

**HARDING TOWNSHIP PLANNING BOARD
MEETING MINUTES
AUGUST 28, 2023**

CALL TO ORDER AND STATEMENT OF COMPLIANCE—Mr. Clew

Mr. Clew announced the meeting of the Harding Township Planning Board was given as follows: Notice was sent to the *DAILY RECORD* and the *OBSERVER TRIBUNE*, posted on the Township Bulletin Board, and filed with the Clerk's Office, located in the Township Hall located at 21 Blue Mill Road, New Vernon, NJ. Notice indicated that formal action may be taken.

ROLL CALL—Ms. Taglairino

The roll was called. The following were present:

Mr. Jones, Mr. Edgar, Mr. Clew, Ms. Walters, Mr. Yates, Mr. dePoortere Mr. Burns, and Mr. Rosato

Mr. Loughlin, the Board Attorney, Mr. Fox, the Board Engineer, and Lori Taglairino, the Board Secretary, were also present.

REGULAR MEETING

Mr. Clew announced the following:

PB #01-23, GHK II & III, LLC, 655 & 665 Spring Valley Rd., **(Carried to the September 25, 2023 Meeting).**

MINUTES

A motion was made by Mr. Jones to approve the July 24, 2023 minutes with an amendment. The motion was seconded by Ms. Walters. On a voice vote all eligible members voted to approve the amended minutes.

A motion was made by Mr. Edgar to approve the July 31, 2023 minutes. The motion was seconded by Ms. Walters. On a voice vote all eligible members voted to approve the minutes.

RESOLUTIONS

PB Resolution #03-23

Michael Anderson
604 & 608 Spring Valley Rd., B3/L3.01 &3.02

A motion was made by Mr. dePoortere to adopt PB Resolution # 03-23 Anderson with and amendment.. The motion was seconded by Mr. Jones. A roll call vote went as follows:

For: Jones, Edgar, Clew, Walters, Yates, dePoortere

Against: None

PB Resolution #04-23

Hurstmont Estate Urban Renewal
679 Mt. Kemble Ave. B27/L2

A motion was made by Mr. Yates to adopt PB Resolution # 04-23 Hurstmont with an amendment. The motion was seconded by Mr. Edgar. A roll call vote went as follows:

For: Jones, Edgar, Clew, Walters, Yates, dePoortere, and Burns

Against: None

BUDGET

There was a discussion about the 2024 proposed budget. A request was made to budget for an ecologist.

Mr. dePoortere made a motion to approve the proposed budget. The motion was seconded by Mr. Edgar. On a voice vote all were in favor of the proposed budget.

COMPLETENESS

PB Application #05-23

Jeff Gelband
26 Long Hill Road, B50/L8
Accessory residence for a conditional site plan

Presenting:
Nicole Magdziak, Attorney

- Ms. Magdziak presented a proposal for a minor site plan conditional use application for completeness.
- Ms. Magdziak noted a waiver from the Board of Health for the application.

Mr. Edgar made a motion to deem the application complete. The motion was seconded by Mr. Yates. On a voice vote all were in favor of deeming the application complete.

The applicant will be noticed and be heard at the September 25, 2023 meeting.

PB Application #06-23

Francis Grather
10 Millbrook Road, B17/L2, R-4 Zone
Minor subdivision

Presenting:
Joseph Grather, Attorney

- Mr. Grather presented a proposed 2 lot minor subdivision.
- Mr. Fox reviewed the outstanding completeness items of Zone District, Zone Boundaries and Zone Requirements, Tree Conservation information and Landscape Plan.
- Mr. Fox also requested the disclosure of the septic system for the Tunis-Ellicks House on the adjacent lot.

- Mr. Fox advised that the application can be deemed complete subject to receipt of the requested information.

Mr. Jones made a motion to deem the application complete. The motion was seconded by Mr. dePoortere. On a voice vote all were in favor of deeming the application complete.

The application will have a site inspection on September 16, 2023 at 9:00 a.m.
The applicant will notice and be heard at the September 25, 2023 meeting.

OTHER BUSINESS

ADJOURNMENT

The meeting was adjourned at 8:05.

Respectfully Submitted by

Lori Taglairino

Lori Taglairino, Planning Board Secretary

HARDING TOWNSHIP PLANNING BOARD RESOLUTION

Application PB-03-23

Minor Subdivision with Variances

Michael Anderson

604 Spring Valley Road

Chatham Township, Block 140, Lot 3.01 /Harding Township, Block 3, Lots 3 & 3.02

Shawn O'Connor, 33 Loantaka Lane North

Chatham Township, Block 140, Lot 2/Harding Township, Block 3, Lot 3.01

Adopted: August 28, 2023

WHEREAS, Michael Anderson and Shawn O'Connor, as owners and applicants for the properties listed above which are located in both Harding Township and Chatham Township, having applied to the Harding Township Planning Board for minor subdivision approval and variance relief to allow the applicants to modify the existing lot lines between three lots, with the end result being two lots. This application will eliminate Lot 3.02 and create two new lots, proposed Lot 3 and proposed Lot 3.01. The existing Lot 3.02 will be partially merged into Lot 3 and partially into Lot 3.01. The lot re-alignment will create two lots that are more conventional shapes than the current configuration. Proposed Lot 3.01 will be conveyed to the owner of adjacent property in Chatham Township (O'Connor) designated as Block 140, Lot 2 in Chatham Township. The existing properties are presently developed with two single-family homes accessed by separate driveways from separate roadways. The applicants have submitted two-sheet minor subdivision plan prepared by E-2 Project Management, LLC, dated October 10, 2022 with revisions through January 18, 2023. Also submitted was Harding Township Board of Adjustment resolution of approval for Block 3, Lot 3 for application number 13-21, memorialized August 30, 2021, at which time Lot 3 received approval from the Harding Township Board of Adjustment to construct a deck in the rear yard. The subject property is within the R-1 residential Zone, and new variance relief is required for the lots in this subdivision; and

