

**BOROUGH OF INTERLAKEN
MINUTES- PLANNING BOARD
AUGUST 19, 2024 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 August 19, 2024, 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 and Asbury Park Press. The announcement was followed by the Pledge of Allegiance.

ROLL CALL:

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

Also Present: Planning Board Attorney Kevin Kennedy, Planning Board Engineer Peter Avakian and Planning Board Secretary Gina Kneser

Absent: Councilman Blasucci, Ms. Dalton and Ms. Kane

UPON MOTION of Vice Chairwoman Umfrid seconded by Mr. Weaver carried, the Board approved the minutes of the January 22, 2024, meeting.

ROLL CALL:

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

Opposed: None

Ineligible: Chairman Papp

Abstain: None

Absent: Councilman Blasucci Ms. Dalton and Ms. Kane

Ms. Kapp was sworn in Board Attorney Kennedy:

<u>Name</u>	<u>Class</u>	<u>Term Expiration</u>
Jennifer Kapp	Class I	12/31/2024

Application
JCP&L
Variance Extension

Benjamin Nadell, of Saul Ewing, Attorney for the Applicant joined the table.

Board Attorney Kennedy stated that the applicant noticed for the extension request and asked if there were any comments or questions regarding such notice. There was no reply from the Board or from the public.

Board Attorney Kennedy stated that he and Board Secretary Kneser reviewed the notice and found it to be in order. The Board has jurisdiction to proceed with the application.

Board Attorney Kennedy marked the following items into evidence:

A-1 Resolution of the conditional approval adopted by the Interlaken Planning Board on or about February 27, 2023

A-2 Correspondence from the applicants attorney to the Planning Board and the Board Attorney dated 7/24/2024

Board Attorney Kennedy stated that the applicant is asking for an extension.

Board Engineer/Planner Avakian was sworn in by Board Attorney Kennedy.

Benjamin Nadell, attorney at Saul Ewing, stated that he was appearing on behalf of JCP&L. The applicant is seeking an extension of a prior approval. As Mr. Kennedy advised, on January 23, 2023, the Board granted a use variance approval, and that resolution was memorialized on 2/27/2023. The approval permits the installation of a new utility monopole. It is referenced, as structure #218. It is located within the right of way of Wickapecko Drive. This is simply a request to modify the approval to extend the life of the variance that was granted. Condition "J" of the resolution that was adopted last year states that: "pursuant to Ordinance section 25-3, the applicant shall have one year from the date of this resolution to start construction, otherwise this variance approval shall expire one year from the date hereof." Mr. Nadell stated that construction has not started as of the meeting date. The main reason for this delay is due to outside agency delays, specifically in the County of Monmouth. The County of Monmouth has central jurisdiction over this project. It is part of the Central New Jersey Reliability Project. This project spans four municipalities so JCP&L's engineers and the County engineers are still working though design issues. The design location issues that the County and JCP&L's engineers are working through have nothing to do with pole #218 in Interlaken. Nothing is changing in Interlaken. Construction hasn't started because the outside agency approvals have to be obtained before JCP&L can move forward and install the new pole. Mr. Nadell stated that JCP&L is actually seeking a two-year extension. The reason for a two-year extension request is because, if it were to only be extended for one year, we would be back here in February of 2025 making the same request. So, in the event that construction does not start between now and February, JCP&L is seeking to have that added protection. We don't have to come back to the Board and do an extension request in six months.

Chairman Papp stated that Mr. Nadell mentioned that this project spans four municipalities and asked if all four municipalities have approved the project.

Mr. Nadell stated that he does not know the specifics of the other municipalities. He believes that at least Ocean Township has granted approval but does not know, for sure, the specific status of the approvals for the other local municipalities.

Vice Chairwoman Umfrid noted that original variance has already expired.

Board Attorney Kennedy stated that there is a provision of the law which says you can go back to when it should have been requested. The law does allow that, if the Board is so inclined to grant the extension.

