

Holland Township Land Use Board

Minutes of the Regular Meeting

October 9, 2023

(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)

The meeting was called to order by the Chairman Martin:

Chairman: I call to order the October 9, 2023 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 8, 2022 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.

A moment of silence was offered for all those who have died in Israel.

Identification of those at the podium

Present: Jerry Bowers, Dan Bush, Joe Cinquemani, Peter Kanakaris, Ken Grisewood , Michael Keady, William Martin, Kelley O'Such, Scott Wilhelm John Gallina, Esq., Engineer Adam Wisniewski Lucille Grozinski, Court Reporter and Maria Elena Jennette Kozak, Land Use Administrator.

Absent: Bill Ethem, Mike Miller, Nickolas Moustakas, Ryan Preston, and Planner Darlene Green,

Let the record show there is a quorum.

Guest : Environmental Commission Member Davina Lapczynski for Stormwater training.

Minutes

A motion was made by Mike Keady and seconded by Dan Bush to accept the minutes of September 11, 2023 as presented. All present were in favor of the motion with the exception of Ken Grisewood and Scott Wilhelm who abstained. Motion carried.

Old Business:

There was no Old Business scheduled for this meeting at this time on the agenda.

New Business:

ORDINANCE NO. 2023-14 - PROHIBITING THE OPERATION OF MEDICINAL CANNABIS ALTERNATIVE TREATMENT CENTERS WITHIN THE TOWNSHIP'S GEOGRAPHICAL BOUNDARIES AND AMENDING SECTION 100-8 OF THE HOLLAND TOWNSHIP MUNICIPAL CODE Introduced at the Township Committee September 19, 2023 – Land Use Board Master Plan Consistency Review – Board Action needed.

ORDINANCE NO. 2023-14

PROHIBITING THE OPERATION OF MEDICINAL CANNABIS ALTERNATIVE TREATMENT CENTERS WITHIN THE TOWNSHIP'S GEOGRAPHICAL BOUNDARIES AND AMENDING SECTION 100-8 OF THE HOLLAND TOWNSHIP MUNICIPAL CODE

WHEREAS, the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:61-1, *et seq.* (“the Act”), governs medical cannabis cultivators, a medical cannabis manufacturer and a medical cannabis dispensary, which entities are collectively defined by the Act as Alternative Treatment Centers (“ATCs”); and

WHEREAS, the Act established the Cannabis Regulatory Commission (“CRC”) in but not of the New Jersey Department of Treasury to establish a comprehensive regulatory process to issue permits to a sufficient number of ATCs throughout the State; and

WHEREAS, the CRC periodically publishes Requests for Applications (“RFA”) for entities that seek authority to operate an ATC in the State, and which identify the type(s), number of and region(s) in which the ATCs are needed; and

WHEREAS, the CRC has established criteria for evaluating applications for ATCs submitted in response to an RFA, including that each applicant obtains and provides to the CRC written verification of the approval of the community or governing body of the municipality in which the proposed ATC will be located; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Township Committee may make, amend, repeal and enforce ordinances, regulations, rules and by-laws not contrary to the laws of the State of New Jersey or the United States, as the Township Committee deems necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the Township and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Township deems in the best interest of the health, safety and welfare of the Township of Holland’s residents and members of the public who visit, travel, or conduct business in Holland Township to prohibit medicinal cannabis ATCs within the Township’s geographical boundaries and to refrain from providing ATC applicants with written approval of a proposed ATC within the Township; and

WHEREAS, such a prohibition is not contrary to the Act or any other laws of the State of New Jersey or the United States and is consistent with and in furtherance of the Ordinance enacted by the Township pursuant to N.J.S.A. 24:61-45b, prohibiting all classes of cannabis establishments in the Township, except for the delivery of cannabis items and related supplies by a delivery service from outside the Township.

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Holland, in the County of Hunterdon, State of New Jersey, as follows:

1. Medical Cannabis Alternative Treatment Centers are hereby prohibited from operating anywhere in the Township of Holland and the Township Committee shall not issue written approval for any proposed ATC as required by the CRC;
2. Section 100-8 of the Municipal Code of the Township of Holland is hereby amended by adding to the list of prohibited uses, the following: “All Medical Cannabis Alternative Treatment Centers as said term is defined by N.J.S.A. 24:61-3 and N.J.A.C. 17:30A-1.2.”
3. Any article, section, paragraph, subsection, clause, or other provision of the Municipal Code of the Township of Holland inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.
4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.
5. This ordinance shall take effect upon its passage and publication and filing with the Hunterdon County Planning Board, and as otherwise provided for by law.

