

Holland Township Land Use Board
Minutes of the Regular Meeting

October 14, 2024 (regular)

(Notice-The Chairman reserves the right to change or revise the order of the agenda as needed. Formal action may or may not be taken)

Chairman Martin: “I call to order the October 14, 2024 Regular Meeting of the Holland Township Land Use Board. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Land Use Administrator by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Publishing the notice in the December 21, 2023 edition of the Hunterdon County Democrat
3. And faxing to the Express-Times for informational purposes only.

Chairman Martin asked all to recite the Pledge of Allegiance

Identification of those at the podium for the recording

Present: Dan Bush, Melanie Campbell, Joe Cinquemani, Bill Ethem, Ken Grisewood, Peter Kanakaris, Michael Keady, William Martin, Nickolas Moustakas, Ryan Preston, Anthony Roselle (sworn in below), Kelley O’Such, Scott Wilhelm, Board Attorney Eric Bernstein, Board Engineer Ian Hill, Board Planner/HT Highlands Council Subcommittee Planner Jay DeFelce for Darlene Green, Board Conflict/Special Projects Engineer Adam Wisniewski, Board Conflict/Special Projects Planner Kendra Lelie, and Maria Elena Jennette Kozak, Land Use Administrator.

Absent: Board Conflict/Special Projects Engineer Bryce Good, Attorney John Gallina as Land Use Board Special Litigation Counsel in the matter of Mill Road Solar Project, LLC et als. V CEP Solar LLC et. als., Appellate Docket #A-3063-21: Law Division Docket #L-2029-19.

Let the record show there is a quorum.

Minutes

A motion was made by Nickolas Moustakas and seconded by Joe Cinquemani to table the approval of the August 12, 2024 and September 9, 2024 minutes as presented. At a roll call vote, Scott Wilhelm and Ryan Preston abstained for August 12, 2024 and Bill Ethem and Dan Bush abstained for September 9, 2024. Motion carried.

Old Business:

There was no old business on the agenda at this time.

New Business:

There was no new business on the agenda at this time.

Completeness Review

There was no completeness review on the agenda at this time.

Resolution

- Block 24 Lots 3,13,13.02 – Milford Warren Glen Road – K Hovnian at Huntington Knolls – Amended Preliminary and Final Site Plan approval with variance(s) and waiver(s). Application relating to completeness determined at the September 9, 2024 meeting – Board Action Needed. Board Attorney authorized to prepare the resolution that required memorialization. – **Board Action Needed.**

The following resolution was prepared by Board Attorney Bernstein for consideration. All reviewed the resolution prior to the scheduled meeting.

HOLLAND TOWNSHIP LAND USE BOARD
RESOLUTION CERTIFYING THE AMENDED PRELIMINARY AND FINAL SITE PLAN
APPLICATION OF K. HOVNIANIAN AT HUNTINGTON KNOLLS, LLC COMPLETE

WHEREAS, the Applicant, K. Hovnianian at Huntington Knolls, LLC (“Applicant”), has made application to the Holland Township Land Use Board (“Board”) for amended preliminary and final site plan

approval with variance(s) and waiver(s) as it relates to the Property located at Block 24, Lots 3, 13 and 13.02, otherwise identified on the official Tax Maps of the Township of Holland as 423 Milford Warren Glen Road (Hunterdon County Route 519) (“Property”); and,

WHEREAS, the Applicant is a contract purchaser with the Owner (Vincent Jiovino, Jr.) for Phases III and IV of the five (5) phase Huntington Knolls Development within the PCD/PSV (Planned Commercial Development/Planned Senior Village Development) Zoning District within Holland Township; and,

WHEREAS, a previous Preliminary and Final Major site plan approval was issued for this development pursuant to a Resolution of the Holland Township Planning Board, dated February 11, 2019, as amended by a subsequent Resolution, dated April 8, 2019. Subsequent to these approvals, the applicant/owner requested and received approval extensions, which appear to expire for all phases of the project on or before February 11, 2026; and,

WHEREAS, the Applicant has submitted the following documents with the subject Application for a determination of completeness by the Holland Township Land Use Board:

1. Set of drawings, entitled “Amended Preliminary and Final Major Site Plan Huntington Knolls Development–Lots 3, 13 & 13.02, Block 24 – Township of Holland, County of Hunterdon, State of New Jersey”, sixty (60) sheets total, prepared by Suburban Consulting Engineers, Inc. (SCE) (Brian M. Duddy, PE & Erin M. Abline PE), dated July 22, 2024, revised through August 29, 2024;
2. Drawing entitled “Preliminary and Final Major Subdivision Plan – Huntington Knolls Development Project – Lot 13, Block 24 – Township of Holland, County of Hunterdon, State of New Jersey”, one (1) sheet total, prepared by SCE (Joseph D. Phil, PLS), dated May 9, 2023, revised through January 17, 2024;
3. Survey documents, entitled “Topographic Survey – K. Hovnanian Huntington Knolls – Block 24, Lot 3 & Lot 13– Township of Holland, Hunterdon County, New Jersey”, five (5) sheets total, prepared by SCE (Joseph D. Phil, PLS), dated July 17, 2024, unrevised;
4. Set of 11x17” Architectural drawings entitled “Huntington Knolls: Proposed Product”, seven (7) pages total, prepared by K Hovnanian Companies (Joseph Lipanovski, RA), dated July 22, 2024;
5. Set of 11x17” documents, entitled “Community Signage”, eleven (11) pages total, prepared by Community Launch Creative, unattributed and undated;
6. Letter report, referenced “Circulation and Parking Assessment – Huntington Knolls Development Project – Block 24 – Lots 3, 13 & 13.02, prepared by Dynamic Traffic (Justin Taylor, PE, PTOE and Nick Verderese, PE), dated July 22, 2024;
7. Permit issued by NJDEP for a Flood Hazard Area Individual Permit and a Freshwater Wetlands General Permit #10B, dated January 13, 2017, with an expiration date of January 12, 2022, along with an NJDEP-stamped set of plans prepared by Bayer-Risse Engineering, dated January 11, 2016, revised through December 2, 2016, consisting of eighteen (18) sheets;
8. Report entitled “Stormwater Management System Hydrologic and Hydraulic Analysis – Site Plan for Huntington Knolls – Block 24, Lots 3 & 13 – Holland Township, Hunterdon County, New Jersey”, prepared by RBZ Enterprises, Inc. (Robert B. Zederbaum, P.E.), dated July 2013, revised through October 2014;
9. Document entitled “Stormwater Collection System Maintenance Plan – Site Plan for Huntington Knolls – Block 24, Lots 3 & 13 – Holland Township, Hunterdon County, New Jersey”, prepared by RBZ Enterprises, Inc. (Robert B. Zederbaum, P.E.), dated December 2013, revised through March 2014;

