

Borough of Pine Hill  
Meeting  
Planning and Zoning Board of Adjustments  
September 09, 2021

**Phone Meeting**

- Call to order:** **Call to Order by Mr. Michael Hagarty 7:30 pm**
- Pledge of the Flag:** **Led by Mr. Hagarty**
- Sunshine Law:** This is a regularly scheduled meeting of the Pine Hill Planning and Zoning Board. This meeting has been duly advertised and is in full compliance with the Sunshine Law.
- Roll Call:** **Present:** Mr. Hagarty, Mr. Waddington, Mr. Ford, Mr. Hagy, Councilman Robb, Mrs. Jones, and Mrs. Wakeley,  
**Absent:** Mayor Green, Mr. James  
Mrs. Gilson Arrived at 7:41  
**Professionals:** Solicitor: Mr. Sitzler, Engineer: Mr. Dougherty & Zoning Officer: Mrs. Keyek  
**There was a quorum**
- Correspondence:** **The New Jersey Planner Vol. 82, No. 4**
- Approval of Minutes:** **Mr. Hagarty:** If everybody has had a chance to read the minutes from the meeting of August 12th, 2021. First off does anybody have any questions with respect to the meeting? Seeing none I will entertain a motion to approve.
- Mr. Waddington motioned seconded by Mr. Ford.
- Roll Call Minutes: All Present “aye” the minutes were approved as written

**Application: 2021-4**

**Mr. Hagarty:** Next, we have Application 2021-4 Multani and Sons LLC 101 Cross Keys Road, Block 131 Lot 30 Use Variance and Minor Site Plan Approval

**Mr. Hodulik stood to introduce himself**

**7:34: Councilman Robb: I need to be excused this is a Zoning Issue**

**Mr. Sitzler:** Mr. Hodulik this is a Zoning Issue and since he is a Councilman, he does not sit on Zoning Issues. Mr. Hodulik there is a possibility of violations due to terms and conditions of the approval which consisted in summary that the car wash is still being operated potentially with a convenience store open at the same time. Ostensibly what the Board has heard there could be three uses going on simultaneously a Carwash was still in operation the convenience store was open and the Gas Station was still operating. What the Board did was table the memorialization of the Resolution. They did not consider at that time a potential Zoning violation but rather authorize me to contact you to see if you still represented the Client Multani and Sons and to let you know what occurred. You responded to me and said you still represented the applicant, and the invitation was to appear and more or less to show cause why a Zoning violation should not be issued prior to the adoption so we need you and your client to explain what is going on and what the circumstances are. There has been issues that I have been told and there may or may not have been inspections between last month and today.

**Mr. Hodulik:** My client has represented to me that upon receiving that notice from you that there was a problem he did contact the Municipal officials I believe the Zoning Officer as well as, I'm sorry

**Mr. Warrington:** Les we are getting feedback from something

**Mr. Hodulik:** Is the microphone on?

**Mr. Gallagher:** Yes, I just have to adjust the volume

**Mr. Hodulik:** Do I need to take off my mask?

**Mr. Gallagher:** No, you're good

**Mr. Hodulik:** Okay, it is my understanding through my client speaking to me that he immediately came and met with Township Officials, including the Zoning Officer as well as the Building Inspector. I believe there have been some issues with the Building Permits maybe it makes more sense for Mr. Multani.

**Mrs. Keyek made a statement about interaction with Mr. Multani but was unable to be heard on the recording, she was thanked by Mr. Hagarty**

**Mr. Hodulik:** So, I believe Mr. Multani met directly with other township officials but I don't know weather some of the issues have been resolved or not. Would it be appropriate for Mr. Multani to talk or the Township Officials?

**Mr. Sitzler:** It is your discretion as to how you want to proceed.

**Mr. Sitzler:** Excuse me a second. Remember you are still under oath Mr. Multani from the last time you testified?

**Mr. Multani:** Yes

**Mr. Sitzler:** Okay you can address the Board if you like

**Mr. Multani:** Fist of all sir, I don't realize that there is going to be a problem the stuff we sell outside I can bring inside a little opinion and I don't realize there is going to be a problem when I got the notice from my Attorney Hodulik and then I read it and got the letter and the next day I show up here in the township and spoke to Jim Gallagher and Karen. I Email her right away and I contact them and say I'm sorry I don't realize that it be a problem that the stuff I sell outside I bring inside. So, whatever they tell me to follow-up, I submit all the paperwork to the township with the plan altogether with the permits so, I already submit everything, whatever they required. So again, I really sorry about that I don't realize that going to be a big problem.

