

Borough of Kinnelon

Planning Board

January 7, 2021

The regular monthly and reorganization meeting of the Kinnelon Planning Board was called to order by Chairperson Mrs. Roselius at 7:30 p.m., Thursday, January 7, 2021 via a zoom virtual meeting.

It was reported that adequate notice of this meeting had been given in accordance with the Sunshine Law by posting a notice on the municipal bulletin board, by publication of a legal notice in the Suburban Trends on December 19, 2020 and by sending the meeting date to the Daily Record and Herald News. Zoom details was noticed on the Boroughs website Monday, January 4, 2021.

Present and answering roll call in addition to Mrs. Roselius was Mr. Savino, Mrs. Smialek, Mr. Schwartz, Mayor Freda, Mrs. Hanks and Councilman Yago. Mr. Tombalakian, Mr. Boorady and Mrs. Caldwell were present for this meeting.

A motion to approve Resolution Establishing Standard Protocols for Remote Meetings was offered by Mr. Schwartz, second by Mrs. Smialek with the affirmative “yes” vote of all on roll call.

A motion to elect Mrs. Roselius as Chairperson was offered by Mr. Savino, second by Mrs. Smialek with the affirmative “yes’ vote of all on roll call.

A motion to elect Mr. Savino as Vice Chairperson was offered by Mr. Yago, second by Mr. Schwartz with the affirmative “yes” vote of all on roll call.

A motion to approve the Committee appointments was offered by Mr. Savino, second by Mr. Smialek with the affirmative “yes” vote of all on roll call.

Subdivision, Land Use & FSH

Tamara Roselius, Chairperson
Mayor Freda
Councilman Yago

Landscape, Sign & Architecture

Steven Savino, Chairperson
Maribeth Smialek
Robert Schwartz
Board of Adj. liaison

Zoning & Ordinance

Tamara Roselius, Chairperson
Councilman Yago
Robert Schwartz
Board of Adj. liaison

Site Plan Committee

Councilman Yago, Chairperson
Steven Savino
Maribeth Smialek
Robert Schwartz

Master Plan and Redevelopment

Councilman Yago, Chairperson
Tamara Roselius
Steven Savino
Maribeth Smialek

Budget & Capital Improvement

Tamara Roselius, Chairperson
Councilman Yago

Borough Council Liaison – William Yago

Environmental Comm. Rep – Lisa Hanks
Open Space Comm. Rep – Tamara Roselius
Board of Adj. liaison – open

A motion to approve Mr. Boorady as Engineer, Mr. Tombalakian as Attorney and Mrs. Caldwell as Planner was offered by Mr. Savino, second by Mr. Yago with the affirmative “yes” vote of all on roll call.

A motion to approve Jennifer Highers as Board Secretary was offered by Mrs. Smialek, second by Mr. Savino with the affirmative “yes” vote of all on roll call.

A motion to approve the 2021 meetings dates was offered by Mr. Savino, second by Mr. Schwartz with the affirmative “yes” vote of all on roll call.

A motion to approve the October 2020 minutes was offered by Mr. Savino, second by Mrs. Smialek with the affirmative “yes” vote of all on roll call.

The November 2020 minutes will be approved at the February 4, 2021 meeting.

A motion to approve Resolution #839 Atlantic Health Sign, 1483 Route 23 was offered by Mr. Savino, second by Mrs. Smialek with the affirmative “yes” vote of all on roll call. Mr. Schwartz abstained from this motion.

Application #838 T-Mobile Graceview Drive, Site Plan Waiver.

DARMOFALSKI ENGINEERING ASSOCIATES, INC.

CIVIL ENGINEERS

86 NEWARK POMPTON TURNPIKE

RIVERDALE, NJ 07457-1429

TEL: (973)835-8300 | FAX: (973)835-1117

November 11, 2020

Jennifer Highers, Secretary

Kinnelon Planning Board

Borough of Kinnelon

130 Kinnelon Road

Kinnelon, NJ 07405-2336

RE: Kinnelon Planning Board Application #838 for Site Plan Waiver

Project Location: Graceview Drive

Block 56502, Lot 113 on Tax Map Sheet #69.02

Borough of Kinnelon, Morris County, New Jersey

Residential Zone

Property Owner: American Tower Corporation

PO Box 723597

Atlanta, GA 31139

Applicant: T-Mobile Northeast LLC c/o Christopher H. Schubert, Esq.