10. Report entitled “Supplemental Storm Water Management Report for the Site Plan for Huntington Knolls – Block 24, Lots 3 & 13 – Holland Township, Hunterdon County, NJ” prepared by Bayer-Risse Engineering, Inc. (Stephen M. Risse, P.E.) dated January 11, 2016, unrevised;
11. Document entitled “Storm Water Maintenance and Repair Manual – Proposed Storm Water Treatment and Detention Facility – Block 24, Lot 19 – Holland Township, Hunterdon County, NJ” prepared by Bayer-Risse Engineering, Inc. (Stephen M. Risse, P.E.), dated December 22, 2016, unrevised;
12. 8-1/2x11” architectural drawings showing First (1st) and Second (2nd) Floor Plans and Building Elevations of the 16-unit affordable housing building, consisting of six (6) sheets, unsigned and undated;
13. Letter to the Holland Township Land Use Board from SCE referenced “Site Plan Checklist Waiver Requests”, dated July 22, 2024;
14. Letter to Holland Township Land Use Board from SCE referenced “Overall Compliance Statement”, dated July 22, 2024;
15. Letter to Holland Township Land Use Board from SCE referenced “Previous Resolutions of Compliance Response Letter”, dated July 22, 2024;
16. Development Application Package Including:
 - Planning Board & Board of Adjustment Application Form with “Addendum to Application of K Hovnanian at Huntington Knolls, LLC for Amended Site Plan Approval of Phases II, III and IV with “D(6)” and “C” Variance Relief”;
 - Highlands Land Use Application Form with “Addendum to Application of K Hovnanian at Huntington Knolls, LLC for Amended Site Plan Approval of Phases II, III and IV with “D(6)” and “C” Variance Relief”;
 - Completed Preliminary Major Site Plan Checklist;
 - Completed Final Major Site Plan Checklist;
 - Completed Fee Calculation Form;
 - Escrow Agreement;
 - Site Walk Authorization;
 - Certification of Ownership;
 - Disclosure of Ownership – K Hovnanian;
 - Confirmation that Tax and Sewer Payments are Current; and,
 - Title Commitment, dated December 5, 2022;
17. Completeness Review Memorandum #1, prepared by Van Cleef Engineering Associates, dated August 12, 2024; and,
18. Completeness Review Memorandum #2, prepared by Ian Hill, P.E., Holland Township Land Use Board Engineer, dated September 5, 2024.

WHEREAS, the Applicant has requested waivers, including temporary waivers where noted, from the following Checklist requirements:

- Preliminary Site Plan Checklist Item D-7 (Final E-7), which requires the preparation of an Environmental Impact Assessment;
- Preliminary Site Plan Checklist Item D-9 (Final E-9), which requires a receipt confirming the submission to the Hunterdon County Planning Board (**temporary waiver**);
- Preliminary Site Plan Checklist Item D-10 (Final E-10), which requires a receipt confirming the submission to the Hunterdon County Health Department (**temporary waiver**);
- Preliminary Site Plan Checklist Item D-11 (Final E-11), which requires a receipt confirming the submission to the Hunterdon County Soil Conservation District (**temporary waiver**);
- Preliminary Site Plan Checklist Item D-13 (Final E-13), which requires an Impact Assessment of Water Supply;

- Preliminary Site Plan Checklist Item D-17 (Final E-17) requires copies of any covenants, deed restrictions or exceptions to be provided (**temporary waiver**);
- Preliminary Site Plan Checklist Item D-18 (Final E-18), which requires all deeds with metes and bounds descriptions for all existing lots, proposed lots and remaining lands, as well as any proposed easement descriptions (**temporary waiver**);
- Preliminary Site Plan Checklist Item D-38 (Final E-39) requires an Owner's signed certification to be provided. An unsigned signature line for the owner is provided on Sheet 1 but doesn't include a certification (**temporary partial waiver**); and,
- Preliminary Site Plan Checklist Item D-67 (Final E-68) which requires the applicant to submit a Storm Water Management Plan.

WHEREAS, pursuant to N.J.S.A. 40:55D-10.3 and the procedures of the Holland Township Land Use Board, the Board heard the request for completeness, including the request for the above referenced waivers, both permanent and temporary as noted, for the subject Application at its August 12, 2024 and September 9, 2024 meetings; and,

WHEREAS, as it pertains to Preliminary Site Plan Checklist Item D-67 (Final E-68) which requires the Applicant to submit a Storm Water Management Plan, this waiver request may become moot as the Applicant has been requested to provide written correspondence as to its request and legal basis that the current amended application to be grandfathered from the Inland Flood Protection Act of July 2023 as there have been de minimis changes that would not impact the suitability of the previous design; and,

WHEREAS, the Board considered the aforementioned and referenced documents, as well as the Applicant's request for permanent and temporary waivers of the identified portions of the amended and final checklist items required by the Board at the August 12, 2024 and September 9, 2024 meetings concerning the Applicant's request for completeness; and,

WHEREAS, the Board, having carefully considered and reviewed the aforementioned materials and after having heard comments as to same from its Board Engineer and other Board professionals hereby certifies the Application as complete with the requested waivers, both permanent and temporary, as noted above and set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE LAND USE BOARD OF HOLLAND TOWNSHIP, Hunterdon County, State of New Jersey that, pursuant to N.J.S.A. 40:55D-10.3, the Land Use Board hereby certifies the Application of K. Hovnanian at Huntington Knolls, LLC for amended preliminary and final site plan approval with variance(s) and waiver(s) as it relates to the property located at Block 24, Lots 3, 13 and 13.02) as complete with the Board for the purposes of addressing the full Application for consideration at a subsequent hearing before the Board.