**Mr. Sitzler:** So, what you cannot do and I'm trying to understand how you misunderstood this. You were eliminating the car wash in favor of the convenience store and that was the action that the Board took.

**Mr. Multani:** Yes

**Mr. Sitzler:** So, you can't operate three uses. You can't continue to operate the carwash start the convenience store and have the gas station that is three uses. Two are considered non-conforming and you are replacing one non-conforming use the carwash with a convenience store. The Convenience store cannot open until and again I will differ to the Board Engineer and Planner, but you have a site plan approval you should have a final compliance by reference to Mr. Hodulik you had your Architect

here that did the Site Plan was he working with our Board or you to prepare a final Compliance Site plan based on the Completeness Letter?

**Mr. Hodulik:** I actually did the Site Plan

**Mr. Sitzler:** Do we know, were you going to do a Final

**Mr. Hodulik:** Sure, I was talking to Mr. Dougherty to find out. I proposed certain things such as views and such like that. I think your proposed Resolution said that we would have a site meeting to accomplish what was actually requested.

**Mr. Sitzler:** We did not know your client was going to open the convenience store immediately and that was what started this whole process and got us to where we are today, because he did not terminate the carwash and from what I had heard the carwash is open and the convenience store is open, and the gas station is open.

**Mr. Multani:** Excuse me, I can close the carwash immediately if you want. I will close

**Mr. Sitzler:** The Convenience Store is the one that needs to be closed until the carwash is closed because that is replacing the carwash which you already have a non-conforming use grandfathered into that so we can't tell you that you can't do the carwash, but we can tell you that you can't have the convenience store until the carwash is terminated. Do you understand that?

**Mr. Multani:** Yes

**Mr. Dougherty:** The Board granted approval for the convenience store and the carwash would disappear right now you have an operation where you have a carwash that was in existence and you can operate the carwash but, the convenience store has to close until this resolution is adopted by this Board and a compliance set of plans are done by your Architect with the Resolution incorporating all of those conditions that are in this Resolution on the Plan or meeting with us either way. That compliance plan then has to be reviewed by our Office and then we will tell the Zoning Officer and the Planning Secretary that the Plans are now compliant with the resolution, and everything is agreed upon and then you can apply for the Zoning Permits to get the Convenience Store but until that happens the Convenient Store cannot operate no convenient store it cannot operate. Is that clear?

**Mr. Multani:** Yes, clear I understand that

**Mr. Sitzler:** One of the other issues is Mr. Multani and Mr. Hodulik it was very clear that you said you didn't need any signs for the convenience store and one of the first things we see is a picture with the convenience store with a big open neon sign in the window.

**Mr. Multani:** Just an open sign, not store sign just open

**Mr. Sitzler:** That is a sign

**Mr. Hodulik:** I think during testimony he specifically he said he would have an open sign.

**Mrs. Wakeley:** It was actually, I apologize, it was said that the old sign that would be replaced outside but nothing on the windows is what I remember.

**Mr. Sitzler:** The testimony as I recall Mr. Multani in that box where there was an existing sign that we would allow a sign, a replacement sign we would allow to be put in that box. What we are talking about is a new sign that says open on the window with no other additional sign was approved. Are you replacing the existing one in the box?

**Mr. Multani:** No

**Mr. Hodulik:** We completely agree about the box issue but, I thought during his testimony he said we would like to put up an open sign

**Mr. Multani:** Usually

**Mr. Sitzler:** That is not in the record as I recall it.

**Mrs. Wakeley:** The Architect that was here his exact words were that it had the appearance of a convenience store so that is not needed.

**Mr. Sitzler:** Correct, it was a comment and in fact I even reiterated what was said that apparently, I thought what he was explaining to the Board was because of the big glass windows and you could see into it you could see that there was a store inside and he did not need any other additional signs.

**Mr. Multani:** Usually when we go to other towns, when we get approval for the stores you know it not required for open store sign has to be approval for that. That I realize, I sorry I think I did mention it maybe not quite understand, I don't know.

**Mr. Sitzler:** It capitalizes the fact that you can't even be open. The sign says open, and you are not even in the position to be open as the Engineer just explained to you.

**Mr. Multani:** Excuse me sir, my request is to you guys right know if you can help me is the carwash we not going to be operating so if you guys help me don't let me to close as Jim Gallagher told me don't have to shut down the store if you can help me don't close the store I can close carwash right away, if you help me I not want any but if you really want to I have no choice.

