

**Minutes of the  
Unified Planning/Zoning Board of Adjustment  
Reorganization Meeting  
January 4, 2012  
7:00 PM**

The 2012 Reorganization Meeting of the Unified Planning/Zoning Board of Adjustment of the Borough of Matawan, New Jersey, was held at the Matawan Municipal Community Center, 201 Broad Street, Matawan, New Jersey on January 4, 2012. The meeting was called to order at 7:00 PM by Chairman Kenneth Cassidy presiding. Chairman Cassidy called the meeting to order, pursuant to Section 5 of the Open Public Meetings Act that adequate notice of this meeting has been provided in the notice which was published in the *Asbury Park Press* on January 26, 2011, by sending notice to *The Independent*, and by posting.

Chairman Cassidy requested everyone to stand for the Salute to the Flag.

Chairman Cassidy requested a roll call.

On roll call the following members responded present:

Yes:            Paul Buccellato  
                  Kenneth Cassidy  
                  Angelo Gallego, Jr.  
                  Andy Lopez  
                  Rochelle Malanga  
                  John McKenna  
                  Robert Montfort  
                  Joseph Saporito  
                  Joseph Urciuoli

Mr. Butler was absent.

Also present were Michael A. Irene, Jr., Esq., Planning Zoning Board Attorney and Philip A. Haderer, PE, CME, Planning Zoning Board Engineer.

**Reorganization**

Mr. Irene administered the following Oaths of Office:

- Paul Buccellato as Class I Member of the Unified Planning/Zoning Board of Adjustments for a term of office, said term to expire December 31, 2015.
- Robert Montfort as Class II Member of the Unified Planning/Zoning Board of Adjustments for a one year term, said term to expire December 31, 2012.
- Andrew Lopez as Class III Member of the Unified Planning/Zoning Board of Adjustments for a one year term, said term to expire December 31, 2012.

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- Joseph Saporito as Class IV Member of the Unified Planning/Zoning Board of Adjustments for a four year term, said term to expire December 31, 2015.
- Kenneth Cassidy as Class IV Member of the Unified Planning/Zoning Board of Adjustments for a four year term, said term to expire December 31, 2015.
- Rochelle Malanga as Alternate I Member of the Unified Planning/Zoning Board of Adjustments for a two year term, said term to expire December 31, 2013.

Chairman Cassidy requested a motion for nominations for Chairman. Mr. McKenna made a motion to nominate Mr. Cassidy, seconded by Mr. Saporito. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato  
Angelo Gallego, Jr.  
Andy Lopez  
Rochelle Malanga  
John McKenna  
Robert Montfort  
Joseph Saporito  
Joseph Urciuoli

Abstain: Kenneth Cassidy

Motion passed.

Chairman Cassidy requested a motion for nominations for Vice Chairman. Mr. Buccellato made a motion to nominate Mr. Butler, seconded by Mr. McKenna. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato  
Kenneth Cassidy  
Angelo Gallego, Jr.  
Andy Lopez  
Rochelle Malanga  
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Motion passed.

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Chairman Cassidy requested a motion for nominations for Secretary. Mr. Montfort made a motion to nominate Mr. Gallego, seconded by Mr. McKenna. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato  
Kenneth Cassidy  
Andy Lopez  
Rochelle Malanga  
John McKenna  
Robert Montfort  
Joseph Saporito  
Joseph Urciuoli

Abstain: Angelo Gallego, Jr.

Motion passed.

Chairman Cassidy requested a motion for nominations for Recording Secretary. Mr. Montfort made a motion to nominate Karen Wynne, seconded by Mr. McKenna. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato  
Kenneth Cassidy  
Angelo Gallego, Jr.  
Andy Lopez  
Rochelle Malanga  
John McKenna  
Robert Montfort  
Joseph Saporito  
Joseph Urciuoli

Motion passed.

Chairman Cassidy requested a motion to appoint the Attorney. Mr. Montfort made a motion to nominate Michael A. Irene, Esq, seconded by Mr. McKenna. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato  
Kenneth Cassidy  
Angelo Gallego, Jr.  
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Rochelle Malanga  
John McKenna  
Robert Montfort  
Joseph Saporito  
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Motion passed.

Chairman Cassidy requested a motion to appoint the Engineer. Mr. Saporito made a motion to appoint T&M Associates with Philip A. Haderer, PE, CME, as the designated representative, seconded by Mr. Montfort. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato  
Kenneth Cassidy  
Angelo Gallego, Jr.  
Andy Lopez  
Rochelle Malanga  
John McKenna  
Robert Montfort  
Joseph Saporito  
Joseph Urciuoli

Motion passed.