A Motion to deem the subject Amended Application complete and grant the waivers as set forth by the Board Engineer's recommendations contained in his September 5, 2024 completeness review #2 memorandum made by Board Member O'Such and seconded by Board Member Moustakas at the Hearing held on September 9, 2024:

Roll Call: Voting “yes” in favor of approval:

Board Member Moustakas, Chairman Martin, Board Member Preston, Board Member O’Such, Board Member Kanakaris, Board Member Roselle, Board Member Campbell

Voting “no” in favor of approval: Board Member Cinqemani

A motion for the adoption of the within Resolution was made by _____ and seconded by _____ at the Board’s October 14, 2024 meeting.

Land Use Board Roll Call Vote

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Michael Keady						
Scott Wilhelm						
Ken Grisewood						
Joe Cinqemani						
Nickolas Moustakas						
Bill Ethem						
William Martin						
Ryan Preston						
Dan Bush						
Kelley O’Such (Alt #1)						
Peter Kanakaris (Alt. #2)						
Anthony Roselle (Alt. #3)						
Melanie Campbell (Alt. #4)						

Motion carried.

The foregoing Resolution was duly adopted by the Holland Township Land Use Board at a regular meeting held on October 14, 2024.

ATTEST:

**Maria Elena Jennette Kozak, Secretary
Township Land Use Board**

**William Martin, Chairperson Holland
Holland Township Land Use Board**

A motion was made by Peter Kanakaris and seconded by Joe Cinqemani to memorialize the resolution as presented. At a roll call vote, all present were in favor of the motion. Motion carried.

Block 25 Lot 45 – 535 Milford Frenchtown Road – Applicant Paul and Kathleen Thompson – **EXTENSION REQUEST - FOR A VARIANCE TO DIRECT THE ISSUANCE OF A BUILDING PERMIT FOR A LOT NOT ABUTTING A PUBLIC STREET AND FOR VARIANCES FROM THE FRONTAGE AND THE DRIFTWAY MAINTENANCE REQUIREMENTS FOR LOTS ON DRIFTWAYS FOR** –granted October 27, 2021. Board Action Needed. Extension Approved September 9, 2024 with authorization for the Board Attorney to prepare the resolution that requires memorialization. – **Board Action Needed**

**HOLLAND TOWNSHIP LAND USE BOARD
RESOLUTION AUTHORIZING ONE (1) YEAR EXTENSION OF VARIANCE RELIEF
APPROVAL FOR PAUL AND KATHLEEN THOMPSON CONCERNING BLOCK 25, LOT 45 (535
MILFORD FRENCHTOWN ROAD)**

WHEREAS, the Applicant, Paul and Kathleen Thompson, was previously granted variance relief to direct the issuance of a building permit for a lot not abutting a public street and for additional variance relief from the frontage and the driftway maintenance requirements for the property identified as Block 25, Lot 45, 535 Milford Frenchtown Road, by Resolution adopted October 27, 2021; and,

WHEREAS, the Resolution approved and memorialized by the Holland Township Zoning Board of Adjustment at the time provided that the variance relief approved would expire if construction or alteration permitted by the variance relief had not commenced within three (3) years from the date of the Resolution, or by October 27, 2024; and,

WHEREAS, the Applicant has provided written correspondence to the Holland Township Land Use Board (the replacement for the Holland Township Zoning Board of Adjustment) (hereinafter referred to as the “Board”) requesting an extension of the variance relief requested as construction or alteration had not yet commenced, as well as the appearance of Mr. Thompson before the Board; and,

WHEREAS, the Board considered the extension request at the September 9, 2024 Board meeting; and,

WHEREAS, the Board, having carefully considered and reviewed the extension request(s), made the following finding of fact and conclusions of law:

19. All prior Resolution(s) regarding this Application are hereby incorporated by reference as if set forth at length herein.

20. With regard to the requested extension, the memorialization resolution provides that the variance relief shall expire if there is no construction or alteration as provided in the variance relief being commenced within three (3) years of the memorializing resolution or by October 27, 2024.

21. The Board listened to the testimony provided by the Applicant at its September 9, 2024 Board meeting and finds that the reasons provided for the need for the requested extension is reasonable given the circumstances provided as to the current circumstances of the Applicant and the transfer of ownership of same.

NOW, THEREFORE, BE IT RESOLVED BY THE LAND USE BOARD OF HOLLAND TOWNSHIP, Hunterdon County, State of New Jersey, as follows:

- The Land Use Board hereby grants a one (1) year extension of variance relief to direct the issuance of a building permit for a lot not abutting a public street and for additional variance relief from the frontage and the driftway maintenance requirements for the Property identified as Block 25, Lot 45, 535 Milford Frenchtown Road, through October 27, 2025.
- The conditions of the approval in the prior Resolution(s) concerning this Property/development, including any prior Resolutions authorizing extensions to said approval(s), shall continue in full force and effect as applicable.
- The owner/applicant shall, within five (5) calendar days of the transaction being completed, provide written notice to Holland Township and the Holland Township Land Use Board confirming the transfer of ownership of the subject Property located at 535 Milford Frenchtown

Road, Block 25, Lot 45. Owner/applicant shall also provide

a written update on the status of same to the Holland Township Land Use Board every ninety (90) calendar days.