**Mr. Dougherty:** If you do not have approval for the store, you have not protected approval for the store you cannot operate the store. It is not a tradeoff it's, you have approval for a carwash you do not have

approval for a store so the store has to cease operation until you do everything in this resolution that will be adopted tonight and everything that has been agreed to being put on the plan and filed with the township.

**Mr. Sitzler:** In addition, Mr. Multani as your Lawyer would explain to you if he hasn't already there is forty-five days from today, if this Board memorializes this resolution today there is forty-five days for anybody in the world that doesn't like the fact that you are going to have a convenience store can appeal this approval. So, anything that you will be doing in furtherance of this approval in that forty-five days would be at your own risk. Because if that appeal took place and if that person appealing was successful on overturning this decision on granting the convenience store there would be nothing you could do about it if you began because there is forty-five days from the time for an appeal on every action this board takes as far as approvals goes there is a forty-five day period where you would be doing things assuming no one was going to appeal your approval you would be doing that at your own risk.

**Mr. Multani:** Yes

**Mr. Sitzler:** So, you jumped the gun majorly

**Mr. Dougherty:** Sorry I'm a little confused "directed at Mr. Hodulik" are you an Attorney or are you an Architect?

**Mr. Hodulik:** I'm a licensed professional Engineer as well as an Architect and Attorney.

**Mr. Dougherty:** And an Attorney, okay so, you are all three.

**Mr. Sitzler:** I was aware of that.

**Mr. Dougherty:** Okay because John Teets was the Architect of record and you said you were preparing the plans John Teets is the Architect per the plans but, you are now taking that over.

**Mr. Hodulik:** The Architect prepared the building plans but when the Board said they wanted to have a minor site plan I prepared that myself

**Mr. Dougherty:** Okay I just wanted to be clear

**Mr. Sitzler:** So, you are familiar with the requirement and compliance

**Mr. Hodulik:** Absolutely if the Boards Engineer can make time for me at some point. My request is to come up with a landscape plan that would be agreeable with the professionals, residents and Engineer as well there is supposed to be no parking striped in front of the building itself those were two specific conditions that were included in the resolution.

**Mr. Dougherty:** The Current Resolution has thirteen conditions and one of the conditions refers to our letter that you have to letter that you have to address everything on that letter. That would be the compliance plans you take all of these all of these conditions plus our letter, put them on plans and I'm certainly available to meet with you on site or wherever. Once you have those plans and we approve them you would get ten sets of those plans to the Board Secretary's Office, Les Gallagher and then we will sign off on those saying these are the official plans and then we will distribute those, and you can go to the construction office and get permits.

**Mr. Hodulik:** Okay

**Mr. Dougherty:** So, this evening the action on the agenda would be adopt this resolution as long as the Board does not have changes to it and then that would be the final say so.

**Mr. Sitzler:** I was anticipating based on, and I'm not hearing anything far up field from what I was expecting to hear so I did prepare additional amendments to the resolution based on what we discussed and I think they should be in the resolution before it is adopted so, there should be amendments added and I can go over what the proposed ones are for the Applicant, his Attorney and also for you Mr. Dougherty. These aren't written in stone just so the Board can consider and make any change but, number one is in the final compliance site plan shall be provided to the Board prior to any work or changes authorized by this approval so, the final compliance site plan must be a condition of approval and that the carwash shall be. Now Mr. Dougherty what is your opinion in terms of what constitutes eliminating the carwash, just not operating it or removing the equipment and all those things that are a part of the carwash. I'm sure there is a lot of equipment that has to be removed.

**Mr. Dougherty:** Well during the process of creating a convenience store at some point that equipment has to be removed so the carwash can operate until some time after the equipment is removed, I mean that is the chicken and the egg. When they start to do interior demolition all they will do is close those garage doors and you can't operate because there is no more equipment in there. He can operate the carwash from now until two years from now as long as he does not do anything to make that store a viable store.

**Mr. Sitzler:** Yes, but then he runs into letting his approval expire

**Mr. Dougherty:** Right, true

**Mr. Sitzler:** So, you can't let it go because your approval for the convenience store would expire so you cannot. The other condition is that you cannot operate or open the convenience store until the carwash is terminated so I don't, what I'm looking for here Mr. Dougherty is some guidance for them to know what terminating the carwash would be.

**Mr. Dougherty:** Removal of the equipment.

**Mr. Sitzler:** How was he able to open the convenience store without removing the carwash that is something that I would like to know.

**Mr. Luste:** The Storage, for equipment that was what I was explaining. Remember they were going to use part of the carwash for a store for supplies and other

**Mr. Waddington:** That is what the Architect showed. The Architect showed that the carwash would not be used because that would be part of the store.