Board Engineer/Planner Avakian added that this happens fairly frequently in other towns where some outside agency, be it a condition of approval, a DOT approval, a stormwater management approval, does not come through in the one-year time. The applicant comes back to the board. Sometimes they just don't realize it is a year. When they come back, the municipal land use law says start from the Board's approval date, the February date, not from today. So, the delay in the request is addressed.

Vice Chairwoman made note of her disapproval that the request has come after the variance has expired.

Board Attorney Kenney stated that, technically, under the law for a strict extension request, notice is not required but Mr. Nadell felt, conservatively, because the time frame was set forth as a specific condition in the approval that the request was technically asking for an extension, so out an abundance of caution, the applicant decided to notice.

Board Attorney Kennedy noted that, of course, the Board likes noticing because the Board likes things to be more transparent than less transparent. That is just another piece of the puzzle.

Vice Chairwoman Umfrid asked if there was a reason the applicant did not come back before the original approval expired.

Mr. Nadell stated that there is not a specific reason. He does not have a good response. It is something that the company realized that there is a condition in the resolution. When the company looked at the calendar, they said they better make this request now. Mr. Nadell stated that he wished he had a better response but unfortunately, he did not.

Chairman Papp opened the floor to public comment.

Katherine McCann 734 Bridlemere Avenue, Interlaken, came forward.

Ms. McCann was sworn in by Board Attorney Kennedy.

Ms. McCann stated that she received two certified copies in the mail on the same day that had her information on it and she wanted to know if that was a mistake or is this JCP&L thing happening on her property.

Mr. Nadell stated that his office did provide public notice in preparation of tonight's hearing. The reason the notice was provided is that the applicant is seeking relief from a prior condition of the approval. When the property owners' lists were ordered two lots were used and Mr. Nadell believed that Ms. McCann's address was listed twice hence the two notices received. They were duplicate notices. Mr. Nadell apologized that Ms. McCann received two notices.

Mr. Nadell stated that the purpose of the notice was to advise the public that JCP&L was requesting the extension. JCP&L is not seeking to modify the project and JCP&L is not changing anything that was previously approved in 2023. The request was just to extend the approval.

Ms. McCann stated that her property is on the south side of Bridlemere Avenue.

Board Engineer/Planner Avakian stated that the project does not physically affect Ms. McCann's property, but he could not say if the project affects her aesthetically. The project is across the street from Darlene Avenue coming in from Ocean Township.

Chairman Papp asked for any additional public comment. With no additional comment. Chairman Papp closed the floor.

Board Engineer/Planner Avakian stated that he was not making a statement on behalf of the applicant but on behalf of the practicality of the issue. This is something that is granted fairly frequently. The Board already did a review of the testimony. The Board deliberated and took their time. The applicant even went to the Borough Council to discuss the issues of the right of way and came back to the Planning Board. Board Engineer/Planner Avakian stated that, from a Planning perspective, what is normally granted would be a one year approval though February. Board Engineer/Planner Avakian thinks that because of the time, for whatever reason it occurred, it is a little cumbersome on the Board because the Board would be hearing the same testimony a few months from now. The applicant's request for two years, which is actually more like a year and a half from now, would be appropriate in this instance. It is the Board's determination. Certainly, it is the Board's jurisdiction to make the decision.

Ms. Heinz stated that the Board had approved the variance where the applicant sat in front of the Board and said it was very bad if the wires went diagonal across the street and that is why the pole had to be on that side. Ms. Heinz stated that she started looking around and saw there are a number of diagonally wired poles. Ms. Heinz asked if the pole could go across the street rather than on Interlaken's side. There is the Woman's Club that is there and not a residential property.

Chairman Papp stated that the Board can make note of Ms. Heinz's comments and concerns, but the Board did approve the project.

Ms. Heinz stated that she saw the diagonally wired poles after the application.

Board Engineer/Planner Avakian asked Board Attorney Kennedy whether it is appropriate to comment on testimony.