WHEREAS, the applicants having submitted to the Board with this application two-sheet minor subdivision plan prepared by E-2 Project Management, LLC, dated October 10, 2022 and revised through January 18, 2023, and Morris County Land Development application dated April 14, 2023. Also received by the Board was Harding Township Board of Adjustment resolution of approval for Block 3, Lot 3 for application number 13-21, memorialized August 30, 2021, which issued variance approval for Lot 3 in 2021 to permit the construction of a deck in the rear yard. The property received variance relief for other existing nonconforming conditions as well as relief from ordinance Section 225-115B for enlargement of a nonconforming residence. This subdivision now requires variance relief for proposed Lot 3 as it does not comply with the minimum lot size requirements of the ordinance of 3 acres, 2.843 acres being proposed; the existing pool house is located in front of the front façade

of the dwelling house contrary to the setback requirements of the ordinance; and the existing deck for the pool house and a concrete pad also now existing violate the side yard setbacks of the ordinance. For proposed Lot 3.01 a rear yard setback variance is required for the existing tree house as an accessory structure, and there is also an existing chicken coop that violates the setback requirements of the ordinance. All of these conditions are depicted on the subdivision map-plat presented to the Board in this case. Also acknowledged by the applicants and the Board regarding this application were review memos and reports dated May 22, 2023 from M. McKinley Mertz, PP, AICP, a LEED Green Associate, of Heyer Gruel & Associates, the Board Planning Consultant, and June 23, 2023 from Paul D. Fox, PE, CME of Apgar Associates, the Planning Board Engineer; and

WHEREAS, the Planning Board having previously at its meeting of May 22, 2023 determined this application to be complete, and the Board having further conducted a site walk inspection of these combined properties on June 14, 2023; and

WHEREAS, at its meeting of July 24, 2023 the Planning Board approved the application subject to the preparation of a further resolution from the Planning Board setting forth its findings and conclusions and setting forth conditions and requirements in accordance with the stipulations of the applicants and requirements of the Board to be set forth in the Board's resolution;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Planning Board, on the 28th day of August 2023, that the approval of this application for Michael Anderson and Shawn O'Connor for minor subdivision approval with a variance relief to eliminate Lot 3.02 and create two new lots, proposed Lot 3 and proposed Lot 3.01, with existing Lot 3.02 to be partially merged into Lot 3 and partially into Lot 3.01; with proposed Lot 3.01 to then be conveyed to Shawn O'Connor, the owner of the adjacent property in Chatham Township, designated at Block 140, Lot 2 in Chatham Township; with variance relief for proposed Lot 3 from minimum lot size and minimum side yard setbacks as requested and required, is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. Nicole M. Magdziak, Esq. of Day Pitney, LLP, Attorneys in Parsippany, New Jersey appeared to present this case for the applicants. She explained to the Board the proposed minor subdivision which she said would result in two new lots in Harding Township that would have more conventional shapes than the present configuration of the properties, and also allow the new proposed Lot 3.01 to be conveyed to Mr. O'Connor as the owner of the adjacent property in Chatham Township to allow for a more usable and regular shape for this new lot as well. The Planning Board noted that this summary was also consistent with the review memorandum dated May 22, 2023 from the Board Planning Consultant, Ms. Mertz.

2. Testimony in support of the subdivision in this application was then provided by the project engineer, Mr. Harrison Barony. Utilizing the subdivision plan dated January 18, 2023 which had been colorized for the hearing and marked as a separate exhibit, the project engineer explained the existing lots in both Harding and Chatham Townships and the current improvements on the Anderson property along Spring Valley Road and for Mr. O'Connor on Loantaka Lane in Chatham Township. Mr. Barony stated that the re-subdivision would create new lots more uniform in size and minimize variances for any future work on the properties. The project engineer then explained the variances needed for the subdivision on the Anderson property for lot size, the pool house deck, and the setback distance to the concrete pad, violations which had been noted in the Board Planner's review memo.

3. The applicants' engineer and the Board then reviewed and discussed the review memos and reports from the Board Planner, Ms. Mertz, and the Board Engineer, Mr. Fox. In this discussion Ms. Mertz noted from her report that the Board should consider variance relief for Lot 3 for the existing pool which is in front of the dwelling house on Lot 3 with no evidence of prior approval in addition to the listed variances mentioned by the applicants' engineer. Ms. Mertz also noted that for proposed Lot 3.01 setback variances should be also considered for an existing tree house and chicken coop on the property. As Mr. Fox, the Board Engineer, noted in his report, since the entire subdivision property is located with wetlands, and although no new development or construction is now proposed, the ordinance would require a conservation easement and a further DEP permit for any new construction on the subdivision premises.

4. The Board requested the Planner, Ms. Mertz, to comment on the variances. She responded she had no objection to the variances required for the minor subdivision and stated to the Board, "The lot lines here are changing, but not the structures. I also believe the subdivision would result in improvements to both lots and a better usage of the property overall." In response to Ms. Mertz's review comment relating to the need for a variance, if not previously granted for the location of the pool house in front of the façade of the principal dwelling, Ms. Magdziak requested to amend the application to include such variance relief. The Board Engineer, Mr. Fox, stated that he believed this was a better plan as it would result in better configurations for the lots and requested that the existing drainage ditch that runs within Lot 3.01 along the northerly boundary of Lot 3 connecting Block 140, Lot 2 in Chatham with Spring Valley Road, be maintained in a further agreement between the parties subject to his review and approval.

5. There were no public questions for the applicants nor any questions or public comments made to the Board regarding this application.

6. The applicants' counsel then summed up the application before the Board and agreed to the requirements expressed by the Board Engineer, Mr. Fox, for this case.