**Mr. Hodulik:** The Architect has done plans and they have been submitted to the building department that will completely demo all of the equipment and change the entire building structure to a store. As you are aware there is a small portion right know that Mr. Multani put his outside stuff inside, so now he knows he is not supposed to operate like that. No part of the building is supposed to be used as a store until the minor site plan has been perfected through your professionals.

**Mr. Dougherty:** And until the carwash is removed. You can't open that store if the carwash is still operational.

**Mr. Hodulik:** No, he won't be able to do that because physically the plans are to have that whole building be used as the store so, the carwash will have to cease.

**Mr. Dougherty:** To define a definitive point in time Bill when that happens because the when the interior demolition gets to the point, maybe it is just when you start the demo the carwash no longer exist, I don't know.

**Mr. Sitzler:** Well, here is how I worded it for all intents and purposes for the Board. The carwash use shall be completely terminated prior to the convenient store being permitted to opened, an inspection by the Board Engineer shall be permitted to ensure that this condition is followed prior to the opening of the convenience store. Do you object to the Board engineer making sure that?

**Mr. Hodulik:** No, I don't object to it but, obviously the Building Inspector is going to see that all of the demolition is taking place. It is part of the ongoing construction process.

**Mr. Sitzler:** Because of then what we have heard at least anecdotally no other work shall commence at the site until all required construction permits are obtained and all work is inspected where required. So, if an inspection is required for work to be performed that also has to be, we were told and correct us if this is not the case that some work was being done without permits, construction permits.

**Mr. Hodulik:** I don't think that was ever the case Mr. Multani what ever work you had done in the past was inspected.

**Mrs. Keyek:** If I can jump in for a second? The construction permits were submitted after the store had been open what happens you not only need a change of use from the Planning and Zoning Board but you also need a change of use for the building because the addition that was added and the approval was for the storage addition which was warehouse storage, well then when you opened it the construction permit changes so, you would need all new subcodes which would mean the building, fire, electric and plumbing. So, all of that work by opening the store none of those subcodes were permitted work and none of the inspections had happened.

**Mr. Hodulik:** Okay so, I think Mr. Multani understands completely now that the carwash has to be completely closed and all of the of the building inspections have to be done and the Board Engineer has to sign off on all of the minor site plan stuff before the building department would even get involved so there is no work to be done on the building until the Board professionals that is the Planner and the Engineer sign off on the plans and once that is done then it would go to the Building Department once they have the sign off by the Board professionals and at that point in time they will go through the building inspection process and then what ever site plan inspections the Engineer and Planner have to do insularly to this approval. You are going to have inspect that the landscaping is put in and also you are going to work up the Escrow for the sidewalks and that is going to have to be posted also as part of the Minor Site plan approval process Mr. Multani. So, we will get an Escrow amount that we will have to submit to the Township also.

**Mr. Dougherty:** Yes, there has to be not just the Curbing and Sidewalks. There is a performance bond, a Municipal Land Law also calls for a performance bond for all site improvement. The Performance Bonds for improvements are actually inspected by the Borough Engineer which is not the Planner or Engineer for the Planning Board it is a different firm it is Remington and Vernick.

**Mr. Hodulik:** Okay

**Mr. Dougherty:** We will prepare all of that the Bond estimate, the Escrow estimate, the Bond estimate for the sidewalk and the compliance plan. That is part of the compliance review with the posting of those you can proceed with the Construction Office.

**Mr. Hagarty:** So, let me just kind of summarize where I think we are at anyway. Mr. Hodulik and Mr. Multani we appreciate both of you coming in. This all began because work was done before you ever came to us to begin with in terms of Planning and Zoning and getting construction permits so, we had on June 10<sup>th</sup> you came in we had an informal meeting we talked about your plan and informally what we saw and what we suggested you do. You then came before us formally on July 8<sup>th</sup> which went a long way in rectifying the stuff that originally was done and I thought we had a pretty good understanding at that stage on what needed to be done, how it needed to be done what the process was and what the conditions were. Obviously when we came in here in August on our August 12<sup>th</sup> meeting and we get prepared to approve this Resolution on what the conditions were we were dismayed to the fact that the horse had already left the barn sort of to speak and that you were way out ahead of any of these conditions so, I think the important thing tonight is I don't think we want to come back a third time we