Board Attorney Kennedy stated that this hearing is essentially just dealing with the extension request, but the Board's questions can be answered.

Board Engineer/Planner Avakian stated that he can answer the question based on the testimony provided by the applicant during the application.

Board Engineer/Planner Avakian stated that there were representatives from Pennsylvania, West Virginia, technical experts that came to the Board from JCP&L. Their testimony was more the fact that it is a major transmission line that is coming in and tying into another main transmission line. The line from west to east comes in from Ocean Township. The line from south to north comes from Interlaken on the east side of Wickapecko Drive. They all meet together on the same pole. Because those three lines, the ones coming in from the west, coming in from the south and going out on the north, all meet on one pole. That is the reason it has to be a steel pole and so large in diameter. That is why they cannot do it on an angle. There are other angles, but Board Engineer Planner thinks it is less severe.

Mr. Wasilishen agreed with Ms. Heinz and feels the pole does not have to be in Interlaken. If the project made a left hand turn on Wickapecko Drive coming down Darlene, went to the ladies' club, and went across the street and this Planning Board would not even have to talk about it. Mr. Wasilishen stated that the mentioned this during the application but got the answer that it would be too expensive would require many more poles.

Chairman Papp stated that Mr. Wasilishen's comments would be noted.

Vice Chairwoman Umfrid asked how many times an applicant can come back for an extension of a variance.

Board Attorney Kennedy stated it would be at the discretion of the Board. Sometimes there could be a five-year extension. If the Board is going to grant an extension it could say that if the applicant is going to come back for another extension it must be before the expiration.

Board Attorney Kennedy stated that up to a couple years ago Boards never really had this discussion, because starting with Governor Whitman, continuing through Governor Christie, there was a law called the Permit Extension Act and that basically said we know that bad things happen when approvals expire and we know what a cumbersome process it can be to go through to extend them but it also talks about economic consequences and problems with lenders and the financing industry. They had this law for a long time. You did not have to get these extensions. There were some exceptions where there were new regulations or environmentally sensitive areas and things like that. That went on for decades. The Act was extended for Hurricane Sandy for impacted counties which Monmouth County was one. Then several years ago it expired all together. That is why if you have not seen a lot of these lately. It is because during the extension people did not have to come before the Board.

Chairman Papp asked if the Board could require the applicant reapply for the variance if they come back for another extension after this one?

Board Attorney Kennedy used the example of a site plan for a fast-food restaurant that has been given site plan approval. The site plan does not expire until after two years. If it is not built and the town changes the ordinance to say you can't have a fast-food restaurant then after two years, the site plan is protected. For two years with the site plan, you are protected against any adverse changes. The applicant does have some potentially adverse consequences if they don't do this, but the applicant is asking for an extension and that is within the Board's discretion to grant if it so chooses.

Chairman Papp asked if the Board had the authority to say, "No." to another extension and make the applicant reapply if they return with another request.

Board Attorney Kennedy stated that he would say, "No.", unless there is some extenuating circumstances or unless the zoning ordinances change. It is a very nuanced question. Board Attorney Kennedy stated that he would look into it but that would be his simple answer.

Mr. Weaver noted that this is a utility, and it benefits a large population, not just Interlaken. The utility gets the benefit of the doubt with what they want to put in and the Board does not really have a say. The utility can come back and sue.

Board Attorney Kennedy stated that he was in the audience for this application but does believe this application was found to be an inherent use.

Board Engineer/Planner Avakian stated that the Board is not talking about testimony, but the applicant stated that the project originated in Neptune came down Route 66, around the circle, North on RT 35 through Ocean Township then ultimately connected to the Allenhurst substation through Interlaken, down Darlene, Wickapecko, and Corlies Avenues. So that is the regional area that was testified to being benefiting these communities.

Mr. Weaver asked Mr. Nadell why the applicant did not go ahead and install the pole knowing they were coming up on a hard date to get this thing going?