7. The Board finds and concludes from the evidence and testimony presented to the Board that this minor subdivision approval is being undertaken consistent with principles of good planning and design as it will result in more regularly shaped and usable lots for the applicants and the property overall. The Board notes that although variances are requested and required for new proposed Lot 3, no structures, building, or other development is proposed; and also proposed Lot 3.01 which is split with the Chatham Township municipal border does not require lot size variance relief as it is being conveyed to Mr. O'Connor as the owner of Block 140, Lot 2 in Chatham Township. The setback variances required for Lot 3.01 for an existing chicken coop and tree house

the Board believes are de minimis violations. The Board concludes based upon the unusual configurations of these lots that variance relief for this proper and necessary realignment of these lots is appropriate for the Board to issue and allow consistent with the requirements for both a C1 “hardship” variance and also a C2 or “planning” variance under the Municipal Land Use Law. The Board finds the basis for hardship variance relief as the properties are unique in shape with Lot 3.01 wrapping around Lot 3 on three sides, with two separate frontages on Spring Valley Road. Also Lots 3.01 and 3.02 extend into the neighboring municipality of Chatham Township to the east. Lot 3 being developed with a single-family house and variance related improvements including a pool and a pool house will remain, with Lot 3.01 developed with a single-family house on the Chatham side (Block 140, Lot 2 in Chatham) and accessed by a driveway from Loantaka Lane in Chatham Township. Lot 3.02 does not consist of any development and is commonly owned parcel of land with the owner of Chatham Township Block 140, Lot 2 (O’Connor). These irregularities regarding the shape of the properties will now be properly addressed and improved with the subdivision now before the Board to create more uniformity and usable space for both property owners, which a C1 variance will allow and accomplish. The C2 planning variance is also in the reasonable judgment of the Board proper to issue at this time as the realignment of the lots and their change from properties in two municipalities to a single municipality for each property owner that this subdivision will accomplish, the Board believes is a proper planning goal and objective and will clearly benefit both property owners in their better usage of the new lot sizes overall. Such positive benefits and advantages from the subdivision for each owner can be accomplished without any significant negative impact or detriment apparent to the Board associated with this case. Therefore the approval for this minor subdivision with the minimal variance relief (the Board noting that other than the lot size variance for new Lot 3, all other variances relate to existing improvements associated and required for same) is after careful consideration from the Board appropriate for the Board to allow and issue to the applicants as requested.

Description of Minor Subdivision Approval

1. The application of the applicants for minor subdivision approval in accordance with minor subdivision plan prepared by E-2 Project Management, LLC dated October 10, 2022, revised through January 18, 2023, is hereby granted in accordance with the conditions of this resolution.

Description of Variances

1. The applicants are granted a variance for proposed Lot 3 for minimum lot size of 2.843 acres when a minimum lot size of 3 acres is required under the ordinance. Also variance relief is granted for Lot 3 for existing swimming pool house in front of the residence, minimum side yard setback requirement of 100 feet with the pool house deck on the property being at 95.3 feet, and with a concrete pad on the property also at a setback of 85.1 feet. For Lot 3.01 setback variance relief is issued for the existing tree house and chicken coop.

Approval Conditions

1. The applicants shall obtain any and all other required outside agency approvals or permits required for this subdivision; and

2. The applicants shall enter into a conservation easement for the property over any wetlands or wetlands transition areas located on the property. The form and content of the easement to be in accordance with the Township code and subject to the review, requirements, and approval of the Board Engineer and Attorney; and

3. The applicants shall produce and enter into an easement for the existing drainage ditch that runs from Spring Valley Road to Block 140, Lot 2 in Chatham Township. The form and content of the drainage easement, the maintenance obligations regarding same, and all other conditions associated with the easement shall be subject to the reasonable review, requirements, and approval of the Board Engineer and Attorney. The easement shall be prepared at the cost of the applicants and recorded at the expense of the applicants. The applicants shall also reimburse any and all costs and expense of the Board professionals for their services regarding this easement; and

4. The applicants shall pay any and all outstanding application, technical review, or other fees pursuant to the rules, regulations, and requirements of the Planning Board and Township ordinances, including but not limited to any development fee and/or any and all Affordable Housing fees, assessments, or other charges. Also to pay any and all further fees, charges, deposits, escrows, or inspection fees, and any and all professional billings in accordance with the ordinances and regulations for the Township, and/or that result from this subdivision including and concluding work required for same; and

5. The applicants shall pay any and all outstanding property taxes; and

6. Prior to the signing of the minor subdivision plat by the appropriate officers of the Planning Board, the Board Engineer shall first provide a written confirmation to the Secretary of the Board that the applicants have complied with and satisfied all of the conditions in this resolution; and

7. In accordance with N.J.S.A. 40:55D-47, the minor subdivision plat shall be recorded within 190 days from the date of this resolution, unless the time period is extended consistent with applicable legal requirements; and

8. A copy of the recorded minor subdivision plat shall be promptly filed with the Planning Board Secretary and the Township Tax Assessor by the applicants’ attorney without cost or expense to the Township.

Vote on Resolution

For the Oral Resolution: Newlin, Jones, Edgar, Chipperson, Clew, Walters, Yates, dePoortere, and Ms. Claytor.

Against the Oral and Written Resolution: None

For the Written Resolution: : Jones, Edgar, Clew, Walters, Yates, dePoortere

Against the Oral and Written Resolution: None

The within resolution was duly adopted by the Planning Board for the Township of Harding at its meeting of August 28, 2023.

**HARDING TOWNSHIP PLANNING BOARD
RESOLUTION**

**Hurstmont Estate Urban Renewal – Application PB-04-23
679 Mount Kemble Avenue (a/k/a Route 202) – Block 27, Lot 2
Preliminary & Final Major Site Plan Approval and Minor Subdivision with Waiver
Adopted August 28, 2023**

