyone what you have to go through, because it is really not fair.

Board Attorney Brown made a clarifying point. There is a continuing discussion between the driveway which was expanded upon, which was not on the plan, as well as the door. Mr. Steinberg indicated that they are not a separate variance for that, but what is true, clearly, that the Board relied upon those representations.

Mr. Steinberg stated that he was just saying that those things did not require a variance, and is agreeing with Board Attorney Brown. Things change and the applicant is trying to mitigate and explain. The applicant wants to put their full case in and then the Board can make their decision.

Ms. Kane, Planning Board Alternate asked if she can be recognized from the audience.

Ms. Kane said she had a question and you can strike it. If these things that the applicant is going for are not approved what happens? Everyone understands they did things they were not supposed to do. Ms. Kane agrees that these are gorgeous updates for the house. The Board is trying to figure out how to make sure this does not happen again. Ms. Kane stated that she is an alternate of the planning board member, but is speaking as a resident.

Mr. Steinberg asked if Ms. Kane was going to recuse herself from the application.

Board Attorney Brown stated that he wanted to make the difference clear. The law of relationships speaks to Board members and conflicted Board members. Ms. Kane is not conflicted. She certainly could make a comment, if she was sitting here and she could be sitting here. If she was sitting in Ms. Heinz seat. If she was sitting here Mr. Steinberg has already indicated that she could ask questions.

Mr. Steinberg stated that Ms. Kane could be considered a board member then. We don't know how many we will have for a quorum in a future meeting.

Board Attorney Brown stated that it was indicated that all the Board members could sit up here. Board Attorney Brown confirmed that Ms. Kane has been in the room the whole time whether or not she was sitting at the table next to Ms. Heinz. Her comments are as a Board member and can be considered likewise.

Ms. Kane asked what happens if those variances are not passed.

Board Attorney Brown stated for context. Some people have mentioned that there was no stop work order. Mr. Steinberg has indicated that it is already there. The fact that it is there does not mean it can be permitted to stay there. That is why the applicants are here. They want it to stay there. Mr. Steinberg is not taking the position that it is already there and it has to stay there. If the Board indicates

that they would not have granted the variances for the two front yard variance for the garage that has already been constructed, and they would not have done that in the context of allowing the expanded driveway and the door. If that is the case, you could say, if you want to keep up your garage then do what you represented back in 2017. Put the driveway the way it was or take out the driveway. There shouldn't be two driveways. The same thing with the door.

Board Attorney Brown asked Mr. Steinberg what would happen.

Mr. Steinberg stated that he would have to discuss that with the applicant. Mr. Steinberg stated that the applicant would like to finish presenting their case and get a vote. If the vote is a negative, there are alternatives that are available for the clients to do certain changes and/or there are other things. We don't know what they are going to be. We always want to make a full record. What if we win and this gentleman who doesn't like it brings an appeal of your positive decision. A full record is needed. You always need a full record, in the event that there is a second proceeding. It does not have to be brought by me it can be made by one of the adjacent neighbors.

Mr. Tilton stated in the memos and the prior hearings, there has been discussion about whether a County permit is required. Mr. Tilton sees the driveway is about 10ft out of the intersection and the size of it. Mr. Tilton has to believe the County would have some interest of that. Before the next appearance, Mr. Tilton would be curious to know if an application has been filed and what the status of that is. If not than someone has contact the County to determine that it is not required. Mr. Tilton continue to be concerned about the safety of that driveway, at that intersection. It is a number one concern. The applicant is exacerbating the condition.

Board Engineer/Planner Avakian stated that, just so everyone is aware, the driveway enters Westra Street. That is a County road. The County has jurisdiction over improvements within the right of way. While the curb was not altered, perhaps the driveway extends into the right of way slightly. It will be very easy for the applicant to find out. It would also help to provide a detail of the finished driveway pavement surface. What was testified at the last hearing was chipped stone imbedded in the asphalt.