Attest:

Melissa S. Tigar, Township Clerk

Daniel T. Bush, Mayor

I, Melissa S. Tigar, Municipal Clerk, hereby certify that the foregoing ordinance is a true and accurate copy of an ordinance adopted on first reading by the Township Committee of the Township of Holland at a regular and duly convened meeting held on the 19th day of September 2023.

In witness thereof, I have set my hand and affixed the seal of the Township of Holland this 19th day of September 2023.

Melissa S. Tigar, RMC
Municipal Clerk, Holland Township

An email was distributed to all board members from Planner Green after reviewing the above introduced ordinance for consistency with the Holland Township Master Plan.

Good afternoon Maria Elena,
This ordinance is not inconsistent with the Master Plan.

Darlene A. Green, PP, AICP

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Hampton, New Jersey

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A motion was made by Scott Wilhelm and seconded by Dan Bush that the proposed ordinance is not inconsistent with the Master Plan. This opened the discussion portion.... Member Kanakaris asked why this ordinance is being proposed and if Holland Township was getting requests. The Land Use Board has not received any applications to review but the Township had originally opted out of the cannabis opportunities and that this is just adding to what the township has already decided. Questions then came up regarding growing and everyone was reminded that the township has asked the Land Use Board to review for consistency with the Master Plan. More discussions took place regarding cannabis with Member Bowers stating that he understands what the Land Use Board is being tasked with however, the proposed ordinance talks about commercial sale and our Master Plan does promote responsible enterprise in this town so in his opinion there are questions about the consistency with the Master Plan. Chairman Martin reminded everyone that the public hearing for this ordinance is at the Township Committee level and that our Planner has reviewed the ordinance comparing to our Master Plan and has said that it is NOT INCONSISTENT. He also reminded the board that they can make a decision any way they so desire but that we do have the recommendation of the Planner before us. . More discussions took place about having Planner Green present; however LUA Kozak mentioned that this has not been the practice of the Township. Instead we have the planner review a proposed ordinance and send us a response. Nevertheless, if Planner Green is requested to be present then she can make arrangements to attend a meeting. A motion was made by Scott Wilhelm and seconded by Joe Cinquemani to table this discussion to the next scheduled Land Use Board meeting of November 13, 2023 and to have Planner Green present. Roll call was taken and all present were in favor of the motion. Motion carried.

Completeness Review:

There were no Completeness Reviews scheduled for this meeting at this time on the agenda.

Resolution

- Block 24 Lot 13 & 13.02 – Milford-Warren Glen Rd – Huntington Knolls LLC – Major Subdivision with variances-Received into our office May 22,2023 – The 45-day completeness deadline is July 7, 2023. Deemed Complete June 12, 2023 – Public Hearing July 10, 2023. Then to August 14, 2023. Public Hearing opened August 14, 2023 and carried to September 11, 2023 Board Action Needed-Approved with conditions September 11, 2023. Attorney authorized to prepare the resolution for consideration and memorializing. Board Action Needed.

**HOLLAND TOWNSHIP LAND USE BOARD
RESOLUTION**

WHEREAS, the Applicant, Huntington Knolls, LLC has applied for Preliminary and Final Major Subdivision approval; and

WHEREAS, the property concerning the subdivision application concerns property located at 423 Milford Warren Glen Road, Block 24, Lot 13, and is located in the Planned Commercial Development/Planned Senior Village (PCD/PSV) Zone; and

WHEREAS, the Applicant has published the proper Notice of Hearing in the newspaper and made service upon the property owners within 200 feet regarding the requested relief; and

WHEREAS, the Planning Board considered the application at its meetings of August 14, 2023 and September 11, 2023; and ,

WHEREAS the Applicant was represented at the hearings by Howard Apgar, Esq. Testimony on behalf of the Applicant was provided by Peter Chandler, PE and Andrew Holt, PE. Comments were also given by Board Engineer Adam Wisniewski, and Board Planner Gerard DeFelicis; and

WHEREAS, the following Exhibits were marked and identified and permitted into evidence at the public hearings:

- A-1 - Affidavit of Service;
- A-2 - Notice of Hearing
- A-3 - List of owners and utilities requiring notice;
- A-4- Certified mailing slips;
- A-5 - Proof of newspaper publication;

WHEREAS, the Board members having carefully considered and reviewed the Applicant's request, made the following findings of fact and conclusions of law:

1. All the information shown on the application filed with the Land Use Board is adopted by reference as though the complete application were set forth herein and made a part hereof. Additionally, the report of Board Engineer Adam Wisniewski dated August 11, 2023, and the reports of Board Planner Darlene Green dated August 1, 2023 and September 7, 2023, are hereby incorporated by reference as though set forth in full herein.