WHEREAS, Hurstmont Estate Urban Renewal having applied to the Harding Township Planning Board for preliminary and final site plan and minor subdivision approval and design waiver with de minimis exceptions from RSIS improvement standards to develop the subject property with a four-story senior living facility and a townhouse development. The senior living facility will consist of 210 units that include a mix of independent living units, assisted living units, and memory care units. Of the 210 units, 40 will be Affordable units pursuant to the Redevelopment Plan and the Township’s Court-approved settlement agreement and Housing Element and Fair Share Plan. The senior living facility includes amenities such as fitness center, beauty salon, theater, a library, a pool area, café space, dining areas, a bar, a market, pickleball courts, and open courtyards. In addition, the proposed project also includes the construction of 40 townhouses (28 carriage homes and 12 cottages) for a total of 250 units across the entire site. The carriage homes are defined as a traditional townhouse unit that is separated from an adjacent unit by a vertical wall. The cottage units are defined in the Redevelopment Plan as “stacked flats” with one unit situated above another. The site is proposed to be subdivided into two lots, one of which will contain the senior living facility plus the 12 cottages. The second lot will contain the 28 carriage homes plus the sewer treatment building and groundwater recharge beds which will service the total project. The property is located in the senior living district of the Glen Alpine/Hurstmont Redevelopment Area. The area was designated as an “area in need of redevelopment” on February 25, 2019; and

WHEREAS, the Planning Board discussed this application for completeness at its meeting of July 24, 2023 and further considered this application at its regularly scheduled meeting on this date, and also at a special meeting of the Planning Board which took place on July 31, 2023, at which hearings a quorum of the Board was present to hear this case, and an opportunity was afforded to members of the public and/or interested persons or parties to ask questions and/or to be heard regarding this application, and a verbatim record of these proceedings was maintained by the Board; and

WHEREAS, at the meeting of July 31, 2023 the Planning Board approved the application subject to the preparation of a further resolution from the Planning Board setting forth its findings and conclusions and setting forth conditions and requirements in accordance with the stipulations of the applicant and requirements of the Board to be set forth in the Board’s resolution;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Planning Board, on the 28th day of August 2023, that the approval of this application for Hurstmont Urban Renewal Entity, LLC for preliminary and final site plan and minor subdivision approval with a design waiver and de minimis exceptions from RSIS site improvement requirements is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

8. The applicant submitted application materials to the Board in this case which consisted of the following:
 - Correspondence from Day Pitney, LLC dated May 30, 2023;
 - Township of Harding Land Use Application and associated checklists and documents dated May 30, 2023;
 - Topographic Survey prepared by James P. Deady Surveyor, LLC dated April 25, 2023;
 - One-sheet Minor Subdivision Plan prepared by Gladstone Design, Inc. dated May 26, 2023;
 - 31-sheet Preliminary and Final Major Site Plan and Minor Subdivision Plans prepared by Gladstone Design, Inc. dated May 5, 2023 and revised through May 28, 2023;
 - 19-sheet Architectural Plans for the Carriage and Cottages prepared by Luce Architects dated May 5, 2023;
 - Eight-sheet Architectural Plans for the Senior Living Facility prepared by Meyer Architecture and Interiors dated January 27, 2023, revised through May 5, 2023 and May 26, 2023;
 - 11-sheet set Landscape and Lighting Plans prepared by Bosenberg Landscape Architecture dated May 5, 2023, revised May 26, 2023;
 - Geotechnical Engineering Report prepared by Geo-Technology Associates, Inc. dated October 2022;
 - Stormwater Management Report, Volumes I and II, prepared by Gladstone Design, Inc. dated May 26, 2023

- Environmental Impact Statement prepared by EcolSciences, Inc. dated May 5 2023 and revised through May 26, 2023;
 - Traffic Impact Statement prepared by Dolan & Dean Consulting Engineers, LLC dated May 1, 2023, revised through May 26, 2023; and
 - Minor subdivision and site plan report from the Morris County Planning Board dated June 27, 2023.
9. Also submitted to the Board regarding this case and acknowledged by the applicant were review memorandums and reports as dated June 22, 2023 from M. McKinley Mertz, PP, AICP, LEED Green Associate of Heyer, Gruel and Associates as the Board Planning Consultant, and July 22, 2023 from Paul D. Fox, PE, CME of Apgar Associates as the Planning Board Engineer.
 10. The July 24, 2023 meeting followed a site walk inspection held by the Board at the subject property on July 15, 2023.
 11. Thomas J. Malman, Esq. of the Day Pitney LLP, Attorneys of Parsippany, New Jersey appeared to present this case for the applicant. He confirmed for the Board that the current application being submitted in this case was “consistent with the approved redevelopment plan for this property.” Mr. Malman also stated that the applicant had recently received several outside agency approvals. He summarized the applicant’s requested approval for preliminary and final site plan, minor subdivision approval, and a design waiver and RSIS exceptions as had been reported and set forth in the application materials and in the review memo and report from the Board Planner. The attorney stated that the site plan approval being sought was for a total of 250 residential units consisting of a 210-unit four-story senior care facility and 40 townhomes. For the minor subdivision, two lots were being proposed, 28 of the townhomes described as “carriage homes” would be situated on one lot of 8.7 acres which would also include a private wastewater facility. The 210 senior care building and the remaining 12 “cottage homes” (stacked units) would be on the other lot consisting of 10.9 acres. Of the 210 units there would be 129 independent living units, 48 assisted living units, and 33 memory care units, 40 Affordable Housing units would also be in this building; and
 12. Testimony in support of the application was then provided by Ronald A. Kennedy, the applicant’s project engineer. The engineer introduced into evidence an exhibit being an aerial plan showing the site and the neighborhood properties in this area north of both Routes 287 and 202. He also reviewed with the Board the zoning designations for the surrounding properties and confirmed that the senior living project before the Board was appropriately located in the Redevelopment District and was being presented in accordance with the Redevelopment Plan. Mr. Kennedy then introduced a second exhibit being a blowup of the property showing the gross acreage of the property and then described the existing conditions on the property including the slope elevations and what he described as “the absence of wetlands on the property.”
 13. In continuing his testimony as to the site plan, a copy of the plan was marked as an exhibit into evidence, Mr. Kennedy stated, “The development would be 28 carriage or townhouse homes, 12 cottage homes in three buildings, and a senior living building of 210 units consisting of 129 independent living units, 48 assisted living units, and 33 memory care units. Of the total 210 units in the building, 170 would be market units and 40 units would be Affordable.” In response to a question on follow up as to the age of the residents, Mr. Kennedy confirmed that all of the units would be age restricted to 55 and above for independent, and 62 and above for the assisted living and the memory care units. He then described the minor subdivision proposed in this case to divide the property into two lots. He testified, “On the right side of our site plan will be the senior living building and the 12 cottage homes. On the left will be the 28 carriage homes plus the sewer treatment building and ground water recharge beds which will service the total project. The municipality will have no obligations as to the utility services for the development on either side as all of our utilities will be private. The subdivision of the site will be that the townhome lot will be 8.73 acres, the senior living and cottage homes will be on a 10.97 acre lot, and we are deeding .04 of an acre to New Jersey DOT for the right-of-way.” In further describing the 28 townhomes the project engineer stated that they would be between 2,900 and 3,200 square feet, all with three bedrooms and a walkout basement. In then describing the other portion of the site he stated there would be three buildings for the cottages, four units per building, and described the design of the individual buildings as “two side-by-side units and two units below them. Because of the grade of the property, we believe this is the best design to allow for 1,750 square foot units, each with two bedrooms and two garages. For our senior living building as shown on our plans, part of the building will be three stories and part will be four stories with the building getting lower closer to the road. We will be having a total of 150 parking spaces in the building and 31 spaces outside, with 16 EV spaces which would count as an additional 26 spaces per the ordinance allowing additional credits for EV spaces. Overall, our design of the development as to units and the total number of dwellings meets all standards in the Redevelopment Ordinance. We also comply with the parking requirements regarding the Redevelopment Plan. We are only requesting one design waiver as to the level of illumination for sidewalks and two de minimis exceptions from RSIS residential site improvement standards for sidewalks on one side of the street and for RSIS requirements for parking spaces. Again, our parking plan complies with the Redevelopment Plan. As a result, there are only de minimis exceptions from full compliance with all redevelopment requirements for the entire development.”
 14. Using a series of exhibits from the engineering plans that were marked into evidence for the grading, stormwater management, and sanitary sewers, Mr. Kennedy provided an explanation of the site work necessary for the overall