want to try to get it all clean and understanding tonight of process and what the conditions are and we want to allow you if you have either yourself Mr. Multani or Mr. Hodulik if there is any misunderstandings or other information you need or anything with the process or timing of it now would be the appropriate time to ask those questions so we don't have any of those misunderstandings. So, I think we have a Resolution that references all the things that we have discussed in the past and what Mr. Sitzler has added to those additions so that you know and I believe from what you are saying that you understand the process I will say the steps that need to be done and the fact that it is important that you can't, you have to follow the process you have to follow the steps you have to check all the boxes and all the activities you can't get out in front of any of those so, a part of me just wants to go through those conditions again just to make sure that there is a clear understanding of that I know it is a bit time consuming and I know Mr. Sitzler has gone through the stuff but I think because we don't want to come back another time I want to make sure that you, that it is very clear of what and how we are proceeding. Do you understand I believe the whole dialog that has taken place with respect to the carwash and the convenience store and what has to happen in terms of those things?

**Mr. Multani:** Yes

**Mr. Hagarty:** So, we don't repeat that again. You are going to work with the Board Planner and the Board Engineer with respect to the landscape plan permit a site inspection prior to implementation to the plan and that the landscape maintenance plan will be provided to make sure all the plantings are well maintained and replaced when necessary. So, you understand that too?

**Mr. Multani:** Yes

**Mr. Hagarty:** That you are going to comply to all of the review letters from the Planner and Engineer unless it has been modified by anything that we have said at this hearing.

**Mr. Multani:** Yes

**Mr. Hagarty:** And if there is a good faith disagreement with the Board Planner or Board Engineer about the terms and conditions of this approval you are going to appear this Board again and we are going to discuss those disagreements that you have. There are no signs permitted you, are able to replace the boxed carwash sign with a store sign as long as the dimensions stay the same as the preexisting okay.

**Mr. Multani:** Yes

**Mr. Hagarty:** Your hours of operation are 6 am to 10 pm per what you say. Parking is not going to be permitted in the front of the building you are going to paint yellow diagonal striping in front of the building to designate that the area is a no parking area and that note will be added to the plan that you are to submit.

**Mr. Multani:** Yes

**Mr. Hagarty:** You are not going to change existing lighting without notice to the Board here and change for this purpose is defined as any type of lighting or intensity, adding or deleting lighting or changing existing lighting enclosures or direction of the lighting and that any significant changes to that lighting will require you to appear before us for a new lighting plan. Your going to agree to provide an escrow amount to be determined by the Board Engineer for sidewalks on the portion of the Cross Keys Road of the property the escrow is going to be held for five years depending on the completions of the widening project on Cross Keys Road and the escrow is going to be used for the construction of the sidewalks when they are permitted by Camden County and if due to unforeseen circumstances that the road project is not completed withing the five year the five year period the escrow amount will be returned to you however the return of the escrow does not eliminate the need to provide at a period of time after the five year period when the widening of the road project is actually done so, the five year period commences forty five days after we adopt the Resolution. You are going to add a note to that on your plan, you are going to provide sidewalks on the property on the Watsontown-New Freedom Road whenever an adjoining property has provided sidewalks up to the property line. So, in that particular case it depends on the adjoining property owner when they provide sidewalks you in tern have to provide sidewalks no escrow is required because this road is currently in its current state largely being undeveloped and that note is going to be added to the plan. Then you are going to work with our Board Engineer to establish traffic for pedestrians on the site the approval is subject to all approvals required by any local, county, state or federal public entities having jurisdiction and that all escrows posted, and any fees paid pursuant to applicable law. So, do you understand all of those conditions that we just went through?

**Mr. Multani:** Yes

**Mr. Hagarty:** Okay and how about the conditions that Mr. Sitzler has just added? Do you understand those and our, you know?

**Mrs. Wakeley:** Attentively in regard to number five that open sign?

**Mr. Sitzler:** Yes, I think that open sign has to go, if it fits in the box, he can put it in the box or he can put a different sign in the box because that is the only approval he got for a sign. He did indicate he did not want to add another sign, that was his testimony. The Board did say he could replace the existing wash sign with a store sign if he wanted as long as it fit within the same parameters. Do you understand that Mr. Multani?

**Mr. Multani:** Yes

**Mr. Sitzler:** So, the open sign cannot stay there where it is. You did not ask for the approval to do that and it wasn't in fact approved.

**Mr. Dougherty:** Mr. Chairman the only other thing that last item number thirteen I would say all Bonds and Escrows.

**Mr. Sitzler:** Okay, let me add that. What I'm going to do what ever the Board votes on tonight as I give them some of these amendments that should be added based on what Mr. Hagarty stated and what was amended by our Board Engineer and I'm going to summarize the ones that I think we thought of tonight and what I will do is prepare a final Resolution and I will ask the Board to vote on this final Resolution tonight and then an actual copy of all these additions will be made available to the Board for signatures and you will get a copy Mr. Hodulik I will make sure I send a copy to you.