Riley Riper Hollin & Colagreco

717 Constitution Drive, Suite 201

Exton, PA 19341

Dear Chairwoman Roselius and Members of the Board:

We have received the following documents in support of the above-referenced application:

1. Application for Site Plan Approval Borough of Kinnelon Planning Board, signed by the Applicant, filed September 14, 2020;
2. New Account Escrow Information Sheet for T-Mobile Northeast LLC, not signed, dated September 11, 2020;
3. Signed W-9 form, Request for Taxpayer Identification Number and Certification, T-Mobile Northeast LLC, signed September 11, 2020;
4. Site Plans, prepared by ATC Tower Services, consisting of seven (7) sheets, dated October 17, 2018, bearing the following revision dates:
 - a. G-001, Title Sheet, Rev. 1, July 22, 2019
 - b. G-002, General Notes, No Revisions
 - c. V-101, Overall Site Plan, Rev. 1, July 22, 2019

d. C-101, Site Plan, No Revisions

e. C-501, Concrete Pad Details, No Revisions

f. C-502, Conduit Details, No Revisions

g. E-601, Electrical One-Line and Wiring Details, No Revisions

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5. Kinnelon Checklist Packet, No Date;

6. Generator Spec Sheet, Generac SD080 | 4.5L | 80kW Industrial Diesel Generator Set;

7. Letter from the Applicant's Attorney, Christopher H. Schubert, requesting tax certification, dated September 11, 2020;

8. Letter of Authorization from Owner, signed by Margaret Robinson, Senior Counsel of American Tower, dated June 21, 2019;

9. T-Mobile Northeast LLC Corporate Disclosure Statement, signed and notarized July 13, 2020; and,

10. Cover Letter from the Applicant's Attorney, Christopher H. Schubert, dated September 11, 2020.

We have no engineering objection to this application being placed on the next available agenda of the Kinnelon Planning Board, provided the Applicant supplies the Board Secretary with the following outstanding items:

Checklist "A" Requirements for All Applications

Checklist 176-37A(1), (4), (7) - Coordinate the correct number of application forms, site plans and supporting documents with the Board Secretary.

Checklist 176-37A(2) - Provide certification from the Tax Collector that the taxes are paid. *The Applicant indicates they have applied and are awaiting certification from the Tax Collector.*

Checklist 176-37A(8) - If the applicant is other than the owner of the subject property, a notarized

consent form signed by the owner authorizing the applicant to proceed before the Board. Also provide notarized consent from the Applicant permitting Network Building + Consulting to act as agent.

Checklist 176-37A(12) - Copies of any easement or deed restrictions or covenants affecting the use of the property.

Checklist 176-37A(13) - If public notice of the hearing on the application is required, pursuant to the Municipal Land Use Law N.J.S.A. 40:55D-12, and/or the ordinances of the Borough of Kinnelon, applicant shall submit a list of property owners within 200 feet of the subject property. The list shall include the names and addresses as shown on the municipal tax records. Applicant may apply to the Assessor for a municipally certified list of property owners within 200 feet of the subject property by paying a fee of twenty-five cents (\$0.25) per name or ten dollars (\$10.), whichever is greater. *The Applicant indicates they have applied and are awaiting the property list from the Tax Assessor. Legal Notices may not be required for the Request of Site Plan Waiver and we recommend the Applicant's Attorney confirms with the Board Attorney.*

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Checklist "A" Requirements for All Applications (cont'd)

Checklist 176-37A(17) - A list, included in the application, of all other governmental agencies which must review the application and issue an approval thereon.

Checklist 176-37A(11) - Copies of any prior resolutions or other documentation regarding past decisions involving the property.