development, the stormwater management measures, plans, and installations, including the stormwater basins as to their location and functioning he further confirmed for the Board were in accordance with “the new DEP regulations and requirements.” In providing detailed testimony about the sanitary sewers to serve the development, Mr. Kennedy located and described the sanitary sewer system throughout the development including the sewer treatment building and ground water recharge beds which he stated “are located in the best place on the property for this recharge area.” The project engineer further indicated that after the site plan approval from the Board, the applicant would be required to have a further permit and approval from New Jersey DEP for operation of the wastewater plant. In response to a Board question as to whether the sewer treatment plan and recharge beds would cause any odor on the property, Mr. Kennedy stated, “That will not occur because of the carbon filters-charcoal that will control that, and also we will be having a truck coming onto the site weekly to remove sludge.” The project engineer also provided an explanation in response to a question from the applicant’s counsel as to how water supply would be arranged for the development including a sprinkler system for the senior living building. Mr. Kennedy also confirmed in response to a question from Mr. Malman as to the status of the applicant’s outside agency approvals stated, “The applicant has obtained approval for its wetlands LOI, a wastewater permit, and as previously indicated we still need a treatment works approval from NJ DEP.” There were no public questions for Mr. Kennedy.

15. Daniel King, the project architect, then provided testimony in support of the application. Mr. Malman advised the Board there would be two architects providing testimony as to the separate construction for the development. Utilizing an exhibit being his plan for the senior building and the site work around it which was marked into evidence, he described the location, style, and details of construction for the building including the architectural elements he had incorporated. A series of exhibits were then marked into evidence which were utilized by Mr. King to show and describe the elevations of the building on each side, and he also described the lower level parking including the EV stations provided in the plans. Mr. King went over the floor plan for each of the floors in the senior living building and described in detail the staff and common areas including pool area, gym, beauty salon, and a “wellness center” as part of the activity space available. The architect stated this area of the building would include a café, putting green, a grill and garden area, and located the independent living units in the separate area of the building in accordance with the floor plans. Utilizing another page of the plans he described the main floor of the building including the lobby, offices, three courtyards, and located the independent living units, assisted living, and memory care sections of the building. He further located the Affordable Housing units throughout the building. The architect also described how the building had been “pushed back” to permit an outdoor roof deck which Mr. King stated had been designed “to take advantage of the fantastic views from the building.” The architect then responded to several questions from the Board Engineer as to the fire protection measures that would be undertaken by the applicant during the course of construction for the wood frame building. Mr. King also confirmed for Mr. Fox that the applicant was not proposing to “light the cupolas.” There were no public questions for Mr. King.
16. The project landscape architect, Mr. Jim Mazzucco, then provided testimony in accordance with a page of his plans which was marked as an exhibit into evidence. He testified that the landscape plan and work for the project would be designed and undertaken to “preserve as much as possible the existing buffer and trees.” He then described for the Board the applicant’s proposal for tree replacement including trees of 12 to 14 feet in height and 2 to 2.5 caliper. He also described the Evergreens that had been selected to be planted on the property which would be 6 to 8 feet at planting, and as he stated, “They will eventually grow to 40 to 70 feet at maturity. We will also be providing ornamental trees throughout the site at a height of 6 to 8 feet.” The Board asked the project architect as to more specific plans and proposal for the applicant to “save the big trees along the road side of the property,” to present a more detailed landscaping plan to designate the trees and buffer to be preserved, and to provide more details as to tree replacement with a more specific landscaping plan. Mr. Mazzucco responded, utilizing an exhibit marked into evidence to describe the plantings which would be added to the “area for the sewer treatment plant and the recharge beds surrounding same.” The Board commented during this testimony as to additional landscaping and/or a possible relocation of this area from the original plan so that additional buffering and plantings in this area could be accommodated to maintain the existing buffering of this portion of the site and the property overall. The Board asked the landscape architect and the applicant to further consider a 50 foot tree conservation area and buffer along the roadway, and again to provide more details regarding the applicant’s proposed tree replacement plan and plantings that would overall address the Board’s concern to continue to maintain the natural buffer for the property as now exists as much as possible. Mr. Mazzucco then utilized a separate exhibit to review again with the Board the plantings. In particular the use of plantings over the retaining walls, and described the irrigation system across the property in response to the Board’s question as to whether irrigation for all landscaped areas would be provided. It was also noted by the Board that a maintenance plan for all landscaping at the property would be required. Mr. Mazzucco then provided testimony as to the lighting locations and plan for the development and also discussed with the Board the design waiver being requested for the ordinance requirement that illumination levels for the sidewalks not exceed an average illumination level of .2 foot-candles (8:1), and in the applicant’s plan the illumination level is proposed at 0.3 foot-candles (13.4:1). Mr. Mazzucco stated the lighting proposed was suitable. There were no follow up questions for the landscape architect from the public.
17. At the July 31, 2023 special meeting of the Board, this case was continued. Nicole M. Magdziak, Esq. of Day Pitney appeared for the applicant. She advised the Board that the applicant would be presenting testimony from the architect for the townhomes, the operations manager for the senior care-assisted living building, the project engineer, Mr. Kennedy, and a traffic expert.