**Mr. Hodulik:** Thank you

**Mr. Sitzler:** And your client, alright so, in addition to what has already been said, I will repeat what I think I have already said another condition that should be added as we memorialize the resolution the carwash use shall be completely terminated prior to the convenience store being permitted to be open, inspection by the Board Engineer shall be permitted to ensure the conditions are followed prior to the opening of the convenience store and a final compliance site plan shall be provided to the Board prior to any work or changes authorized by this approval. So, a final sent of compliance site plans must be provided before any of the work can be started and again and work done by the applicant prior to the forty-five days after the effective date of the resolution shall be at the applicants own risk and that is always the case when people decide to start right away before waiting for the appeal period and making a decision to run. We don't have any control over that, we don't know if anybody is going to appeal it so, we can't, there are I think in the land use law there has been a recent trend and you can correct me if haven't seen it, "I'm talking to Mr. Dougherty and Mr. Luste" where people sit in the weeds and wait for approvals, they don't come and challenge it they wait until an approval is granted and then file court action so that does happen. I don't know of anybody that may have a reason to not want you to have a convenience store and challenges the approval but, that could happen during the forty-five days after tonight assuming it is adopted. So, any work you do during that forty-five days but after the forty-five days is gone people are not permitted to appeal it because they will be out of time it expires. So, I would also add that as a condition, and I believe that is it. Unless the Board has anything or Mr. Dougherty or Mr. Luste has anything, they want to add.

**Mr. Dougherty:** I have nothing.

**Mr. Luste:** Nothing for me.

**Mr. Hagarty:** How about any of the Board members do you have anything? Okay so, I guess one final time Mr. Multani and Mr. Hodulik is there any problems and issues any concerns or questions either of you have with any of the conditions that we have talked about?

**Mr. Sitzler:** I'm sure that Mr. Hodulik has a pleather of experience and expertise in many different areas, besides being a Lawyer, he is an Engineer and Planner. If you have any questions and if he has any concerns make sure you speak with him but any of the concerns, you have before you go forward and spend a lot of money to do something you can always call here and check and say is it okay for me to do

this before you spend the money. That is what I always tell the applicant to make sure you check the Municipality before you do anything. Other than that, I don't have any more comments.

**Mr. Hodulik:** I guess procedurally I just have two questions. So, the escrow can be a cash escrow and gets deposited with the township is that what would happen then.

**Mr. Dougherty:** Yes

**Mr. Hodulik:** Or a bond whatever he decides, and do you publish the Resolution or do I?

**Mr. Gallagher:** Yes, I do

**Mr. Hodulik:** Les, you do okay thank you.

**Mrs. Keyek:** The only question I have as far as compliance issues, when the store closes tonight at ten o'clock it is to remain closed.

**Mr. Sitzler:** Yes

**Mrs. Keyek:** As of this evening?

**Mr. Sitzler:** Yes

**Mrs. Keyek:** Okay

**Mr. Sitzler:** Until all of these conditions have been met

**Mr. Hagarty:** Any questions, any other comments?

**Mrs. Jones:** I would just like to say does he fully understand that he does have to close the store?

**Mr. Multani:** I do but if you let me ask a question if you, please let me keep open the store, I close the carwash down

**Mr. Hagarty:** That we can't do

**Mr. Multani:** I completely understand

**Mr. Hagarty:** The condition of this for us to continue at ten o'clock tonight or whatever you have to cease operations on the convenience store until you go through all of these steps as we explained.

**Mr. Waddington:** Question to make sure the store stays closed is there anyway that we can put a condition that he has to put some type of paper the inside of the windows so people can't see that the store is open.

**Mr. Sitzler:** I don't think we can require him to do that but if it is determined that he does have the store open before he is allowed to, he subjects himself up for a Zoning violation. Which the Zoning violation can be an option for having a use that is not permitted.

**Mr. Waddington:** I only ask that question because when he was here in July, I guess it was, I'm almost positive his statement was people will know his store is open by looking inside and that is why he didn't need an open sign because people know when they come that the store is open, and my concern is they can still think that it is open. Because that store is always fully stocked. If we, can't I understand.

**Mr. Sitzler:** I don't know that we have the authority to make them do that. Mr. Luste do you have any suggestions?

**Mr. Luste:** Maybe a simple closed sign, a visible closed sign.

**Mr. Waddington:** It could be in the door or what ever

**Mrs. Keyek:** Or can the door just be locked is there a way to have door unlocked? I don't know if there are things in there that need to have access for the employees.