Chairman Cassidy requested a motion to approve the 2012 meeting calendar and the 2013 reorganization meeting date of the Unified Planning/Zoning Board of Adjustments as follows:

February 6, 2012	August 6, 2012
March 5, 2012	September 5, 2012*
April 2, 2012	October 1, 2012
May 7, 2012	November 5, 2012*
June 4, 2012	December 3, 2012
July 2, 2012	January 2, 2013*

*\* All regular Planning/Zoning Board of Adjustment meetings will begin at 7:00 PM on the first Monday of every month except where noted above.*

Mr. Saporito made the motion, seconded by Mr. Montfort. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

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Motion passed.

Chairman Cassidy requested a motion to approve the minutes of December 5, 2011 with a minor correction on Page 2 “for a seven foot setback” has been changed “for an inadequate setback” and “the existing porch is a covered open porch and will be replaced by a covered porch which will have a 32.7 foot setback where 40 foot is required.” Mr. Saporito made the motion, seconded by Mr. Montfort. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Kenneth Cassidy  
Angelo Gallego, Jr.  
Rochelle Malanga  
John McKenna  
Robert Montfort  
Joseph Saporito  
Joseph Urciuoli

Abstain: Paul Buccellato (Non-Participating)  
Andy Lopez (Non-Participating)

Motion passed.

**Resolutions**

**John & Catherine Savolaine – 7 Edgemere Drive – Block 56, Lot 2 (Variance)**

Chairman Cassidy read by title Resolution for John & Catherine Savolaine – 7 Edgemere Drive – Block 56, Lot 2 (*Variance*). Chairman Cassidy requested a motion to approve. Mr. McKenna made the motion, seconded by Mr. Gallego. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

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                          Angelo Gallego, Jr.  
                          Andy Lopez  
                          Rochelle Malanga  
                          John McKenna  
                          Joseph Saporito  
                          Joseph Urciuoli

Abstain:                Paul Buccellato

Recused:              Robert Montfort

Motion passed.

**Applicants**

**Emlerich, LLC – 126 Main Street – Block 24, Lots 3, 4, 6, 6.07, 7-9 (Variance)**

Mr. Irene related this matter has been ongoing over several dates. A “D” Variance relief is at issue, therefore, the Board’s Class I Member, Mayor Buccellato, and our Class III Member, Councilman Lopez have been recusing themselves, and are recusing themselves again this evening. The record should reflect they are stepping off the dais.

Chairman Cassidy related the recordings of the Planning Zoning Board meetings of August 2, 2010, October 4, 2010 and September 7, 2011 wherein testimony was heard on this Applicant were sent in the meeting packets. Mr. Irene instructed members who did not attend these meetings to sign the Certification of Member That He/She Has Examined the Record(s). The Certifications were signed and entered into the record.

Mr. Irene stated for the record this Applicant has previously appeared before the Board on December 5, 2011 and the matter was carried to tonight’s agenda without the necessity of renote, and Exhibit A19 was the last entered into the file.

As Mr. Alfieri, attorney for the Applicant, stepped to the podium, Mr. Irene reminded Messrs. Alfieri, Marchetto, Heuser and Kennel as well as the Board Engineer, Mr. Haderer, have been previously sworn in and remain under oath.

Mr. Alfieri said in the interests of efficiency Mr. Marchetto, Architect, and Mr. Heuser, Engineer, will come up separately and go through the T&M report describing the few minor changes made since the last meeting. Mr. Kennel will discuss the traffic issues as they arise. Lastly, our Planner will testify in support of the “D” Variances.

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Mr. Marchetto submitted revised Exhibit Sheets A1 and A4 of the architectural plans dated January 5, 2010 revised through December 7, 2011 consisting of two sheets to be entered into the record as Exhibit A20. Two parking spaces are eliminated and the plan remains compliant. The two ramp knee walls were removed and open railings were substituted improving sight visibility. Also, a mirror at the bottom of the ramp was added. Mr. Montfort said his previous concern about the addition of two parking ramp area stop signs, one for each way, were not included. Mr. Irene clarified - stop signs at and about ramp area of the garage as per the testimony presented to the Board. For noise and esthetic value Mr. Montfort asked the roll up door on Jackson Street be eliminated as the immediate surrounding areas are open. Mr. Marchetto had no objections to those modifications and will incorporate to the plans. Mr. Montfort felt the current layout does not fully address security. Mr. Marchetto replied locking mechanisms are to be reflected on the final site plan. Parking area lighting was discussed after which Mr. Irene clarified the parking garage lighting plan will be adjusted to have constant low level and motion sensor to a higher level for a minimum of 30 minutes. The final lighting plan will be subject to review and approval by the PZ Engineer. Mr. Alfieri submitted the following of Mr. Heuser's reports:

- Exhibit A21 - Revised site plan last revision December of 2011 consisting of seven sheets
- Exhibit A22 - Roof drain computations dated December 12, 2011
- Exhibit A23 - First floor drain computations dated December 14, 2011
- Exhibit A24 - Final water and sewer capacity report dated December 22, 2011
- Exhibit A25 – December 27, 2011 letter from John Applegate, Superintendent of the Borough of Matawan Water & Sewer Department

Mr. Heuser revised his site plan to match to the Architect's site plan with the addition of basement and first floor elevations, ADA parking, etc., with conformance to the T&M engineering reports. At the last meeting an adjacent resident expressed drainage concerns. Mr. Heuser visited the site and said it was an in ground drain for an air conditioner condenser unit. This will be eliminated with construction. Messrs. Heuser and Applegate, with the Borough's water/sewer crew, visited the site, opened up the paved over manhole and found this line is actually "dead." The 2002 trunk lines based from Ravine Drive/Arrowsmith Lane. The manhole at Jackson Street and Ravine Drive was uncovered, and is of adequate size. The report's various calculations change the sewer tie in location from Main Street/Maiden Lane to the Jackson Street line which is of adequate size. We are not adding enough to create any problems to the capacities of the sewer plant, and the lines are adequate with regard to sewer and water supply. Mr. Applegate's letter of December 27, 2011 confirms this. Mr. Applegate has reviewed the site plan dated January 5, 2010 revised through December 2011 which is the plan before the board tonight reflecting the referenced changes. Mr. Heuser said we are extending an 8" water main from Ravine and Jackson up Jackson up Little out to Main to loop the system and extending it North on Jackson on the dead end of it at a hydrant. We will connect all the existing residences

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on Little and Jackson to this new line, capping and abandoning the old line. This is reflected on the Site Plan, Sheet 2, Note 7 states “individual water services to existing dwellings on Jackson and Little Streets will be connected to the new 8” water main.” Mr. Irene said should the Board grant the relief we will require a Developer’s Agreement incorporating same. Mr. Haderer directed Mr. Heuser to provide a pavement repair detail (repaving) – with regard to the utility work – subject to review and approval by T&M (PZ and Borough Engineers) for Jackson and Little Streets be included as part of the final site plan.

Messrs. Alfieri, Marchetto, Heuser and Tennel went through T&M’s December 28, 2011 letter addressing outstanding comments with the following eliciting the most discussion:

- Mr. Heuser submitted a Revised Maiden Lane Curb Return dated December 21, 2011 consisting of one sheet, entered as Exhibit A26, to improve traffic flow. Site and Architectural Plans will be made consistent with Exhibit A26.
- The ADA symbol will be realigned on the Site Plan.
- Employee parking sign will be added to the Site Plan.
- A “No Exit” sign can be added at Jackson and Little Streets. Add directional signage for retail parking subject to review and approval of the PZ Board Engineer.
- Mr. Kennel related as requested on December 28, 2011 he submitted a truck turning plan, entered as Exhibit A27, to Mr. Haderer.

Chairman Cassidy opened the floor to the public.

Peter Young, One Maiden Lane, Matawan. Mr. Irene swore in Mr. Young. Mr. Young questioned the addition of a catch basin and regrading of Jackson Street and the ability for the trash truck to maneuver the street. Mr. Kennel described how maneuverability on the street has been incorporated into the plan. Mr. Montfort provided Mr. Young with a view of the truck turning plan as submitted to the Board. It was decided as the Applicant has no objection to the addition of a catch basin at the end of Jackson Street and regarding subject to the approval of the Borough Engineer.

Chairman Cassidy closed the floor to the public.

Chairman Cassidy asked the Board members for questions and/or comments.

Messrs. Gallego and Montfort expressed concerns over recreation areas for proposed residents as this is not addressed in this designated zone. Discussion ensued over the current zoning of this area and the discrepancy between it and the Emlerich Variance Application. Mr. Irene summarized the Applicant requires a use variance. The Applicant has the burden of proving the positive and negative criteria. They have to prove on the positive end, because it is not an inherently beneficial use, that it is particularly suited to the site. The Applicant must show by an



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enhanced quality of proof that the Plan is not inconsistent with the intent and purpose of the Master Plan and the zoning ordinance. The Board can consider these issues as part of the Application and can condition recreation spaces if you find it necessary and appropriate for the type of proposed project. If you have a project that is so large or overwhelming in the zone that if the Board grants the relief it can be deemed to have essentially turned the entire zone making the argument the Board usurps the authority of the Governing Body effectively changing the zone. In terms of space in comparison to the zone it doesn't overwhelm the zone, and part of it is commercial in a commercial zone. The issue is the mix of the residential with the commercial.