Mr. Barr stated that he recognizes the tremendous amount of effort and money that the Menicuccis have put in to beautify the property and all in all thinks that he I can live with what happened on the Westra side. Mr. Barr is concerned and wishes the Board would look into what type of approvals are necessary for what appears to be a greatly expanded patio. Mr. Barr and his wife have their interest to protect because they are the immediately adjacent neighbors.

Board Attorney Brown stated that, without additional notice, this hearing will be continued to the March 18, 2019 meeting. Mr. Steinberg stipulated that he will send reports and plans on a timely manner and they will be available for the public to look at 10 days prior and should be sent to the Borough

Engineer/Planner's office well in advance of that deadline date for review.

Board Engineer/ Planner Avakian stated that regardless of whether it is a construction detail, an additional plan drawing, an updated as built survey or an engineering report it should go through the Planning Board Secretary.

Mr. Papp stated that it is regrettable that the Board cannot finish this application tonight.

Planning Board Secretary Kneser stated that the NJ Planning Magazine copies were on the table.

Planning Board Secretary Kneser stated that Mr. William Schmeling of Township of Ocean Sewage Authority, has made a request to attend a future meeting to continue with the review of the Pump Station.

Board Attorney Brown noted that he was the Planning Board Attorney for the Township of Ocean. Township of Ocean Sewage Authority came before that Board and asked the Planning Board to consider a similar application for a pumping station as a capital review. Board Attorney Brown made the recommendation in conjunction with the township planner and the engineer that it could not be considered as a capital review. The Planning Board of Ocean Township refused and asked that the request come in the form of a regular application.

Board Attorney Brown gave the Board some background regarding the instances where projects are considered through capital review using the example of School Boards.

Board Engineer/Planner Avakian noted that the Township of Ocean Sewerage Authority (TOSA) has been before the Interlaken Planning Board before on a capital review. TOSA wanted to be here to advise the Board of what is happening with the pump station. Fire districts are also instances where capital review is used. They are quasi-governmental agencies.

Board Attorney Brown stated that there is a big distinction in the approach. In Ocean Township the Board told TOSA that they could not just come in and tell the Board what they are doing. It has to come to the Board in the form of an application. The Board may agree with the plan or not.

The distinction is either have TOSA come and tell the Board the plan and the Board has no power to give any direction versus having them come before the Board and the Board indicating what the Board wants.

Chairman Papp requested that Board Secretary Kneser be in touch with TOSA to advise them that the Board would like them to submit the project to be reviewed as an application.

Board Engineer/Planner Avakian stated that the whole reason for the project is that the pumps in place during Superstorm Sandy were not submersible. They are raising the elevation above the flood line. TOSA did offer the last time they were before the Board for the ability for the Board to initiate conversation with them on some of the aesthetic features, which was a good thing. Now we will go a little further, if it is addressed as a formal application.

Board Secretary Kneser announced there was a local class for those that need to complete their mandatory training. It will be on April 13, 2019 at the Monmouth County Fire Academy.

The Board had a brief discussion regarding the ability for the alternate members to question and make comment during a meeting.

Board Attorney Brown gave counsel regarding alternate members and disqualified members who live within 200ft with specifics regarding the rights of these members to make comment/question during various circumstances regarding hearings. Board Attorney Brown also gave background information regarding the number of members for each type of application and suggestions regarding the choosing the members who would vote for various applications.

Mr. Wentz questioned the hypothetical situation where a witness or professional comes before the Board and changes their previous testimony.

Board Attorney advised that, the testimony would be allowed. If the Board accepts the rational for the change of opinion the Board may accept the testimony. If the Board does not accept the rational of the second testimony it does not have to be considered. The first testimony would be considered. So the second testimony is allowed. The witness or professional should convince the Board that there is a reason that that testimony is different.

Chairman Papp thanked the Board for their patience during the long meeting.

UPON MOTION of Mr. Weaver, seconded by Ms. Dalton, carried, the Board adjourned the meeting at 10:21pm.

ROLL CALL:

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Ms. Gatsch and Mr. Wentz

Approved: _____
Mr. Papp, Chairman

Attest: _____
Gina Kneser, Secretary