A Motion to Approve a one (1) year extension for the variance relief was made by Board Member O’Such and seconded by Board Member Cinquemani at the Hearing held on September 9, 2024:

Roll Call: Voting “yes” in favor of approval:

Board Member Keady, Board Member Wilhelm, Chairman Martin, Board Member Moustakas, Board Member Cinquemani, Board Member O’Such, Board Member Preston, Board Member Grisewood and Board Member Kanakaris

Voting “no” in favor of approval: None.

A motion for the adoption of the within Resolution was made by _____ and seconded by _____

Land Use Board Roll Call Vote

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Michael Keady						
Scott Wilhelm						
Ken Grisewood						
Joe Cinquemani						
Nickolas Moustakas						
Bill Ethem						
William Martin						
Dan Bush						
Ryan Preston						
Kelly O’Such (Alt)						
Peter Kanakaris (Alt.)						
Anthony Roselle (Alt.)						
Melanie Campbell (Alt.)						

Motion carried.

The foregoing Resolution was duly adopted by the Holland Township Land Use Board at a regular meeting held on October 14, 2024.

ATTEST:

Maria Elena Jennette Kozak, Secretary William Martin, Chairperson Holland Township Land Use Board Holland Township Land Use Board

A motion was made by Kelley O’Such and seconded by Joe Cinquemani to memorialize the resolution as presented. At a roll call vote, all present were in favor of the motion with the exception of Bill Ethem who abstained. Motion carried.

Public Hearings

- Block 26 Lot 27 – 105 Riegelsville Rd – Davina Lapczynski – Variance. **TOD – October 31, 2024.** Received into our office June 22, 2022 – The 45-day completeness deadline is July 11, 2022. Deemed Complete July 11, 2022. Public Hearing scheduled for August 8, 2022. Applicant granted an extension to the September 12, 2022 meeting (email 071822), then to October 10, 2022 (email 082622), November 14, 2022. (email 092122), December 12, 2022 (email 102822), January 9, 2023 (email 120622), February 13, 2023 (email 010323), March 13, 2023 (email 020723), April 10, 2023 (email 030623), May 8, 2023 (email 040523), June 12, 2023 (email 050323), July 10, 2023 (email 052223), August 14, 2023 (email 070523), September 11, 2023 (email 080423), October 9, 2023 (email 090723), November 13, 2023 (email 10/06/23), December 11, 2023 (email 11/08/23), January 8, 2024 (email 12/01/23), February 12, 2024 (email 01/03/24), March 11, 2024 (email 02/01/24), April 8, 2024 (email 02/29/24), May 13, 2024 (email 04/01/24), June 10, 2024 (email 05/01/24), **Updated the Board**

051324 that the NJDEP approved the garage proposal in the proposed location. Public hearing June 10, 2024, July 8, 2024 and to September 9, 2024 – no additional notice needed. **Board Action needed.**

Engineer Wisniewski and Planner Green are present for this hearing.

Recused - D variance per Attorney Bernstein – Dan Bush and Scott Wilhelm who left the room.

Attorney DeSapio reminded everyone that this is a continued public hearing with no further notice being required.

Witness Heath Dumack – previously sworn in, however Attorney Bernstein swore him in again at this meeting. He is with Dumack Engineering and is president of the company, holds a NJ License in good standing and his qualifications have not changed.

Exhibit A – 22 – Dumack overall site plan dated 07/24/24. Copies were distributed.

Heath Dumack stated that he has reviewed relevant Holland ordinances. He explained that the purple region is the only area showing where the garage could be built. There are limitations on this property. The blue area shows the riparian buffer at 50' and the yellow lines are showing the high-voltage electric transmission easement which restricts the whole property in the ability to make improvements. You are not permitted to construct in an access way. The power lines easement is 200' and building under the easement is not permitted.

There were no other comments at this time by the applicant's professional.

The Board was asked if they had comments – Member Cinquemani asked for confirmation of the location of the house to the garage being 4 to 5' which was confirmed. Member Grisewood asked if there was any info from DEP on wetlands in the form of a letter of interpretation to verify construction not regulated in the buffer. Did the DEP say there are no wetlands on site. Engineer Wisniewski stated that the permit from DEP issued May 7 2024 relates to flood hazard for a garage in the area, that there is no indication of freshwater wetlands, but there is a reference in the permit that says there is a creek on the property and prior to issuance of a permit issue there are some requirements that apply to freshwater wetlands. More conversations took place regarding the permit outlining the barrier.

Board Attorney Bernstein had some questions regarding exhibit A-22 – and asked if there were any structures (driveway, pool, roadway etc.) in between the yellow lines with Applicant Lapczynski responding no. Attorney DeSapio asked that all refer to exhibit A3 which is a survey map which confirms the response. There is a gravel driveway that runs alongside and parallel to Riegelsville Road with access to the road. Attorney Bernstein asked if there was anything in the Riparian Buffer and Engineer Dumack responded no there is not. Member O'Such asked about the proposed limit of disturbance size and it is shy of 5000 square feet and the applicant will obtain a Soil Sediment Permit from the County. A motion was made by Kelley O'Such and seconded by Joe Cinquemani to open the public portion of this public hearing. All present were in favor. Motion carried. Attorney Bernstein reminded everyone that the public is welcome to come forward to ask questions of the testimony presented by the applicants engineer. No one came forward so the public portion of the public hearing was closed.

Witness – Thomas Stearns – with Stearns Associates in Lambertville NJ was sworn in by Attorney Bernstein. Planner Stearns stated that he is licensed in NJ and has been active for over 30 years, He has testified through many towns in New Jersey.

Exhibit A-23 – planner CV was distributed

Board Member O'Such stated that Planner Stearns has an extensive background. Everyone on the board accepted him as a witness.