**Mr. Sitzler:** While you were discussing one of the Board members brought up can you put a closed sign on there so that the public knows that it is closed.

**Mr. Hodulik:** That is what I was asking him at the same time.

**Mr. Sitzler:** Rather than covering the windows. If you put a closed sign, you will be able to remove the closed sign when you are able to open.

**Mr. Hodulik:** How about just a sign that says store closed so people don't think they are completely closed.

**Mr. Sitzler:** That would be fine, store closed would be fine.

**Mr. Hagarty:** Any other questions?

**Mr. Hodulik:** I just want to say that I think Mr. Multani understands. Mr. Multani do you understand.

**Mr. Multani:** Yes

**Mr. Hodulik:** The store is going to close and hopefully go through the process will be done as quickly as it possibility can obviously my client will appreciate that.

**Mr. Multani:** How long will that take?

**Mr. Hodulik:** We are just having to go through the process and I'm sure they will work with you it is a scheduling process.

**Mr. Dougherty:** Yes, we will work with you get us a set of compliance plans and we will get it started.

**Mr. Hagarty:** We understand that time is of the essence so, I'm confident that our professionals will work with you and your team but, you have to follow the steps no matter what happens that has to be done.

**Mr. Hodulik:** So, thank you very much

**Mr. Hagarty:** Thank you for coming

**Mr. Sitzler:** You are welcome to stay we are going to be voting to memorialize the resolution.

**Mr. Hagarty:** Okay, the next action before us Resolution 2021-14, Multani and Sons LLC, 101 Cross Keys Road, Block 131 Lot 30, this resolution I believe everybody should have a copy of this resolution it was distributed to them. It was the same resolution that was tabled at the last meeting and what we are voting on is this resolution plus the amendments that Mr. Sitzler has discussed all, each of those that will be codified in the final resolution.

**Mr. Sitzler:** Correct I will do that and try to get back to Mr. Gallagher tomorrow with the additional amendments for signatures.

**Mr. Hagarty:** Does anybody have any questions? Seeing none I will entertain a motion to approve.

**Mr. Ford:** I will make a motion to approve, seconded by Mrs. Wakeley.

**ROLL CALL ALL PRESENT "aye" RESOLUTION WITH ADMENDMENTS TO FOLLOW HAS BEEN APPROVED.**

**Mr. Hagarty:** Thank you gentlemen.

**Open Meeting to the Public:**

**Mr. Hagarty:** Now I would like to entertain a motion to open up the floor to the public.

**Mr. Ford:** make a motion to open the floor to the public, seconded by Mr. Hagarty

**Mr. Hagarty:** All in favor?

**All members present “aye”**

**Mr. Hagarty:** Seeing no public present I will entertain to close the meeting to the public.

**Mr. Ford:** Make a motion to close, seconded by Mr. Waddington

**Mr. Hagarty:** All in favor

**All members present “aye”**

**Old Business:**

**Mr. Hagarty:** I would like to open the meeting on any old business.

**Mrs. Keyek:** Have we heard anything from ALFA Services regarding the garage conversion?

**Mr. Hagarty:** No

**Mrs. Keyek:** He does not have the garage door on there yet.

**Mr. Sitzler:** I have not heard a thing. I did not know if they were working on it, we gave them quit a period of time due to COVID to be able to get the work done but, I don't know if the Board wants me to contact their Lawyer and see if they are still representing ALFA services. I know the Board gave consideration, I'm trying to remember was it two garage doors, right?

**Mr. Waddington:** Yes, it was a double garage.

**Mr. Sitzler:** There was some consideration in making them only remove one and there would have to be an inspection to make sure there was no ability to have living arrangements in there. Remember that?

**Mr. Hagarty:** Yes, I remember so,

**Mrs. Keyek:** I drove by, and nothing has changed

**Mr. Sitzler:** So, you did a street view, and everything is the same?

**Mrs. Keyek:** Everything looks the same.

**Mr. Sitzler:** I haven't heard anything from them since the last time I spoke to them probably over a year ago so, I didn't know what they have done.

**Mr. Dougherty:** Their application was denied

**Mr. Sitzler:** They were denied so they have to go back to the, the resolution said they have to go back to square one the way it was. He had done all of the work before any of the approvals, and he was denied, and it was a two-car garage conversion.

**Mr. Waddington:** So, they had to go back to the original

**Mr. Sitzler:** I would have to re-read the resolution but, I know the resolution has words to that effect that it has to be returned to a garage it can't be a living area.