2. The Applicant seeks Preliminary and Final Major Subdivision approval in order to subdivide existing Block 24 Lot 13 into 2 separate lots. Lot 3 is currently 53.771 acres. Proposed Lot 13 would be 19.669 acres and would include an existing single family dwelling.

Proposed Lot 13.02 would have an area of 34.043 acres, and would include the planned development known as “Huntington Knolls”, which has received various approvals dating back to 2003. Without reiterating the full history of the application, a concise summary of the history of approvals is set forth in the report of Board Planner Darlene Green dated August 1, 2023, which is incorporated by reference herein. All prior Resolutions regarding the project are hereby incorporated by reference as if set forth at length herein.

3. No site improvements are proposed as part of the within subdivision application. The application requires a bulk variance from Ordinance Section 100-91.2, regarding the requirements for a side yard setback in the PCD/PSV Zone, which require that single family dwellings comply with the regulation of the R-5 one, which require a 75 front, rear and side yard setback. The existing single family home on the farmette (proposed Lot 13), which has a side yard setback of 71.1 feet, and therefore requires bulk variance relief.

4. By way of further background, according to the Master Resolution of September 8, 2014, and as modified by the Resolution of February 11, 2019, and as detailed in the Developer’s Agreement of November 7, 2019, the Development consists of five phases:

- Phase I – Subdivision of Lot 13 into Lots 13 and 13,01. The 20 acre Lot 13.01 was subsequently developed with a single family dwelling.
- Phase II - Development of the farmette. The proposed subdivision of the farmette was not approved and remains a part of Lot 13.
- Phase III - Construction of 44 townhouse units and at least 16 affordable housing units, which include 4 one-bedroom units, 8 two-bedroom units and 4 three bedroom units, and all recreational facilities. Buffering and required stormwater detention facilities are also included in this Phase.
- Phase IV - Construction of 62 townhouse units and the remaining 12 affordable units, including 2 one-bedroom units, 8 two-bedroom units and 2 three-bedroom units.
- Phase V - Development of the commercial portion of the project consisting of the restoration of the existing brick tavern and barn.

5. At the hearing of August 14, 2023, Peter Chandler, PE gave testimony on behalf of the Applicant. Engineer Chandler testified that the total tract is 53.7 acres, and it is proposed to subdivide the property into a new lot if 19.7 acres with remaining lands of 34 acres. There is also a side yard setback variance required for the single family home on Lot 13, in that a 75 yard side yard is required and the existing setback is 71.1 feet. No site improvements are proposed as part of the subdivision application.

6. It was noted at the August 14, 2023 hearing by Board Engineer Wisniewski that the required stormwater management improvements on Lot 13 will need to be constructed and

completed before the subdivision is perfected and the plats are recorded. It is noted in Engineer Wisniewski's review letter of August 11, 2023 (page 3, Section 2.05), that that a bioretention basin is to be constructed on Lot 13 and drywells are required for the dwelling on the property. The Plans also contain a note stating that *"If Phase 3 has not commenced prior to the request for a certificate of occupancy, an individual stormwater management plan for the remaining developed portions of Phase 2 must be prepared and submitted to the Township Engineer for review and approval."* It is noted that this was not done and the dwelling is occupied. The letter also notes in Section 2.05, items a. through f., the stormwater management items that need to be completed. It was indicated that they would be completed as a condition of approval.

7. It was also noted at the hearing and in Board Planner Darlene Green's letter of August 1, 2023 (page 7, Item E.3.), that the utility easements and maintenance agreements previously submitted would need to be revised, since the subdivision would modify the descriptions in the easements and maintenance agreements. It was also represented that this would be done as a condition of approval.

8. Planner Green's report of August 1, 2023, (Page 8) also noted that the dimensions of the affordable housing buildings as depicted in the Board's prior approval of February 11, 2019 are not consistent with the affordable housing buildings as shown on the subdivision plan. It was noted by Engineer Chandler that the buildings are consistent within the building footprint, and that the 28 affordable units previously approved would be built according to the building schedule previously approved.

9. The public hearing was continued on September 11, 2023. At the hearing, further testimony on behalf of the Applicant was given by Andrew Holt, PE. Eileen Brennan, Esq. also appeared on behalf of Residents of the Fox Hill Condominium Association and asked questions regarding the subdivision, prior site plan approval and water supply system.