18. Mr. Christopher Luce as the architect for the residential buildings provided testimony in accordance with the illustrations and plans he had prepared which were marked as exhibits into evidence. He advised the Board that his design process in this case was undertaken with the “traditions of the community and to provide suitable architecture for luxury housing with a design, features, and architectural enhancements consistent with the traditions of the community.” He testified as to the façades of the homes and his revised plan set dated July 31, 2023 consisting of nine pages which were displayed as slides. After explaining the location of the buildings and the roadway access to same he also explained the signage proposed, and then went into detailed testimony about what he described as, “The two products for cottage housing and townhomes.” Using his plans he explained the floor plans of the carriage house units which he stated would be between 2,900 and 3,200 square feet, all three-bedroom units with three-and-a-half baths, and reviewed with the Board the floor plans for each level of the townhomes. He further described the location of the utility services and meters and an area for generators for each unit which he stated would be operating on propane, which was later clarified by Mr. Kennedy’s testimony as described herein. In describing the “cottages”, the architect stated they would be single story and smaller than the townhomes with three buildings with four units in each. He reviewed the two units that would be on the upper level and the two units on the lower level in each of these buildings and further gave an explanation of the redesign of the façades taking into account the prior reviews of the development. He then followed up with an explanation as to the wastewater treatment building that he had designed “in the style of an equestrian building.” Mr. Luce described the overall appearance and building materials for all of the structures he had designed referring to his slides for same. Following this presentation the Board questioned the Board Planner, Ms. Mertz, as to whether the applicant had complied with the Redevelopment Plan for these units. The Board Planner confirmed that was correct and stated, “The presentation on these units is consistent with the Redevelopment Plan.” There were no public questions asked of the architect.
19. Ms. Kristen Ward as the administrator who would be responsible for the senior living building then provided testimony to the Board. After outlining her experience in the field over many years, she described the current senior housing building as “a unique project. There is a need which this building will address for higher end senior living with the components we are proposing which is underserved for rentals.” At the request of the applicant’s attorney she then addressed the review letter and memo from the Board Planning Consultant, Ms. Mertz, and responded to certain requests for information listed therein. These included food deliveries which she stated would be undertaken one to three times a week, where the deliveries would take place for food and other required supplies for the building, means of entering the building with fobs for the residents, the business hours from 8:30 am to 5:30 pm, with as she expressed it, “The doors being locked at 8:00 pm.” However, she stated, “Visitors are allowed at any time.” She further advised as to typical deliveries being made to the building as anticipated which would be UPS-FedEx vehicles, Amazon deliveries, and postal service to individual mailboxes. She also confirmed there was no medical waste on the premises, and that the dining staff and employees would be present from 6:30 am to 8:00 pm. Also, that the healthcare assisted living and memory care unit would have staffing from 7:00 am to 3:00 pm, 3:00 pm to 11:00 pm, and 11:00 pm to 7:00 am. “Also, we expect many of our employees will be picked up in Morristown and taken to the facility with our vans, and we will also provide them with box lunches, and limited train tickets also being given to our employees which will reduce the need for parking onsite.” In response to a question from the Board as to the total employees in the senior building, Ms. Ward advised, “We will have 40 employees when we open, and overall when we are fully operational 120 to include dining and kitchen services, resident care, housekeeping, administration, etc.” She further stated, “If there are medical visits, they will take away any medical waste, and medications will be administered by licensed nurses and medical technicians in our memory care unit. We will also be providing parking for our residents with 185 total parking spaces onsite being the total of our underground and surface parking available.” In response to a question from the Board as to how many residents would occupy the building, Ms. Ward advised, “210 units we estimate would have a total of 240 residents.” In follow up questions from the Board as to the anticipated occupancy of the development, Ms. Ward stated, “We will have 125 independent living apartments in the building, and I would anticipate that the couples will be residing in the cottages.” In responding to a question from the Board as to how the applicant would handle emergency medical needs and requirements, Ms. Ward testified, “We will have our own private ambulance service.” A detailed discussion then followed between Ms. Ward and the Board as to how the senior living care section of the building would initiate emergency calls and communications for medical care, fire, etc. There were no public questions for Ms. Ward.
20. The project engineer, Ronald Kennedy, then returned to provide testimony to the Board regarding updates and revisions to the applicant’s presentation. He first advised the Board there would be no use of propane for the generators on the properties. He stated, “They will now be natural gas. Also there will be a generator installed for each carriage home, behind each unit, and for the cottage units they will be on the side.” He then explained changes in the plans, and in particular how that would impact the landscaping. He testified, “We have pushed the entrance back and realigned the driveway entrance to maintain as much as possible the existing substantial trees and buffering in that portion of the site.” Utilizing another exhibit marked into evidence, he explained the change in the area of the site around the treatment plant and in the area of the recharge beds as he stated, “We have slid this area away from Route 202 and changed the shape of this area so that we are able to get 30 feet further back from the front of the property.” Then utilizing a slide exhibit he showed the Board on this exhibit dated 7/31/2023 “how we have located the larger trees with blue dots that are staying, and with red dots the trees we are removing. Also, as to the work in progress regarding shrub removals, we are removing shrubs and invasive plantings and replacing them with non-invasive plantings as we are showing on our plans. We are keeping the existing screening as much as possible