Planner Stearns stated that he reviewed the ordinances, the applications and the zone map reexamination report as well as the professional report memos, visited the site and prepared his analysis. He is aware of the variances and the theme is hardship. You cannot develop anything on the lot because of the issues. Exhibit A -22 was up for display. There are 9 variances in this application with 3 for the garage and the other 6 pertaining to preexisting issues and other structures. The garage requires all c1 hardship. The location will be in the front yard. The property is wide and shallow or more irregular in shape. If you pushed the location back then it would go into the rail road. The proposed location is most logical and practical since it is close to the existing single-family home. Other locations present steep slopes as well guard rails along the road. Prior testimony explained that there are approximately 13 lots heading west on Riegelsville Road that do not meet front yard setback which means this proposed garage is in character with the neighborhood. The next conversation pertains to the 75' front setback with the same argument above being made. In regards to this shallow lot not being able to meet the requirement, this touches on the rear yard conversation as the setback is 40' and the proposed garage is 38'. However, if you push forward 2 feet to satisfy the rear setback then the front yard setback is worsened. The lot is a preexisting non-conforming single-family home with 2 houses on it. However, there is only 1 real house as the other structure is not a dwelling. This structure has electric service but does not have water or sewer and is used for storage like a shed. The minimum lot area in the R-5 zone is 5 acres and this property is only 2 plus acres. There is nothing that can be done to increase the lot size. There is no land available to purchase to make this a conforming lot size. There are 34 lots on this road that do not comply with zoning requirements. There is consistency and the character of the neighborhood will not change. The minimum lot depth is 250' and this lot is 92.5' deep, Again, this is an existing pre-existing condition with nothing to be done about it. The 75' front yard setback cannot be met. The house is within the right of way of the street/County Road by about 30' and pool is 50' from the road. Both structures are within the setback which circles back to this being a C1 hardship with a lot that is wide, shallow and pre-existing. The side and rear setback is 40' with the existing shed and pool being within 10' of the backyard which makes them both a C1

hardship. The accessory shed allowed for property this size is max 150 sq feet and is allowed behind the house. This existing shed is not behind the house and is another C1 hardship. All are pre-existing hardships. A C-1 hardship under Municipal Land Use Law allows for consideration of pre-existing, shallow or shape of land, topo conditions, unique property, and exceptional situation of property. This property is in a flood hazard area and has utility easements (PSE&G) so meets the C1 proof. The C2 proof has 5 prongs

1. relates to property and only to this site.
2. Purpose of the MLUL is advanced by the deviation of zoning which it promotes and encourages the action being sought. Developing as a 2-car garage is normal for a single-family home and this location is realistic. If the variance is not granted then the board is denying the use of the land.
3. G – variety of uses and this is an approved use. The lot has the restrictions but visually this works as well. Its unique for a 2-car garage that would be consistent with character of neighborhood. There is no detriment to public good and no negative property value. There are no complaints with the neighbors and it is not negative to neighborhood as 13 lots do not meet setbacks and 34 lots don't meet lot size. This is a unique situation with a creative solution. Garage is being added to a previously disturbed site with the minimal foot print of disturbance. The proposed garage preserves the character of the neighborhood.
4. The benefits from building outweigh the detriment. The planner stated he does not see detriment.
5. The zone plan – a garage is an accessory structure and is consistent in the R-5 zone. The proposed garage with the other variances is consistent with Holland Township Master Plan and the 2020 reexamination plan. This is also meeting the 2017 goals of the master plan - Capitalize. Planner Stearns said he reviewed the Hunterdon County Regional Plan and that plan references sensitivity of the land. There is no impact on the zone plan or the zoning ordinance. Applicants can still do what the R5 zone permits. There is no impact to master plan/re-examination plan. The application satisfies the C1 and C2 so the land use board can approve the requested relief.

Questions included confirmation that the “second structure” does not have sewer plumbing, or water, will remain as a storage as the testimony stated and that it was not a residence will never be a residence and that the proposed garage will only be garage any other uses will require board approval. Another question was about the plans to attach the garage to the house with a retaining wall being built. Planner DeFelce stated that everything presented is in line with what Planner Green outlined in her memo and believe that everything has been addressed. Attorney Bernstein had a question on the 2 variances (c2) setbacks of 38.7 and 40' with Planner Stearn responding that it is all c2 and that in his testimony he mentioned that you could move the rear and then there would be other issues. Another question involved the potential of moving the other shed and if relocated if that would eliminate a variance with Planner Stearns stating he does not think so but the applicant can answer. Then another question was about the carport which Planner Stearns stated that the applicant can best answer.

Kelley O'Such made a motion and was seconded by Ken Grisewood to open up the public portion of the public hearing. All present were in favor of the motion. The public has the opportunity to question the testimony of Planner Stearns. Per Attorney Bernstein, the public portion was not closed and remained open for future questioning.

Witness Davina J. Lapczynski was sworn in again by Attorney Bernstein. She is the applicant. She will follow up on the questions asked of Planner Stearns regarding existing structures. Exhibit A3 – the older survey was shown to everyone where the carport and shed are identified in the location. Davina Lapczynski stated that she plans to remove the carports, she will have a connection from the house to the garage but that it will be a deck with a retaining wall under it to help with water flow. The deck connecting the house to garage will NOT be a hallway but an open area and that if she wants to enclose it, she will come back to the board for approval. She also agrees that the garage is for personal use and not for a commercial repair garage and if that changes then an application before the board is needed.

The public was asked if they had any questions for the applicant. No one came forward. The board had no further questions. The professionals had no further questions.