Mr. Nadell stated that the simple answer is the applicant could not pull construction permits until all outside agency approvals were in hand. That is a standard condition in resolutions. DEP, County, DOT, could be Freehold Soil Conservation District, all of those outside agencies' approvals have to be in the applicant's hand before they can go to the construction office to pull permit. Sure, JCP&L would like to put the pole in if they could.

Board Attorney Avakian noted that the applicant does have a construction permit. The permit was pulled, but no construction commenced within that one-year period. That permit would expire.

Mr. Tilton asked if the pole is in the County right of way.

Board Engineer/Planner Avakian stated that the pole is not in the County right of way.

Mr. Nadell stated that he does not want over complicate things. There is always a risk that a stop work order can be issued if there is an outside agency issue or if for some reason the variance has expired. The project has to be substantially started, which typically means you put a shovel in the ground and pull up dirt. The reason for that is that developers or public utility companies cannot just run and pull a permit if their clock is ticking. We cannot just pull a construction permit and say, "Okay. We are good".

Mr. Weaver made a motion to approve the extension of the variance for two years.

Board Attorney Kennedy clarified that the extension date would be February 27, 2026. If acceptable to the Board, the approval would be extending the approval to February 27, 2026. Subject to Condition" J" of the initial resolution of the conditional approval is hereby modified accordingly.

Board Attorney Kennedy stated that Mr. Nadell's extension request letter, sort of, asked for an extension of the construction permit. The Planning Board does not actually authorize any construction, so as a standard, the applicant would secure and obtain or extend any necessary building construction, zoning and other permits in connection with any improvements identified on any approved plans. Another big condition would be that all of the conditions of the initial approval, unless specially modified here, that begun on that date, remains in full force and effect and the applicants post any necessary escrow fees in connection with the request as the Borough requires and that the applicant publish notice of this action if the Board ultimately approves it. All aspects of the extension request shall comply with prevailing conditions of NJ law and contingent upon the applicants obtaining any other necessary extensions from any other towns, if it is applicable. The applicant must get any outside necessary approvals if there is a further extension request, and we are not saying how the Board will vote on it, it will be made prior to the expiration date.

Chairman Papp that would be all part of the motion.

UPON MOTION of Mr. Weaver to include Board Kennedy's points approve the extension, seconded by Mr. Kapp, carried.

ROLL CALL:

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

Opposed: Mr. Wasilishen

Ineligible: None

Abstain: None

Absent: Councilman Blasucci Ms. Dalton and Ms. Kane

Board Attorney Kennedy stated that he took the liberty of preparing a resolution, in the case that the extension be approved. Board Kennedy had both resolutions prepared. The resolution can be read into the record.

Board Secretary Kneser stated that the draft resolution had been previously sent to the Board with the agenda packet.

Board Attorney Kennedy stated that the Board can pass the resolution, as modified, with the date in February 27, 2026 and with those there other conditions about tother extension from other towns and outside approvals and make any further extension request in timely fashion prior to any further expiration.

Chairman Papp stated that he will assume that Board members have read the draft, and modifications can be added to the motion.

RESOLUTION

EXTENSION OF APPROVAL JCP&L

WHEREAS, the Interlaken Planning is a duly organized Land Use Board, operating and existing in accordance with the Rules, Regulations, Laws, and Ordinances of the State of New Jersey and/or the Borough of Interlaken; and

WHEREAS, representatives of JCP&L previously submitted a Development Application to the Borough of Interlaken with respect to the properties physically located at 50 Wickapecko Drive and 737 Bridlemere Avenue, Interlaken, New Jersey; and

WHEREAS, the said Application south permission for the installation of a utility pole (monopole) in, at, and/or around the site (as authorized via certain easement rights); and

WHEREAS, the said Development Application was conditionally approved (by the Interlaken Planning Board) on or about January 23, 2024; and

WHEREAS, a memorializing Resolution was adopted on or about February 27, 2023; and

WHEREAS, the Resolution of Approval contained the following condition:

- J. Pursuant to Ordinance Section 25-3, Applicant shall have 1 year from the date of this Resolution to start construction, otherwise this Variance Approval shall expire 1 year from the date hereof; and*

WHEREAS, the aforesaid 1 year period has expired, and construction has not commenced (due to certain delays in obtaining outside approvals); and

WHEREAS, as a result of the above, the Applicant's Attorney submitted a communication, dated July 24, 2024, essentially requesting an extension of the timeframe for the Variance Approval; and

WHEREAS, New Jersey Law permits such an extension request, if the Board so authorizes; and

WHEREAS, the matter (extension request) was reviewed at the duly advertised Interlaken Planning Board meeting of August 19, 2024; and

WHEREAS, notice of the Applicant's extension request was timely published in the Board's official newspaper, as required by law; and

WHEREAS, notice of the said extension request was also issued to those individuals / entities who / which own property within 200 feet of the development site; and

WHEREAS, at the Board meeting of August 19, 2024, the following items were officially marked into the record as evidence:

Resolution of Conditional Approval, adopted by Interlaken Planning Board on or about February 27, 2023, introduced into Evidence as A-1;

Correspondence from the Applicant's Attorney, to the Board Attorney, dated July 24, 2024, introduced into Evidence as A-2;

WHEREAS, at the said meeting, the Applicant was represented by Ben Nadell, Esq; and

WHEREAS, at the said public hearing, Peter R. Avakian, P.E., P.P., was also sworn as to any testimony / information he would provide in connection with the subject application;

WHEREAS, public comments associated with the within request were made by the following:

- Kathleen McCann; and

NOW, THEREFORE, BE IT RESOLVED by the Members of the Interlaken Planning Board

as follows:

1. That for good cause having been shown, the subject Variance Approval associated with the referenced JCP&L Application is hereby retroactively extended until **February 27, 2026**, subject to the terms and conditions set forth herein.
2. That Condition “J” of the initial Resolution of Conditional Approval is hereby modified accordingly.
3. That no actual construction is authorized herein. Rather, as is standard, the Applicant’s representatives shall secure / obtain / extend any necessary Building / Construction / Zoning / other permits in connection with any improvements identified on the approved plans.
4. That all other terms and conditions of the Board’s initial Resolution of Approval, unless specifically modified herein, shall remain in full force and effect.
5. That the Applicant’s representatives shall pay / post any necessary escrow fees in connection with the request, as deemed necessary by the New Jersey Municipal Land Use Law / Borough of Interlaken Ordinances / Policies.
6. That the Applicant’s representatives shall publish a “Notice of Action Taken by Board” in the Board’s official newspaper.
7. That all aspects of the within extension shall comply with prevailing provisions of New Jersey Law.
8. That the Applicant’s representatives shall obtain any other extensions from other municipal land use boards, if necessary.
9. That the Applicant’s representatives shall obtain any and all applicable outside approvals associated with the subject extension request.
10. That any further extension request, if any, shall be submitted to the Interlaken Planning Board prior to the actual expiration date.

UPON MOTION of Mr. Weaver to approve the resolution, seconded by Mr. Kapp, carried.

ROLL CALL:

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

Opposed: None

Ineligible: Mr. Wasilishen

Abstain: None

Absent: Councilman Blasucci Ms. Dalton and Ms. Kane

Mr. Nadell thanked the Board and professionals for their assistance and courtesies. Mr. Nadell said it is a pleasure to come to Interlaken and it he appreciates the time and help getting the request onto the agenda.

Chairman Papp stated the next item on the agenda is a consistency review of an ordinance introduced by Borough Council and asked Board Engineer/Planner Avakian to begin the discussion.