as it appears today and reacting to the Board's suggestions that we maintain as much as possible the natural buffering already present on the property." In responding to a question from the Board as to how long the construction period would take for the overall development, Mr. Kennedy testified, "For the larger building I would estimate 24 months, and as for the townhouses I would state this would be based upon sales activities, but overall, it would be 14 months to build." In follow up questions from the Board about the system of retaining walls on the property and the height of same, Mr. Kennedy responded, "We will be tiering the walls in 4 to 5 foot sections." He further explained how this would be done in particular along the driveways for the development and throughout the site. In response to a question from the Board as to whether all of this work and these plans would meet RSIS requirements, the Board Engineer, Mr. Fox, confirmed that they would.

21. The Board then questioned Mr. Kennedy further about the New Vernon Fire Department memo of 7/18/2023, and in particular as to whether it was a safe proposal to have EV charging stations under the building. As to questions from the Board as to whether the charging stations could be taken out of the areas under the building and placed in the surface lots, Mr. Kennedy testified that this was not a code requirement and would be an undesirable situation as to surface charging stations being a problem due to adverse weather, etc. In a follow up review of the Fire Department memo regarding fire hydrants and their recommendations for the site, Mr. Kennedy responded, "The applicant will comply as well as complying with Mr. Fox's memo as to his review." The limited exceptions that Mr. Kennedy would request as discussed with Mr. Fox were then reviewed by the engineers with the Board. It was again confirmed that the applicant would comply with the Fire Department memo and the Board professional memos and reviews with the revisions made to the plans to date. It was also agreed by the applicant's attorney that there would be a further submission and updated landscaping-buffer plan submitted by the applicant.
22. This testimony was followed up on by testimony from the landscape architect, Mr. Mazzucco, who testified as to the lighting waiver request after his review of the location of the site lighting and description of the fixtures, etc. Following this discussion, the Board Planner requested that Mr. Mazzucco review with the Board the area of the site available for the applicant to create a bridle path.
23. The applicant then offered testimony from its traffic expert, Mr. Gary Dean. Mr. Dean advised the Board that his testimony in this case was based upon his prior evaluation of the site, his inquiries and study regarding the closest intersection, and his further knowledge of uses in the immediate area of the property. In that regard he indicated to the Board that NJ DOT was currently evaluating dedicated left-hand turn lanes on Route 202. He further stated his traffic counts and report were also current and updated. Mr. Dean indicated his opinion was that there was substantially less traffic at this time on the adjoining streets and in this area as part of a "general decrease since Covid and also due to a large section of our population in this area being retired individuals." He then summed up, "This application will not aggravate any rush hour traffic conditions either in the AM or PM, and specifically our impact will be minimal on the adjoining county road. Our traffic at peak hours will have limited impact on the adjoining intersection which is currently at a level of service F now. Overall, the traffic from this development during peak hours will have only a 1.1 and 2.1 second increase as far as traffic delays as to the impact on the nearby intersection. Also, our level of service getting in and out of our project we believe will be at a level B as far as rating level of service utilized by the Institute of Traffic Engineers. Overall, I believe the project and this development has a safe and efficient access and egress and a relatively minimal traffic impact on the adjoining roadway and closest intersection." In response to questions from the Board as to whether the driveway as reconfigured in the latest plan revision would at times cause any vehicle queuing from either vehicles entering or exiting the site, in particular with employees required for the senior living building. Mr. Dean responded by stating, "No, I do not believe that will be a problem as the bulk of the employee traffic will take place out of rush hours based upon the hours of employee shifts testified to in the hearing." There were no public questions for Mr. Dean.
24. There was no public comment or statements offered to the Board regarding this application.
25. The applicant's counsel then summed up the application as submitted before the Board. The Board discussed a series of conditions and requirements that would apply to the resolution in accordance with the stipulations of the applicant during the hearing, in accordance with the comments and requirements in the reports of the Board professionals, and as separately discussed by the Board with the applicant's representatives during the hearings, all of which were accepted by the applicant's representatives.
26. The Board finds and concludes from the evidence and proofs presented that the preliminary and final site plan request with minor subdivision approval and design waiver and for de minimis exceptions from RSIS improvements standards to develop this subject property in accordance with the Redevelopment Plan and the evidence and testimony before the Board in this case represents a suitable and appropriate plan and development now presented to the Board for approval. The Board agrees that the proposed development represents a beneficial use of the property overall. Further that the applicant has demonstrated in the site plan submission and evidence and testimony regarding same, also as to the minor subdivision, design waiver, and the de minimis exceptions from RSIS improvement standards, compliance by the applicant with the Redevelopment Ordinance, the Redevelopment Plan, and the Redevelopment Agreement that the applicant has entered and obtained from the Township of Harding. The Board therefore concludes that this compliance with the Redevelopment Plan and requirements overall by the applicant now results in a development consistent with good planning and design which thereby serves the public interest. The Board notes in that regard as established in the Redevelopment Plan for this property that there is a

need for the senior housing and services that will be provided by this development, including the 40 Affordable Housing units that will be provided pursuant to the Redevelopment Plan and the Township's court approved settlement agreement and Housing Element and Fair Share Plan. The Board finds further that the minor subdivision of the premises which is required for the development to proceed consistent with the Redevelopment Plan is also appropriate to permit and allow as it is necessary for the applicant's development proposal as designed and presented to the Board to now be accomplished. The Board also concludes that all of these positive benefits and advancements can be accomplished and continued in the future without any significant or noticeable negative impact in the reasonable judgment of the Board. Therefore, the approval for the preliminary and final major site plan and minor subdivision approval, design waiver, and de minimis exceptions from RSIS improvement standards the Board concludes is appropriate for the Board to allow based upon evidence and testimony, the Redevelopment Plan previously approved to now be implemented, and the careful evaluation of this Board.