Attorney DeSapio urged the board to grant the variances. He stated that this is a difficult topography and the professionals attested to this. Our Holland Township codes permit a garage as an accessory structure with a single-family home and other residents in the area have one. It is normal and consistent with the neighborhood. The engineer provided testimony that there is not a better place to build a garage on this property. The proposed location is also convenient to the house and access to roadway is there. You do not need to remove guard rail. It really makes the most sense. The applicant applied to the DEP and got approvals. Planner Stearn testified that he is comfortable with granting variances as he outlined the criteria of land use law and no one else showed a negative reason/impact. Re-write Respectfully, the applicant is asking the board to grant the variances to build the proposed garage.

A motion was made by Joe Cinquemani and seconded by Ryan Preston to grant the variances for the application of Davina Lapczynski with the conditions outlined in all the public hearings and cited in any review letters in conjunction with the standard conditions of a resolution. At a roll call vote, all present were in favor of the motion with the exception of Bill Ethem who abstained. Motion carried. Attorney Bernstein is authorized to prepare a resolution for consideration and to be memorialized at the next scheduled meeting.

Attorney Bernstein suggest a break and to resume the meeting at 8:15 pm.

- Block 24 Lots 3, 13 and 13.02 -- Milford Warren Glen Road – K. Hovanian at Huntington Knolls LLC - Amended Site Plan with variance – **TOD**. Received into the office July 22, 2024. The 45-day completeness deadline is September 5, 2024. Deemed incomplete August 12, 2024. Deemed complete September 9, 2024. Public Hearing October 14, 2024. **Board Action needed.**

8: 15 pm Dan Bush, Scott Wilhelm, Mike Keady and Ken Grisewood, all recuse themselves. Engineer Hill and Planner Lelie are present

Attorney Gruenberg is present for the applicant and explained that the project is approved for 106 market and 28 affordable units. The application before the board has some minor changes and K. Hovnanian believe what is being present is a more attractive project. Their project triggered additional relief including pertaining to height (“D” variance) and stories (“C” variance permitted 2.5 and is asking for 3). There are some additional design waivers that are requested.

Board Attorney Bernstein stated that he has reviewed the documents and the board has jurisdiction. Attorney Bernstein also explained that many members of board may or may not be familiar with project. He has reviewed all resolutions from 2003 and had prepared a synopsis.

May 12 2003 Planning Board grants preliminary approval with conditions. There are to be 5 phases, 44 units are to be age restricted, 11 buildings, a recreation facility, clubhouse and group home.

June 12 2006 – p1 unit 38 of age restricted then group home or 6 affordable units to be built. And more outlines to the project with conditions clearly outlined.

Sept 12 2011 – Application to the board using the Sarlo Bill, which removes the age restriction. Board grants with conditions. Resolution of May 12 2003 and June 12 2006 still stands and deed restrictions discussed.

May 12, 2014 and amended September 8 2014 – master resolution 133 res units in 5 phases. P1 single family dwelling, P2 farmette, P3 44 townhomes and 11 apartments with Clairmont Drive being erected, stormwater regulations applicable and recreation area, P4 62 townhomes and 15 apartments and P5 is the commercial component which includes the bar.

No final approvals to be given until the board happy with regulations and codes and RSIS standards apply along with the phases being installed and inspected and bond provided. A lot of the conditions have carried. Also mention that garages are not storage and not to be converted to living space. The fire place is to be gas. The homeowner’s association is for the roads. The project will not permit RV’s or boats. Rental to be interspaced, other conditions apply

September 6 2014 – preliminary approval for P2 farmette and final approval subject to conditions

Nov 10 2014 Preliminary approval for P3 and P4 with road conversations, no sidewalks, P3 is 44 units with 11 affordable and P4 is 62 units with 15 affordable. Buffering, stormwater, detention basins etc. to be completed in P3.

Feb 11 2019 – granted final site plan P2 P3 with conditions. Various professional memos cited. 28 affordable units with 16 in P3 and 12 in P4. Revised landscape plans. Deed restriction of affordable for 30 years. Phasing of market and affordable. More water conversations and conditions. P3 has a booster pump for water

April 8 2019 – extension P4 from Nov 10 2014, amended Feb 11 2019 resolution, zone is still PCD/PSV)

November 11 2019 extension of P4 till 11/9/2024 with all obligations from 11/10/14 resolution with conditions that include an annual report being provided while obtaining water allocation of P4 with other conditions applying.

July 12, 2021 extension of P1 for 190 days from adoption of resolution, final site plan approval for P2 and P3 extended till 2/11/22 and conditions of approval 6/14/06, 5/12/14. 2/11/19 in effect.

June 13 2022 extension of final site plan approval for P2 and P3 thru 2/11/23 with conditions of all resolutions including 7/12/21.

March 13 2023 -extension of final site plan for P2 and P3 thru 2/11/24 with conditions of all resolutions including 07/12/21 FINAL extension

September 11 2023 (October 8 2023) preliminary and final major subdivision to create new lot 13.02 (53.771 acres(with remaining lot 13 – the farmette to be 19.669 acres thus subdividing Block 24 Lot 13 into 2 separate lots. P3 id 44 units with 16 affordable with breakdown of buildings and units and P4 to be 62 units with 12 affordable with breakdown of buildings and units with all stormwater improvements to Lot 13 to be constructed and approved, all conditions with site plan for P2 and P3 to be completed before any construction of Lot 13.02.

March 13 2024 extension of final site plan approval for P2 and P3 thru 2/11/26

Attorney Bernstein asked if there is final site plan approval for P4 as he did not see it in any resolutions he reviewed.

Attorney Gruenberg explained that the goal is to do this in phasing.

Attorney Bernstein had a question on the notice regarding 106 units and 28 affordable and the client is going to build in a phasing plan with P3 requirements to be meet before P4 is started. The variance applies to both phases. The next question was about who is building the affordable and Attorney Gruenberg state that his client is building the market rate which is the for-sale units. There were conversations regarding building and how you need to build market and affordable hand in hand per state requirements. More conversations took place regarding a D1 variance which the applicant does not think a D1 is needed. Planner Lelie did raise an issue and Attorney Gruenberg said under the 2011 Sarlo act - converted age restriction to non-age restriction was resolved also by way of other resolutions since then and no issue was raised if a D1 was needed so they believe that everything was done correctly.