The Applicant has requested the following checklist waivers which requires formal action by the Kinnelon Planning Board prior to the public hearing:

Checklist 176-37A(1) - Applicant is seeking a Site Plan waiver, including a waiver of the requirement

for a public hearing. *We have no engineering objection to the Kinnelon Planning Board granting this waiver provided the applicant agrees to provide any information on the Checklist that the Planning Board requires.*

Checklist 176-37A(5) - A survey of the subject property, prepared not more than seven years from the date of submittal of the application, together with an affidavit of no change from what is shown on the survey. An applicant may submit a survey prepared more than seven years from the date of submittal, provided the survey contains the signature and seal of a certified surveyor attesting that it is an accurate representation of the current conditions on the subject property. *A checklist waiver has been requested; we have no engineering objection to granting a checklist waiver, provided the Applicant agrees no site work is proposed outside of the Base Area.*

Checklist 176-37A(15) - A schedule of zoning requirements applicable to the property and a showing of whether or not the application is in conformance with such requirements. The schedule shall be indicated on the plot plan, site plan or subdivision plan. *A checklist waiver has been requested; we have no engineering objection to granting a checklist waiver for the zoning requirement schedule.*

Checklist 176-37A(16) - Wetlands shall be delineated on the plan as per requirements of Article XV of the Zoning Ordinance. *A checklist waiver has been requested; we have no engineering objection to granting a checklist waiver for the delineation of wetlands.*

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Brief Project Summary

The Applicant, T-Mobile Northeast LLC (T-Mobile) is a federally licensed communications carrier which intends to install an optional standby generator, automatic transfer switch, generator auxiliary

power distribution, and remote monitoring communications circuitry for T-Mobile's use at the telecommunications facility located on Graceview Drive, Block 56502, Lot 113. T-Mobile proposes to install the generator and accessory equipment just outside of the existing building but within the fenced compound (the "base station").

The Borough of Kinnelon Code, Chapters 207-83 through 207-95, entitled "Wireless Telecommunication Towers and Antennas" establishes general regulations and design standards for the location of wireless telecommunications towers and antennas. Per Chapters 207-86.A. and 207-87.A. of the Borough Code, the subject tower is specifically identified as a "first priority location," provided that the new installation does not increase the height by more than 10 feet or 10% of the building or structure, whichever is less. The proposed improvements would not increase the height of the tower. Per subsections B. and C. of Chapter 207-87 of the Borough Code, **prior to the utilization of designated structures first priority, a site plan shall be submitted and approved** pursuant to Chapters 176-37.E., 207-88 and 207-92 of the Borough Code.

The Borough Code requires site plan approvals; however, the applicant has requested the Kinnelon Planning Board grant a Site Plan Waiver based upon the federal "Middle Class Tax Relief and Job Creation Act of 2012". Per Section 6409(a) of the Act, "a state or local government may not deny, and shall approve, any request for collocation, removal, or replacement of transmission equipment on an existing wireless tower or base station, provided this action does not substantially change the physical dimensions of the tower or base station".

In addition, the Federal Communications Commission (FCC) issued a report and an executive order (#14-153) which provides clarification and adopted rules to implement the Act. A collocation substantially changes the physical dimensions of any modifications approved prior to the passage of the Spectrum Act, if it meets any of the following criteria:

1. For towers outside public rights-of-way, it increases the height by more than 20 feet or 10%, whichever is greater, for those towers in the rights-of-way and for all base stations, it increases

- the height of the tower or base station by more than 10% of 10 feet, whichever is greater;
2. For towers outside public rights-of-way, it protrudes from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for those towers in the rights-of-way and for all base stations, it protrudes from the edge of the structure more than six feet;
 3. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
 4. It entails any excavation or deployment outside the current site of the tower or base station;
 5. It would defeat the existing concealment elements of the tower or base station; or,

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6. It does not comply with conditions associated with the prior approval of the tower or base station unless the noncompliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding “substantial change” thresholds.

Per our review, the proposed generator does not exceed thresholds listed above as the proposed improvements are wholly within the current base station. In addition, based upon the plans submitted and the summary provided, it appears the proposed work does not constitute a substantial change.

However, we recommend the Kinnelon Planning Board obtains the legal opinion of the Board Attorney as to whether a site plan waiver can be granted based upon the Act’s “may not deny and shall approve” ruling. In addition, we offer the following comment, which we recommend are made part of any resolution, and agreed upon by the applicant subject to approval of the site plan waiver:

1. Provide a Highlands Exemption Approval to the Board Engineer for the proposed project prior to issuance of any building permits.