Description of Minor Subdivision Approval

2. The application of the applicant for minor subdivision approval in accordance minor subdivision plan prepared by Gladstone Design, Inc. as dated May 26, 2023, is hereby granted in accordance with the conditions of this resolution.

Description of Waivers

2. The applicant is granted a design waiver from the Township lighting standards for illuminations levels regarding the average illumination level-average requirement for residential sidewalks, to an average of 0.2 footcandles with 0.3 footcandles proposed and for the lower height luminaries for sidewalks. Also, a waiver is granted for the requirements of the Township code that requires illumination for residential sidewalks be designed such that the ratio of the average illumination to minimum illumination does not exceed a factor of 8. The uniformity factor in this development is 13.4. In addition, a de minimis exception from RSIS residential site improvement standards for sidewalks to be constructed on both sides of the street, and for RSIS parking space requirements – the Board noting that both these exceptions are in accordance with the standards of the Redevelopment Plan for this Development.

Approval Conditions

9. The approval of the Board in this case is subject to the applicant's filed site plan, subdivision plan, architectural plans, as submitted and filed with the Board including those updated at the July 31, 2023 meeting. Also, the applicant is to comply with the total evidence and stipulations of the applicant during the hearings as to all details for the construction of the buildings, site improvements, and other work at the property subject to the further review, requirements, and approval of the Board Engineer; and
10. The applicant shall obtain any and all other required outside agency approvals, permits required for this development, and any required updates for prior approvals; and
11. The applicant is to continue to comply with the Redevelopment Agreement including all updates and amendments; and
12. The applicant is to enter into a Developer's Agreement in form and content prepared by the Board and Township Attorneys and the Board and Township Engineers. This agreement will include the Affordable Housing obligations and controls and requirements, required bond and inspection escrows, etc. with language consistent with the Redevelopment Agreement where there is any overlap in same. All costs and expenses of this Developer's Agreement incurred by the Township shall be paid by the developer; and
13. The applicant is to submit the Association documents for the reasonable review, requirements, and approval of the Board professionals, the Board Attorney, and the Township Attorney and Township Engineer – the language of same is to be consistent with the Redevelopment Agreement where there is any overlap. All of the costs, expenses, and other charges incurred by the Township for this work to be paid by the developer; and
14. The applicant shall comply in full with review memorandum and report dated July 22, 2023 from Paul D. Fox, PE, CME, the Board Engineer, with the exception of:
 - a. EV will be permitted to park in the garage;
 - b. Grading the entrance for a future sidewalk but not installing the sidewalk; and
 - c. Lighting plan to be coordinated with the site plan and architectural plans including notes on each with cross references; and
15. The applicant is to comply with the terms, conditions, and requirements in the review memorandum and report dated June 22, 2023 from the Board Planning Consultant, M. McKinley Mertz, PP, AICP; and
16. The applicant shall submit for the reasonable review, requirements, and approval of the Board Engineer a maintenance and construction plan to address landscaping, inclusive of an annual reporting requirement and protocol for removing invasive species and replanting areas in the buffer where plant materials are removed, and to favor native plant species where practical; and

17. Comply with the Fire Department review letter issued in this case with the exception of number 2 (EV in garage subject to working with the Board Engineer to arrange for a location of same) and number 4 (design to connect to the neighboring property in the future, but not to install a connection in accordance with consultation and approval of the Board Engineer, Mr. Fox); and
18. Provide a plan for the reasonable review and approval of the Board Engineer and undertake the work to tier the 10-foot wall to the east of the entrance drive with two walls, no tier is permitted to be greater than 5 feet in height; and
19. Preserve the trees and supplement the landscaping to the extent practical in the revised 30-foot buffer, in particular along the Mt. Kemble frontage at the location of the ground water recharge beds in accordance with the discussion at time of last hearing; and
20. Coordinate with the Board Engineer with respect to the retaining walls in the rear of the site, clearing is to be limited to the extent practicable in accordance with further site visit and subject to consultation and approval of the Board Engineer, Mr. Fox; and
21. The applicant shall pay any and all outstanding application, technical review, or other fees pursuant to the rules, regulations, and requirements of the Planning Board and Township ordinances, including but not limited to any development fee and/or any and all other Affordable Housing fees, assessments, or other charges, and any and all further fees, charges, deposits, escrows, or professional billings in accordance with the ordinances and regulations of the Township and/or that result from this site plan and subdivision approval and concluding work required for same; and
22. Provide evidence of all taxes being current; and
23. Submit for the reasonable review, requirements, and approval of the Board Engineer a staging plan for all work at the property and further arrange for required pre-construction meetings through and with the Board Engineer, Mr. Fox; and
24. In accordance with the discussion with the applicant at the request of the applicant at time of final hearing, the applicant is granted an extension of time to file the minor subdivision deed with the requirement that the minor subdivision is to be perfected within 18 months from the date of this final resolution, specifically extending the time for minor subdivision perfection of 190 days as provided in N.J.S.A. 40:55D-47; and
25. The applicant shall prepare and submit to the Board Engineer and the Board Attorney the proposed subdivision deed for the reasonable review, requirements and approval prior to filing, all costs and expenses of same to be paid by the applicant.
26. Prior to the signing of the minor subdivision deed by the appropriate officers of the Planning Board, the Board Engineer shall first provide a written confirmation to the Secretary of the Board that the applicant has complied with and satisfied the conditions in this resolution; and
27. A recorded copy of the minor subdivision deed shall be promptly filed with the Planning Board Secretary and the Township Tax Assessor by the applicant's attorney without cost or expense to the Township.

Vote on Resolution

For the Oral Resolution: Newlin, Jones, Edgar, Clew, Walters, Yates, dePoortere, Burns, and Claytor

Against the Oral Resolution: None

For the Written Resolution: Jones, Edgar, Clew, Walters, Yates, dePoortere, and Burns.

Against Written Resolution: None

The within resolution was duly adopted by the Planning Board for the Township of Harding at its meeting of August 28, 2023.