Attorney Barnstein talked about the Sarlo Bill. He also stated that there was no requirement for use variance when seeking application to convert age restriction to non-age restriction but that there is nothing in bill that talks about d variance.

Subsequent to the application, the time that has lapsed and project has not been built so testimony should talk about the D1 standards for the zone which has not changes since put in effect 20 years ago. Attorney Gruenberg stated that the notice does not indicate the need for a D1 but the applicant can put testimony on record and that he did put the catch all “that any and all variances as needed” is in the notice. Mr McDonough can talk about this and Attorney Gruenberg can put testimony on the record although it is not needed. Attorney Bernstein asked if testimony would also be given regarding the DEP permits, water supply and status of reports etc. with Attorney Gruenberg responding affirmatively.

Planner Lelie also requested testimony regarding the resolution conversations

Attorney Bernstein asked about what action was taking regarding a group home? The Board resolved the commercial and the age restricted but he did not see anything regarding the group home and Attorney Gruenberg requested that they do not pour over the resolutions. More conversations took place and Attorney Gruenberg will look into all the resolutions. An extension for P4 is needed and the applicants requested this to be on the November agenda.

The board had questions about the name of the builders, the owners of the property and if testimony will be given on how the project will be developed with the applicant's attorney responding affirmatively.

Conversation evolved about the recused. Member Keady made statements in the past that caused him to recuse and with additional conversations it was recommended to that he recuse again for this application. The same applied for member Grisewood. Mayor Bush and Committeeman Wilhelm have to recuse because of the D variance. Board Engineer Hill and Sub Planner Lelic are present.

Attorney Bernstein asked if anyone wanted objector status (representing more than one person) and reminded them that they cannot question the witness. No one came forward.

Witness #1 Michael Gallagher with KHOVANIAN Homes as the entitlements manager - He stated that he has appeared as an expert witness in over 70 municipalities. He is appearing as a non-expert capacity but accepted as a witness. He was sworn in.

KHOV reviewed the approved project (106 market rates) and looked at the property and approvals. The suggestions are a few changes are needed. They have a contract with the owner and are eager to do the project with tweaks to accommodate their product. KHOV not doing the affordable, however the owner is and will also be participating with KHOV in doing the site work. Attorney Bernstein requested the agreement with the understanding that the Board needs proof that owner will take on responsibility and Attorney Gruenberg to follow up with that question. Mr. Gallagher talked about the project and that there will be 106 townhomes that will show a reduction in building coverage and patios. The other improvements to the buildings are that there will be a 3rd story, which the market supports. The project needs to comply with the affordable component under UHAK. Mr. Gallagher agrees the applicant will follow the UHAK phasing. The changes proposed pertain to the KHOV product but the site would also add Electric Vehicle (EV) parking and the recreation area proposed is no longer one large area but 2 smaller areas. The layout is basically the same as approved some units having more parking. The townhouses will have 1 EV in each garage with a level 1 charger. The market rates are for sale and are condo style.

Board questions include 4 surface EV unit inn guest parking and each of the 106 units being EV ready in the garage with a level 1 and the potential to upgrade to level 2 if wanted, 106 market and affordable 28, why amended the plan and not building as approved, KHOV providing a standard product and not a custom product, affordable being built per UHAK requirements when not the same builder, how to integrate, how to build the infrastructure, what about additional fire protection in the garage with EV chargers, A fire sprinkler system, the change in bedrooms from what was approved, the look of the buildings, harmony with market rate and affordable, the apartments being 2 story, variations of 2 and 3 story blending with the topography, blending the affordable to harmonize with the KHOV product when it's not their project, do the affordable units have garages and the open space/recreation areas being different from approved. Attorney Gruenberg stated that more testimony will be given. A was made by Bill Martin and seconded by Joe Cinquemani to open the public portion of the public hearing. All in favor.

Public

Dwight Pederson – he is on the Environmental Commission but not representing them. He stated that the building layouts were one layout and the KHOV cookie cutter presentation is different and includes a patio in the rear. Mr. Gallagher said not sure what was in the past but KHOV does have a patio. Mr. Pederson then asked if the impervious is still the same with Mr. Gallagher responding that the building coverage is slight reduced which means so is the impervious so adding a patio does not really change the impervious.

Scott Bridge - - He stated that a site development always has concerns regarding parking as there is never enough. Three-bedroom units with a garage still potentially increase parking demands. The response is that the KHOV engineer to testify.

Carl Knight – deputy chief fire but only here as resident and had questions about the height of the building with the response that testimony will be provided later. He then questions the partnership or collaboration of the project and what happens if one goes out of business? No one could answer that question now but the applicant will look into it.

Witness #2 - - sworn in by Attorney Bernstein – Joseph Lipanovski with KHOV and is the land acquisition manager and was also an architectural manager with license RI in NJ. He has testified before boards in New Hersey including Holland Township. He also stated that he has worked with KHOV for over 30 years, he is an architect of record with a licensed over 30 years several states including NJ. He is offered as an expert architect and has a license in good standing. He was accepted as an expert witness.

Exhibit A1- floor plan Orenda model

Exhibit A2 - floor plan Parksley model

These are the 2 models of the KHOV townhomes designed for Holland Township with various They are specific to Holland. A walkout basement is in the Orenda model. One has a three-bedroom, one car garage on ground floor and others has the bedrooms on the second floor. There is fire separation in the garage and living space with all based-on State code. The Parkley has larger 3 bedrooms with a one car garage however there are options with the living space on the ground floor and second floor open plan with the third floor being the remaining bedrooms. Dimensions were discussed with the mention that a garage is usually 10' x 19.5/20'. A bathroom on the ground level is an option with a half bathroom on the second level and 2 bathrooms on the third level.