We reserve the right to amend this report based upon supplemental information and/or testimony that may be provided.

If you have any questions or require additional information, please contact me by telephone (973) 835-

8300 extension 112 or email tab@darmofalski.com.

Very truly yours,

Darmofalski Engineering Associates, Inc.

Thomas A. Boorady, PE, PP, CME, CFM

cc: Steven R. Tombalakian, Esq. - Kinnelon Planning Board Attorney

Mr. Chris Schubert (Attorney) and MR. Justin Crowell (Engineer) were present representing the applicant.

Mr. Boorady stated that he had no objections to the waivers proposed and stated that the documents shown on Zoom should be emailed to the Board Secretary. Mr. Boorady also recommended moving the generator as far as possible from the closest house.

Mrs. Roselius opened the meeting to the public and hearing no one closed the public portion.

A motion to approve this application subject to Mr. Booradys Engineer letter, the attempt to relocate the generator as far south as possible, highlands exemption and to provide the board secretary the documents presented on Zoom was offered by Mayor Freda, second by Mr. Savino with the affirmative "yes" vote of all on roll call.

Application #840 Community Church of Smoke Rise, 36 & 38 North Road, lot line change.

DARMOFALSKI ENGINEERING ASSOCIATES, INC.

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December 21, 2020

Jennifer Highers, Secretary

Kinnelon Planning Board

Borough of Kinnelon

130 Kinnelon Road

Kinnelon, NJ 07405-2336

RE: Kinnelon Planning Board Application #840

Minor Subdivision with Variances

Project Location: 36 & 38 NORTH ROAD – The Smoke Rise Club

Block 11203, Lot 102 & 103 on Tax Map Sheet #12

Borough of Kinnelon, Morris County, New Jersey

Residential Zone – Smoke Rise Club

Applicant/Owner: Community Church of Smoke Rise

36 North Rd., Kinnelon, NJ 07405

Dear Chairwoman Roselius and Members of the Board:

We have received the following documents in support of the above-referenced application:

1. Cover letter from Applicant's Attorney, Pashman Stein Walder Hayden, dated November 10, 2020;
2. Kinnelon Application Form PB #1, signed by John Cornwell;
3. Certification there are no delinquent taxes from the Kinnelon Tax Collector, dated August 10, 2020;
4. Morris County Planning Board Application form, signed by the Applicant's Attorney, Scott R. Lippert, dated October 5, 2020;
5. Certified list of owners prepared by the Kinnelon Tax Assessor, dated September 3, 2020;
6. Certified list of owners prepared by the West Milford Tax Assessor, dated September 25, 2020;
7. A list of variances under (Exhibit 7/F);
8. Kinnelon Checklists for:
All Applications;
Minor Subdivisions; and,
Variances;
9. A survey of existing conditions, prepared by DAB Surveying, Inc., consisting of one (1) sheet, dated March 20, 2020, bearing no revisions; and,

10. A minor subdivision plan, jointly prepared by DAB Surveying, Inc., and MAP Engineering, Inc., consisting of one (1) sheet, dated September 2, 2020, bearing no revisions.

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Completeness Review

I recommend this application be placed on the next available agenda of the Kinnelon Planning Board subject to the Applicant coordinating a meeting date with the Board Secretary, and providing:

1. Provide proof of adequate legal notice to all parties identified on the certified list of owners and provide proof of publication in the official newspaper.
2. Provide enough copies of all required supporting documents and plans to the Board Secretary for distribution at least 15 days prior to public hearing. The Applicant shall coordinate the correct number of copies with the Board Secretary.

The following is a list outstanding checklist items, and checklist waivers requested by the Applicant:

Checklist 'A' for All Applications:

Item 6. - The Applicant shall verify the application was submitted to the Morris County Planning Board.

Item 16. - The Applicant requests a waiver from providing a report from a qualified environmental consultant showing wetlands and buffers affecting the subject property. I have no engineering objection to the Kinnelon Planning Board granting such a waiver since no construction is proposed.

Checklist 'B' for Minor Subdivisions:

Item 2(e) - Applicant requests a waiver from supplying all streets or roads, bodies of water and streams within 500 feet of the subdivision. I have no engineering objection to the Kinnelon Planning Board granting such a waiver since no construction is proposed.