10. At the hearing, Board Planner, Gerard DeFelicis referred to Planner Green's report of September 7, 2023, reiterating that the subdivision plans need to be revised to show the correct dimensions of the affordable housing (COAH) building as shown on the previously approved site plan.

11. With regard to the related side yard setback bulk variance for proposed Lot 13, the existing single family home on the "farmette" (proposed Lot 13), has a side yard setback of 71.1 feet, and a side yard of 75 feet is required. Under NJSA 40:55D-70(c)(1), where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of

exceptional topographic conditions or by reason of an extraordinary and exceptional situation affecting a specific piece of property or the structures lawfully existing thereon, when strict application of the zoning regulations would result in peculiar and exceptional difficulties or exceptional and undue hardship, variance relief from the zoning regulations may be granted. It must also be shown that the granting of the variance would not be substantially detrimental to the public good or to the zone plan and zoning ordinance. Additionally, under N.J.S.A. 40:55D-70(c)(2) where in a variance application relating to a specific piece of property, where the purposes of the Municipal Land Use Law would be advanced, and the benefits of the deviation would substantially outweigh any detriment, and where the variance can be granted without substantial detriment to the public good or to the zone plan and zoning ordinance, variance relief may be granted.

12. Based on the testimony and evidence submitted, the Board finds that bulk variance relief is appropriate in this case under N.J.S.A. 40:55D-70(c)(2)). The Applicants seeks approval for a 71.1 foot side yard setback for an existing residential dwelling which is a deviation of 3.9 feet. The deviation is minimal, and the property will continue to be used for residential purposes, and will not generate any nuisance elements or have any negative impact on the surrounding neighborhood. The Board also finds that granting variance relief in this case will further the objectives of the Municipal Land Use Law as set forth under N.J.S.A.. 40:55D-2(a), (e) and (g), and that the benefits will substantially outweigh any detriments. The Board also finds that the granting of bulk variance relief in this case will not be a substantial detriment to the public good or to the zone plan or zoning ordinance.

13. Based on the testimony, reports and Exhibits, the Applicant desires to subdivide the property into 2 separate lots. Lot 13 would consist of 19.669 acres and would contain an existing single family dwelling. Proposed Lot 13.02 will be 34.043 acres and would contain the townhouse units, which include the affordable housing units. The proposed subdivision does not seek to alter the prior site plan approvals regarding construction of the townhome buildings on proposed Lot 13.02. The subdivision merely seeks to subdivide the lot containing the single family dwelling from the lot which will contain the townhouse buildings.

**NOW, THEREFORE, BE IT RESOLVED BY THE HOLLAND TOWNSHIP
LAND USE BOARD,** on this 11th day of September , 2023, as follows:

1. That preliminary and final major subdivision approval is hereby granted to create new Lot 13.02, consisting of 53.771 acres, and lands remaining Lot 13, which contains the single family dwelling farmette Lot consisting of 19.669 acres;

2. The Applicants are hereby granted bulk variance relief from the requirements of Ordinance Section 100-91.2, to provide for a side yard setback of 71.1 feet for the existing dwelling on Lot 13.

IT IS FURTHER RESOLVED THAT THE APPROVAL SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:

1. The Applicant shall obtain all other necessary approvals from any outside agencies having jurisdiction, as applicable.

2. The Applicant will pay all necessary fees and escrows payable in connection with the application. The Applicant shall be under a continuing duty to maintain a positive escrow account balance until all conditions have been satisfied and all charges paid.

3. Prior to perfecting the subdivision and recording the subdivision plat, the stormwater management improvements on proposed Lot 13 shall be constructed, completed and approved. This will include but not be limited to having a preconstruction meeting, posting any necessary bonds and having the required inspections completed and approved by the Township Engineer.

4. Prior to the beginning of any construction on Lot 13.02, all conditions in connection with site plan approval for Phases II and III of the project shall be completed.

5. The subdivision plans shall be revised to indicate the correct dimensions and location of the affordable housing buildings on proposed Lot 13.02, as previously approved by the Board.

6. The Applicant shall comply with all conditions as set forth in the letter reports from Board Engineer Adam Wisniewski dated August 11, 2023, and the letter reports of Board Planner Darlene Green dated August 1, 2023 and September 7, 2023.