Exhibit A3- Colorized plan dated May 2024 –

He designed it showing the layout of the buildings and explained that the reason that the product is smaller than previously approved is more in line with what is being offered by the standards of today. More clarification was needed for understanding the foundations relating to the topography of the land. The walk out in the Orenda model. From the front elevation it is a 2 story and the rear is sloped with a higher elevation on P4. They will start with P3 With the slab on grade with one walk out basement which are mostly in P3 and are the Parksley model. Three story patio is 8x10 concrete pad. There will be groups of 4 and 5 home buildings that are mostly three story. P3 is 44 townhomes and 16 affordable. The further away building is the affordable building of which Attorney Bernstein asked why farther away and the response was that the applicant was not sure why and thought maybe UHAK weighed in. Price was a topic of conversation however the witness could not discuss that since it is not his area. Attorney Gruenberg stated he will look into it to address that at another time.

More questions evolved regarding the Affordable apartments and parking with Attorney Gruenberg stating that the engineer would provide testimony and that that is all RSIS regulated with requirements to be met. Conversation then turned to the road way and how they need to be part of P3 and that the engineer will provide testimony,

Planner Lelie asked about the 2 story with a walk out with no floor plans being provided. She also asked about the steps down and the basement as being unfinished with utility offer upgrade to be a finished space, The finished space cannot be a bedroom however they can add a bathroom. She asked how to prevent a bedroom being added to the space with the HOA documents reflecting restriction as well as restriction with the garage. She then asked about the three story and the home office not being converted to a bedroom. More conversations took place about all requirements being in the beds and spelling everything out with restrictions. The walk out with a sliding door will be to outside. Another question was how the sprinklers in the units are feed? The response was that the sprinkler closet is at the end of each building and comes from water supplied to the homes with future testimony being requested. Planner Lelie asked about the 8'x10' deck and asked if they are similar to the patio for 2nd story of the Parksley. The elevation for front side and rear can be provided which Planner Lelie requested. Planner Lelie circled back to the affordable housing and she is requesting to see what was approved. Attorney Bernstein formally requested revised plans showing elevations with market and affordable and that this needs to be provided one week prior to next meeting. The applicant stated that they are not doing architectural for affordable however Planner Lelie reminded the board that the witness said all yes to everything and the board has the right to know how does this work and how can she as the planner ensure that all matches (materials etc.)

Attorney Bernstein state that the board can approve the what if but that they would be walking down the narrow line. The project goes hand and hand. Clarification more than just words is needed. If the applicant cannot provide that then the client better have testimony of someone who can work with this. Attorney Gruenberg state that they will work on this. More conversations took place regarding attic space, roof trusses with emergency access, no mechanicals being added, the furnace and water heater being on ground level in Parkley and in the Ornedo in the basement behind garage, the condenser is outside, what the outside will look at, the affordable units and any changes, amended site plan explanations, revised floor plans, pervious vs impervious coverage and the recreational areas. Attorney Gruenberg stated the engineer will address many questions in testimony. More conversations about P4 and the Parksley with 4 units on Slab and 3 stories, 6 units having a walk out and 3 units being the tuck under.

Exhibit A-4 is a cross-section portion of the site showing slab, tuck under and walk out basement showing topography. The tuck under is opposite with a three-story front and a two-story rear. Topography drove the design and there is no deck on the third floor with a tuck under.

Exhibit A5 – Orenda picture – front elevation – consistent with local design. Shows the standard product. 5 on 12 pitch and 6 on 12 is what ordinance wants. KHOV prefers the 5 on 12 which is more industry standard and a too high roof is more of an issue with trusses. The lower pitch helps with height limitations when challenged with perimeter grading. Our ordinance is lowest point of grade. To get height is lowest point of building to height. The more common approach is the average grade but not in Holland Township as our code is to the ridge and it's a very restrictive definition based on his experience and with this topography. Conversation then turned to snow load, the standard providing difference in building and not cookie cutter in appearance with a look at street scape variation, design questions of front to back, more about height and advantage of 5/12 or 6/12 exhibit of units not meeting building height, sprinklers in living space and the EV setup with charging at a level 1 taking 12 hours and a level 2 charging in a few hours with questions going to the difference is volts, a need for a fire separation wall, fire rating, safety etc. The engineer will need to provide testimony.

Exhibit A6 – Parksley – a three story that is similar in design to the orenda slab but three story in the rear. This is more current in design which then triggered conversations about the roof top. Carl Night – asked how many structures over 35', the walk separation to roof and the pump house with the Engineer needing to provide testimony. Then more conversations took place regarding the infrastructure and potential concerns.

Attorney Bernstein stated that the board wants you to come back to answer questions and that the next scheduled meeting is November 11th. A motion was made by Joe Cinquemani and seconded by Kelley O'Such to carry this public hearing without further notice till the meeting of Monday November 11, 2024 with the public being able to ask questions to this witness as well as other presented witnesses. All agreed. Motion carried at 10:02 pm.

Mr Keady returned to the meeting.

Sub-Committee Status and Updates:

Holland Township Highlands Council Subcommittee – Mike Keady and Dan Bush – Per Mike Keady, amendments and climate change could be topics to come before the board for future review.

Public Comment

There were no members of the public present for public comment at this time. A motion was made by Ken Grisewood and seconded by Dan Bush to open the public comment portion of the agenda not relating to agenda items. The room was full; however, no one came forward with questions or comments. A motion was made by Scott Wilhelm and seconded by Dan Bush to close the public comment portion of the meeting. All in favor. Motion carried.

Executive Session

There was no Executive Session scheduled at this time.

Housekeeping:

There was no Housekeeping scheduled at this time.

Adjournment

Kelley O'Such made a motion to adjourn. Motion approved. The meeting ended at 10:05 p.m.

Respectfully submitted,

Maria Elena Jennette Kozak

Maria Elena Jennette Kozak
Land Use Administrator