Board Engineer/Planner Avakian stated that the Board prepared a document which addresses numerous issues with ordinances and made recommendations for new ordinances to Borough Council. Borough Council took that and responded to it. Borough Council acted on it and adopted three separate ordinances. They adopted the R-C Single Family Residential Zone ordinance, which regulations governing Houses of Worship, creating a third zone. A separate ordinance provided for definitions and regulations on cabanas which was an issue for applications coming before this Board and the third distinct ordinance was regarding accessory structures, where the Borough was a little lacking in some data in the ordinance as to where accessory structures can be located on the property. This included garages.

Board Engineer/Planner Avakian stated that when that was done, which was a while ago, Mayor and Council believed that they had completed their review of the Board's ordinance review report. Chairman Papp, Borough Clerk/Administrator Reibrich and Board Engineer/Planner Avakian met, because there were still some issues and other factors with the ordinances, and went through the Board's report at that meeting, Board Engineer/Planner Avakian went through the report again at a workshop meeting with Mayor and Council. Mayor and Council ultimately came to the conclusion that there were items to resolve some inconsistencies that were part of the Board's recommendations. The garage wording did not mandate that the garage was accessible by motor vehicles from the street over a paved driveway and could accommodate storage of motor vehicles. That wording was put into the ordinance. The Board has seen this where garages are used as more of cabanas, accessory structures or storage units rather than garages. So the garage is mandated as storage of motor vehicles and has to be accessible by paved driveway though this does not mean asphalt specifically.

Vice Chairwoman Umfrid noted there was a previous application that Vice Chairwoman Umfrid questioned the applicant about the fact that the driveway did not go all the way to the garage and the applicant stated that an antique car was stored in the garage, and it was driven over the grass to get it into the garage. This correction to the ordinance would have resolved those questions.

Board Engineer/Planner Avakian stated that a homeowner could state that they were using the garage in that way and then sell the house. The new homeowner could use it in another way. This change would alter the definition to address that.

Board Engineer/Planner Avakian stated that there were deliberations about lot coverage, particularly corner lots. Borough Council wanted the front yard to remain the shorter of the two lot lines. On the corner lot you usually have a front lot line and a side lot line and the shorter of the two is usually the architectural front. Borough Council leaving it that way so it would be the architectural element that would govern. The corner lot shall have a front rear and side yard. The front yard shall be the shorter of the two front lot lines. The rear yard shall be the opposite of the front. The remaining sides shall be considered the side yards. Normally on a four-sided lot, the front will be the shorter on the street. The longer street frontage will be a front but not a primary front. The side opposite the shorter front is the rear. The side opposite the longer street line is the side yard.

Chairman Papp asked if that meant that a corner lot could not have two front yards.

Board Engineer/Planner Avakian stated that that was the intent.

Board Engineer/Planner Avakian stated Borough Council talked about half stories. The rationale of half-story is to use some regulation to make the story above the first or second floor (whatever is the half story either a story and a half or two and a half story) smaller than the story below. There has been success with this method in Sea Girt where they were starting to see boxy structures. The half-story would define the attic space above the first or second story which has a pitched roof and define that space. There would be a minimum vertical wall of five feet where the pitched roof comes. That space within those walls is the living space. It should not be more than 50% of the story below. That means the box no longer can go up and over with a flat roof. The roof comes up and in and makes it look architecturally more appealing. Borough Council did not want to have architectural guidelines. Borough Council felt that this ordinance change could get this issue resolved for the boxiness of the house.

Board Engineer/Planner Avakian answered Chairman Papp's question about the use of pitch by stating that the use of pitch was discussed and taken out. People would question it and whatever you do would require a variance.

Board Engineer/Planner Avakian stated that the existing ordinance for 'Structure' is remaining. Signs and radio towers are being taken out as the Planning Board recommended. The term 'Structure' should not include below ground utilities, fences, curbs, sidewalks or driveways. This wording is effectively not changing, with the exception of taking out signs and radio towers

Board Engineer/Planner Avakian stated that it is very obvious with his engineering eye when he drives through towns that do not control mechanicals, because people can put generators and air conditioners and pool filters in their front yard. The worst thing that can be done aesthetically is to have an over abundance of mechanical equipment visible. The ordinance will state that exterior mechanical equipment (heat, ventilation, air conditioning, pool pumps and accessories, and generators shall be located in the rear yard area and comply with the rear yard and side yard setback regulations so, there will be control over it so equipment is not under a bedroom and cannot be put in the front yard.