Item 2(i) - Applicant requests a waiver from supplying a topographic map, at a minimum scale of one-inch equals 50 feet, showing two-foot contours, and containing slope ranges,

wetlands lines, flood hazard areas, etc. I have no engineering objection to the Kinnelon Planning Board granting such a waiver since no construction is proposed.

Item 2(k) - Applicant requests a waiver from supplying each proposed lot and lot area meeting the minimum lot size requirement. Lot area is to be calculated pursuant to the requirements set forth in Article XV of Chapter 207 of the Code of the Borough of Kinnelon. Also known as "slope adjusted lot area". I have no engineering objection to the Kinnelon Planning Board granting such a waiver since no new lots are being created.

Item 2(l) - Applicant requests a waiver from supplying specific areas where existing trees are to be removed, with the locations of all trees having a diameter of four inches or more measured four feet above grade therein. I have no engineering objection to the Kinnelon Planning Board granting such a waiver since no construction is proposed.

Checklist 'F' for Variances:

There are no outstanding checklist items.

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Brief Project Summary

The Applicant is the owner of both subject properties, known as Block 11203, Lots 102, and 103, on the Kinnelon Tax Map. The Applicant is seeking minor subdivision approval with ancillary variances to adjust the dividing line between the two lots. The subdivision would eliminate parking lot encroachments.

Lot 102 is improved with the Community Church of Smoke Rise building and parking lot. Churches are permitted as a condition use in the residential zone, although the Borough Code has no specific controls for churches. Lot 102 is substantially conforming with respect to lot area, lot frontage, building setbacks, and lot coverage. However, there are existing parking variances, including: minimum stall dimensions; minimum two-way aisle width; and, insufficient number of ADA stalls. Lot 103 is improved with a

single-family dwelling and is substantially conforming to all bulk zone requirements except lot frontage. The subdivision would cause Lot 102 to be increased in area and frontage; however, since the lot would now include additional parking lot area, a lot coverage variance is requested to permit 27.12% where 24.77% exists and maximum 27% is allowed. Parking related variances are proposed to remain and would be unchanged by the subdivision. Lot 103 would be reduced from a conforming 66,657 square feet to a non-conforming 57,450 square feet, where a minimum of 60,000 square feet is required. Lot 103 would also have a reduced lot frontage, from an existing 178 feet existing to a proposed 167.4 feet where a minimum of 200 feet is required.

In anticipation of this application being deemed complete by the Kinnelon Planning Board, subject to the waivers being granted, I offer the following technical comments:

Technical Comments

1. I recommend a driveway easement be created to enable cross access between each property since the apron is proposed to be shared. The easement shall be shown on a revised subdivision map with metes and bounds for review and approval by this office, Board Attorney, and Borough Surveyor.
2. One parking space is proposed to be removed adjacent to the driveway providing access to the single-family dwelling on Lot 103. No variances appear to be necessary since more than the minimum parking is available.
3. A variance has been requested for the number of ADA parking spaces; however, variances from federal regulations may not be permitted. Five (5) ADA spaces are required and three (3) are existing/proposed. In addition, the ADA parking spaces do not meet federal regulations for the minimum dimensions for passenger vehicles, van accessible spaces, and loading areas. Accessible parking spaces need to be at least 8-ft wide with adjacent 5-ft wide access aisles. In the case of van accessible parking spaces, the adjacent access aisle width is 8-ft. It appears a sufficient number of parking spaces exist to convert two for ADA. We recommend federal

requirements are complied with and plans revised to show the locations.

4. Approval by the Smoke Rise Club may be required. If a report is not available prior to the public hearing, any approval should be made subject to the Applicant obtain such approval.

5. This application is exempt from the Borough's Highlands ordinance per § 176-38 A.

6. Subdivision plans should be submitted to the Borough's surveyor for review and comment. A memorandum from the Borough Surveyor should be submitted to the Kinnelon Planning Board.

7. We have not received a report from the Morris County Planning Board. We recommend their approval is obtained prior to the memorialization of any resolutions of approval.

8. Other than the Morris County Planning Board, and the Smoke Rise Club, it doesn't appear any other outside agency approvals are required.