Jennifer Beahm, CME Associates, 1460 Rt. 9 South, Howell, NJ was introduced as Planner for the Applicant. Mr. Irene swore in Ms. Beahm. Ms. Beahm provided her credentials. Ms. Beahm discussed site suitability, describing the surrounding properties, and the Governing Body's 2007 Main Street Revitalization Study stating this project in its significant location, its proximity to the train station, etc., can become the heart of the district and can sustain a development of this height and component. This is a traditional downtown mixed use - development residential over retail informing 67% of the structures within the General Business District are mixed use. Establishing a local population looking to use the goods and services of this retail and others along the corridor in an urban, transit village, walkable pedestrian-oriented way is consistent with the goal of zoning. The removal of this vacant building and the establishment of a significant architectural structure within the business district will lend itself to vibrancy and a focal point of the Governing Body's Revitalization Plan.

Ms. Beahm did state developments of this nature do bring concerns over parking and the addition of children into the school district. It has been identified the current Business District parking is deficient by approximately 50 parking spaces. This Plan complies with current zoning parking requirements. As indicated earlier, this type of a transit-oriented project is not a family type development and more of an urban nature; therefore, it will most likely not have a negative impact associated with children. The height of the structure is in a strategic location in the business district and something significant at this location is warranted. In many areas these focal points whether it is a strategic crossroads or an entrance of a business districts can lend itself to something that is more significant in height and architecture.

The design has specifically taken this site into consideration in its layout, location, and street patterns. The impact to the zoning plan ordinance does not permit a development of this type. However; other planning developments have identified mixed use transit-oriented development taking advantage of this business district and Matawan in itself where you are located close to this transportation hub which carries upwards of 300,000 passengers a day, and major road corridors.

Together the balancing act of the positives associated with redeveloping this strategic location providing a vibrant focal point and center to your business district creating a sense of place

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which needs the residential component to help promote this walk ability pedestrian-oriented environment, I think the positives associated with this type of redevelopment at this location far outweigh any impact. In fact, I would say it significantly outweighs the negative impact associated with the project.

Mr. Irene reminded the Board should the inherently beneficial use be approved even though it throws off some negatives because society will value the inherently beneficial use more and we should absorb some of the negatives if the positives substantially outweigh the detriments. That is only with an inherently beneficial use. If you don't have an inherently beneficial use you are not balancing. You have to find the positive and you have to find the negative to determine if the Applicant has proved the positive criteria and has satisfied the negative criteria or the approval won't be granted.

Chairman Cassidy asked the Board members for questions and/or comments from this witness.

Mr. Gallego commented though not directed at this Application in the absence of development regulations for mixed use building this could be seen as a back door approach to circumvent these multi-family development regulations that are in place and we are committed to enforce.

Chairman Cassidy stated he agrees to a point but the location of the development and its proximity to the train station will make this the new center of downtown Matawan, and agreed with Ms. Beahm's assessment of an urban, pedestrian-oriented transit village. If the train station were not within walking distance, I would disagree with this project.

Mr. Saporito concurred reiterated the necessity of moving forward with the Borough's Revitalization Study and having downtown Main Street becoming what we would like it to be – having people come in who could commute via the train station, walk to restaurants and local entertainment, and at the same time generate tax revenue.

Mr. McKenna said people are not going to invest money in one building if you cannot make any money on it and you cannot make money on store fronts. Having people living above to come down and do business in those stores will help pay for it. Recreation is a non-issue for this particular development. This will stand out as the main part of town and a tremendous asset for downtown Matawan. This is not the answer to the revitalization but it is a beginning.

Ms. Malanga concurred.

Chairman Cassidy asked the public for questions and/or comments from this witness.

There were no comments.

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Mr. Alfieri stated there were no further witnesses for the Applicant.

Chairman Cassidy asked the public for questions and/or comments on the Application.

Peter Young, One Maiden Lane, Matawan. Mr. Young believes this project will eliminate the small town feel of downtown Matawan. It is a project more suited to be immediately adjacent to the train station. He also disagrees with the aesthetics of the design stating it will change the look of the neighborhood. Matawan should be revitalized not urbanized.

Chairman Cassidy closed the floor to the public.

Chairman Cassidy presented the Application to the Board. Mr. McKenna made a motion to approve the Application with all specified conditions, seconded by Mr. Saporito. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes:                    Kenneth Cassidy  
                             Rochelle Malanga  
                             John McKenna  
                             Joseph Saporito  
                             Joseph Urciuoli

No:                     Angelo Gallego, Jr.  
                             Robert Montfort

Non-Participating: Paul Buccellato  
                             Andy Lopez

Motion passed.

**Adjournment**

Chairman Cassidy requested a motion to adjourn. Ms. Malanga made the motion, seconded by Mr. Montfort. The Board agreed. Motion passed.

The meeting was adjourned at 9:45 PM.

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Karen Wynne  
Recording Secretary