Vice Chairwoman Umfrid questioned whether the ordinance should say these items are permitted in the side yard? The Borough has some really small lots and they will be severely penalized. It would be good to allow side yards to be used.

Board Engineer/Planner asked the Board for their feelings regarding this change.

Board Chairman Papp asked what Council's feeling was.

Board Engineer/Planner stated that the change that was discussed and introduced by Council included the rear and side yards and asked the Board if they concur.

Vice Chairwoman Umfrid agreed. It makes sense. The lot sizes are small.

Chairman Papp agreed.

Board Engineer/Planner Avakian stated that his personal thought would be to only allow the rear yard. That way it has less of an impact on the neighbor. Board Engineer/Planner Avakian's Interlaken thoughts are that allowing only rear yards are so restrictive. The rear yard will remain, which is the way it was introduced.

Board Attorney Kennedy stated that the town introduces a zoning ordinance it has to be forwarded to the Planning Board to review that the proposed ordinance is consistent with the Master Plan. The Board has to vote on whether the ordinance is consistent or inconsistent with the Master Plan. Board Attorney Kennedy noted that if the Board does not believe it is consistent that does not mean that Council cannot adopt the ordinance, but they have to acknowledge the Board's letter and there would have to be a super majority vote to approve the ordinance.

Board Engineer/Planner Avakian stated that the Borough Master Plan was adopted November or December 2020. The Board evaluates the ordinances on a regular basis to reduce points of inconsistency and non-clarity. The Board uses annual observations as a way to strengthen and improve the ordinances and also reevaluate the existing bulk requirements and to amend those requirements that have not been affective in preserving the Borough's traditional scale and development patterns, so that there are the elements of consistency. That is what is being asked for approval.

Board Engineer/Planner Avakian if the Board has further issues to talk about, the Board can have a workshop, for some time in the future, to review and bring those concerns back to Mayor and Council to ask them for their consideration.

Ms. Heinz asked questions regarding front yard orientations using the example of her property.

Chairman Papp stated that he was happy the Council made changes to some to some of the items recommended by the Planning Board.

Vice Chairwoman Umfrid asked about floor area ratio not being considered.

Board Engineer/Planner Avakian stated that Mayor and Council made it clear that they did not want floor area ratio as a condition of the developmental ordinance. One of their reasons is that, if there is a variance, the municipal land use law says that the floor area ratio is a Zoning Board D variance and the Mayor and the Mayor's representative would not be able to sit for it, if it comes before the Board. If that ordinance was in place and it was being violated and a variance was required, the Mayor and the Mayor's representative could not sit for it.

Chairman Papp added that Council felt there would have to be a huge number of variances with existing properties.

Board Attorney Kennedy stated that if the Board finds the ordinance consistent with the Master Plan there should be a motion, and the Board should consider the motion to include authorization for Board Attorney Kennedy to write a letter and send it out to Borough Council. Council has their meeting Wednesday. The law says if the Board does not respond in a timely fashion, Council does not have to listen to the Board.

Chairman Papp asked Board Attorney Kennedy to prepare the letter.

Board Attorney Kennedy asked that Board Secretary Kneser to distribute the letter so that the Board can make sure their thoughts are timely conveyed. If it pleases the Board, there can be a motion to find that the proposed ordinance is consistent with the Master Plan and will comment on all the things the Board commented about and would be to authorize Board Attorney Kennedy to write the letter to Borough Council to express the Board's endorsement of that ordinance

Chairman Papp opened the floor for public comment.

Katerine Cleary, 204 Buttermere Avenue, Interlaken asked about comments during the meeting regarding House of Worship and the third zone.