7. The previously recorded easements and the maintenance agreements shall be re-recorded/revised as necessary as may be required due to any changes in lot designation and ownership as part of the subdivision, and shall be submitted for review and approval by the Board Engineer prior to recording.

8. This approval shall be subject to all applicable Federal, State, County and Township statutes, ordinances and regulations regarding the proposed development.

Land Use Board Roll Call Vote

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Michael Keady						
Scott Wilhelm						
Ken Grisewood						
Mike Miller						
Bill Ethem						
William Martin						
Jerry Bowers						
Dan Bush						
Peter Kanakaris (Alt.)						
Nickolas Moustakas (Alt.)						
Ryan Preston (Alt.)						
Joe Cinquemani (Alt)						
Kelley O'Such (Alt)						

Motion carried.

The foregoing Resolution was duly adopted by the Holland Township Land Use Board at a regular meeting held on October , 2023

ATTEST:

Maria Elena Jennette Kozak, Secretary
Holland Township Land Use Board

William Martin, Chairperson
Holland Township Land Use Board

1 bowers 2 bush at roll call yes see this martin bowers bush joe c peter Kanakaris all else out

A motion was made by Jerry Bowers and seconded by Dan Bush to memorialize the resolution prepared by Attorney Gallina for Block 24 Lot 13 & 13.02 Milford Warren Glen Road – Preliminary and Final Major Subdivision approval. At a roll call vote, all present voted in favor of the motion. Motion carried.

Public Hearings

- **Block 26 Lot 27 – 105 Riegelsville Rd – Davina Lapczynski – Variance.** 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), then to November 14, 2022. (email 092122), then to December 12, 202 (email 102822), then to January 9, 2023 (email 120622) then to February 13, 2023 (email 010323) then to March 13, 2023 (email 020723), to April 10, 2023 (email 030623), to May 8, 2023 (email 040523) to June 12, 2023 (email 050323), to July 10, 2023 (email 052223), to August 14, 2023 (email 070523), to September 11, 2023 (email 080423) and then to October 9, 2023 (email 090723) and to November 13, 2023 (email 10/06/23). – Board Action Needed November 13, 2023 – working on this

Sub-Committee Status and Updates:

Home Occupation - Ken Grisewood - Information being distributed by Planner Green and more subcommittee work to take place. More information to follow in the future.

Holland Township Highlands Council Subcommittee –Mike Keady – All are encourage to look at the Highlands Council monthly reports for overview updates. The subcommittee is still working with professionals on moving forward with Township projects and Grants. .

Training -

Land Use Board Stormwater Tier A mandatory training – Engineer Wisniewski

Engineer Wisniewski explained, The State of New Jersey in 2022 sent Holland Township a letter advising Holland Township that in regards to Stormwater, Holland Township is being reassigned from Tier B to Tier A

Accordingly, and for the reasons set forth herein, the Department has determined that your municipality must be reassigned from Tier B to Tier A under the New Jersey Pollutant Discharge Elimination System (“NJPDES”) Municipal Separate Storm Sewer System (“MS4”) stormwater permitting program. This reassignment is being at N.J.A.C. 7:14A-25.3(a)1v because the stormwater runoff from your municipality discharges pollutant(s) a watercourse that is impaired or has a Total Maximum Daily Load (TMDL) for those pollut) (N.J.A.C. 7:14A-25 3(a)1v), and your stormwater discharges into high quality classificatio rface waters, which mandate a higher level of protection (N.J.A.C. 7:14A-

There are different requirements that we need to adhere to and one of the newer requirements is what Land Use Administrator use to request for board members to participate in training is now mandatory. If you review and application then you need to understand what stormwater rules are required.

This is the link to the training page: <https://dep.nj.gov/stormwater/stormwater-training/#municipal-boards-and-governing-body-training>

And, this is the direct link to the training video for board members: <https://nj.gov/dep/stormwater/arg/>

Everyone present including guest EC member Lapczynski watched the video with Engineer Wisniewski stopping to answer questions presented and adding further explanation to slides as necessary. There is more that will need to be done at a Township Committee level with amendments to existing ordinances as well as potential new ordinance. The board will be kept in the loop on changes as it pertains to Land Use. More to follow in 2024.

Public Comment

No one from the public had any comments at this time.

Executive Session

There was no Executive Session scheduled at this time.

Housekeeping:

Nothing new to report at this time.

Adjournment

Dan Bush made a motion to adjourn. Motion approved. The meeting ended at 8:15 p.m.

Respectfully submitted,

Maria Elena Jennette Kozak

Maria Elena Jennette Kozak

Land Use Administrator