9. If this application is approved, then we recommend the resolution of approval contain the following conditions to be satisfied prior to the Kinnelon Planning Board Chair and Secretary's signature of minor subdivision deeds for recording:

a. All restriping and any other site work shall be completed prior to approval of the minor subdivision deeds for recording.

b. The minor subdivision plans shall be revised as recommended by the Kinnelon Planning Board, Board Engineer and Borough Surveyor submitted for review and approval.

c. The revised minor subdivision plans shall be accompanied by deed for both lots, including new legal descriptions for each lot and any establishment of required easements for review and approval by the Board Engineer, Board Attorney and Borough Surveyor.

d. Prior to approving the deeds for recording, the Kinnelon Board Secretary must first receive a status report from the Borough Tax Collector and Finance Officer confirming all escrow fees and property taxes of both properties are current.

10. Minor Subdivisions are required to be filed with the Morris County Clerk within 190 days per NJSA 40:55D (Municipal Land Use Law). If this application is approved, then we recommend

the Applicant prepares revised plans, form of deeds and legal descriptions for review and approval as soon as possible so there is time to review and record deeds prior to the expiration.

I reserve the right to amend and/or supplement this report should information not known to me at this time becomes known to me upon receipt of additional documentation from the Applicant or during public hearings.

If you have any questions, please contact me by telephone (973) 835-8300 ext. 112 or by email tab@darmofalski.com.

Very truly yours,

Darmofalski Engineering Associates, Inc.

Thomas A. Boorady, PE, PP, CME, CFM

cc: Steven R. Tombalakian, Esq. - Kinnelon Planning Board Attorney

Scott R. Lippert, Esq. - Applicant's Attorney

MAP Engineering, Inc. - Applicant's Engineer

DAB Surveying, Inc. - Applicant's Surveyor

Robert Cigol, PLS- Kinnelon Borough Surveyor

Robert Edgar – Kinnelon Assessor

The Smoke Rise Club

Mr. Scott Lippert, Esq and Mr. Joseph Civil Engineer was present for the applicant.

Mrs. Roselius opened the meeting to the public in hearing no one opened it back up to the Board.

A motion to approve this application subject to Mr. Booradys Engineer letter, cross access easement, impervious coverage on lot 102, non- conforming street frontage on lot 103, parking ADA compliant was offered by Mr. Savino, second by Major Freda.

Public Hearing on Condemnation Redevelopment Area Designation.

Mr. Tombalakian swore in Planner Mrs. Jessica Caldwell.

Mrs. Caldwell testified on the following:

Please see the Borough website for the presentation

Mrs. Roselius stated that she would like in the report the following goals listed in the Master Plan:

Page 43 goal #4 - To increase the Borough's ratable base.

Page 44 goal #5- To review the zoning ordinance to permit more uses along Route 23 in an effort to encourage more business to locate along this high volume roadway.

Page 44 goal #8 - To maintain the existing character of the Borough.

Page 45 goal #12 - To ensure that any prospective development and/or redevelopments is responsive to Kinnelon's environmental features and can be accommodated within the capacity of the community's infrastructure system.

Page 46 goal #13 - To ensure that infill development and redevelopment is accomplished in a manner that complements the overall community and respects the general scale of residential development that exists in the Borough of Kinnelon.

Mrs. Caldwell agreed with the goals.

The meeting was then opened to the public.

Mr. Tombaklian swore in Mr. Raymond Oilver.

Mr. Oliver Asked Mrs. Jessica Caldwell questions and gave testimony.

Mrs. Kathrine spoke from the public.

A motion to carry on public notice the Public hearing on Condemnation Redevelopment are Designation was offered by Mr. Savino, second by Mr. Schwartz with the affirmative "yes" vote of all on roll call.

A motion to adjourn and approve the bills was offered by Mr. Savino, second by Mrs. Smialek with the affirmative "yes" vote of all on roll call.

Respectfully submitted,

Jennifer Highers, Secretary

cc: Planning Board Members
Planning Board Attorney
Planning Board Engineer
Borough Clerk
Board of Health
Fire Prevention Bureau
Zoning Official
Construction Official
Environmental Commission
Tax Collector
Assessor
Department of Public Works
Police Department
Morris County Planning Board