Board Engineer/Planner Avakian clarified that the Borough Council already adopted an ordinance creating a third zone along Corlies Avenue which allows for House of Worship construction within the zone. There was legal justification for that ordinance.

BOROUGH OF INTERLAKEN

ORDINANCE NO. 2024-3

**AN ORDINANCE OF THE BOROUGH OF INTERLAKEN AMENDING
AND SUPPLEMENTING CHAPTER XXVI “LAND USE
DEVELOPMENT”**

BE IT ORDAINED, by the Borough Council of the Borough of Interlaken, in the County of Monmouth, State of New Jersey, as follows:

SECTION ONE. Chapter XXVI “Land Use and Development”, Article I, “General Provisions and Definitions”, Section 26-4 “Definitions”, is amended and supplemented as follows:

- A. The existing definition of “Garage” shall be removed in its entirety and is replaced with the following:

Shall mean a private building used as an accessory to the main private building which provides for the storage of motor vehicles in a single-family zone and in which no occupation, business, or services for profit are carried on. A garage must be accessible to motor vehicles via a paved driveway and be able to accommodate the storage of motor vehicles.

- B. The existing definition of “Lot, Corner” shall remain with the following added to it:

Corner lots shall have a front, rear and side yards. The front yard shall be the shorter of the two front lot lines, coexistent with the street line. The rear yard shall be the side opposite the front. The remaining sides shall be considered side yards.

- C. The existing definition of “Story” is amended and supplemented to read:

Shall mean that portion of a building included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. For the

purpose of this chapter, the interior of the roof shall be considered a ceiling. A half story shall be defined as attic space above the first or second story, which shall have a pitched roof to begin within 12 inches of the ceiling joist line of the story below. Such attic space, if finished, shall have a minimum vertical wall of five feet in a finished area, not to exceed 50% of the second story living space in the case of a 2-1/2 story structure.

D. The existing definition of “Structure” is amended to read (deletions shown in strikeout):

Shall mean any combination of materials forming a construction, assembly or erection, the use of which require location upon the ground or attachment to something having a location upon the ground, including among other things, buildings, trailers, tanks, towers, walls, ~~signs, radio towers~~, swimming pools, platforms, decks, garages and sheds. The term “structure” shall not include below-ground utilities, fences, curbs, sidewalks or driveways.

SECTION TWO. Chapter XXVI “Land Use and Development”, Article III General Regulations and Provisions, is amended to add:

36-30 EXTERIOR MECHANICAL EQUIPMENT

All exterior mechanical equipment, including units for heat, ventilation, air-conditioning, pool pumps and accessories and generators, shall be located in the rear and side yard area, and they shall comply with the rear yard and side yard setback provisions.

SECTION THREE. All other sections and subsections of the Borough Code will remain unaltered.

SECTION FOUR. If any section, subsection, paragraph, sentence or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

SECTION FIVE. All ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby replaced to the extent of such inconsistencies.

SECTION SIX. This Ordinance shall take effect immediately upon its final passage and publication according to law.

UPON MOTION of Mr. Tilton, seconded by Vice Chairwoman Umfrid, carried, the approved the resolution deeming the ordinance consistent with the Master Plan.

ROLL CALL:

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Councilman Blasucci Ms. Dalton and Ms. Kane

Ms. Heinz suggested that a workshop be scheduled.

Board Engineer/Planner Avakian stated that it would be helpful that before a workshop is scheduled if the Board has issues they would like address that the items be forwarded to his office.

Ms. Heinz stated that swimming pools were something she was interested in discussing regarding the pools sticking out of the ground.

Board Secretary Kneser noted that there may be time to workshop at the September meeting, as there are no applications currently ready.

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

ROLL CALL:

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

Opposed: None

Ineligible: None

Abstain: None

Absent: Councilman Blasucci Ms. Dalton and Ms. Kane

Approved: _____
T. Papp, Chairman

Attest: _____
Gina Kneser, Secretary