**Mr. Hagarty:** So, Karen as far as you know they are not now using it as living quarters, as far as you can see.

**Mrs. Keyek:** Not to my knowledge

**Mr. Sitzler:** I don't think the Board should allow the property should be allowed turned in to the state where if he ends up selling it down the road to somebody else, they will come in and not know the history and try to rent it out or use it as a living area.

**Mr. Hagarty:** So, maybe it makes sense for you to contact the

**Mr. Sitzler:** If the Board authorizes me, I will reach out to the Attorney I still, if he is still representing them

**Mr. Hagarty:** Does the Board have any

**Mr. Sitzler:** And if the Lawyer does not still represent them anymore, I will reach out to the Applicant directly

**Mr. Hagarty:** Okay

**Mr. Ford:** I don't know if there is an evidence thing or something, but I remember somebody had photos of what it looked like before and what they had changed it to.

**Mrs. Jones:** I think that was the mayor's wife.

**Mr. Sitzler:** There was some testimony that was really not supported by any truths that the prior owners had maybe let someone in their family live in there.

**Mrs. Keyek:** It may have had a bathroom in it and according to I believe their testimony that is what led them to believe that they could use it as a living space and at that time all they had to do was change out the garage door.

**Mr. Sitzler:** I mean just because you have a bathroom it does not mean it is a standard living space.

**Mrs. Keyek:** I understand

**Mr. Sitzler:** That is stretching it quite a bit

**Mr. Dougherty:** I recall that their son or relative used it like a jam session

**Mr. Sitzler:** Band practice, that is why the bathroom was there

**Mr. Dougherty:** But it wasn't a living space

**Mr. Sitzler:** But that doesn't mean that people were living in it, or would it have ever been a place that people could living in. So, if the Board wants me, I will reach out once more and I can also ask them to return to the next meeting since it has been so long to explain why they haven't done it. They are definitely on notice by me on at least two occasions that he had to restore it back to the way that it was and then COVID hit so I did not want to press the issue in front of the Board because he would have a good excuse I don't think we would have been in the possession you know to force him to meet and deal with COVID and now I think people are working and I don't know if he has an excuse for not converting it back to its original use.

**Mrs. Jones:** Is this the house on Clearview?

**Mr. Hagarty:** Yes

**Mrs. Jones:** Okay then it is the right one I'm trying to get story in my mind

**Mr. Sitzler:** Yes, we permitted the use of the house and he wanted to extend it to the garage and have someone living there and we denied that.

**Mr. Hagarty:** So, my fellow board members and professionals I think it makes sense if Mr. Sitzler if you can reach out to the applicant's attorney if he still represents the applicant if not the applicant him self and I think it makes sense to have the applicant come to the next meeting so at least we can ask questions and become more informed at that point.

**Mr. Sitzler:** Yes, why it hasn't done it because it has been at least almost two years and he hasn't restored it in two years. He has definitely been on notice, his lawyer told me he spoke to him, so he has

known about it for two years and he still hasn't restored it, it is in the resolution it has to be returned it was a condition.

**Mr. Hagarty:** Is plumbing permitted is that why

**Mr. Sitzler:** Well, that is a good question, but I don't know that we can say that there wasn't a bathroom in there at least with that much plumbing there was apparently an old bathroom, but he turned it into a whole living area for people to live in and that is what he can't do. I don't think you can make him remove the bathroom if he remodeled it even that probably can stay but you can't have any other like a kitchen or living type of arrangements and it can't be walled off internally other than what a garage would look like in other words you can't make separate rooms in there you can't make bedrooms a kitchen but the bathroom I think, would you agree with that Hugh I think the bathroom was preexisting and all he did was remodel it.

**Mr. Dougherty:** Right as long as it would not be a living space.

**Mr. Sitzler:** Right, it would not be a living space just a bathroom

**Mr. Hagarty:** Any other old business items that anybody wishes to discuss?

**New Business:** **Mr. Hagarty:** Any new business?

**Mr. Dougherty:** I'm sure Les will bring it up but there are two applications for the October meeting one is an abatement plan of that self-storage facility on Branch Avenue and the other one is a bulk variance and possibly a use variance for a small garage addition to a home, to a property so, they are coming forward before the Board.

**Mr. Hagarty:** So, along with that we have the applicant and any representation from ALFA Service.

**Mr. Sitzler:** Yes, I will invite the applicant and their attorney if he still represents them or any attorney that he chooses to have represent to be at the meeting. If he doesn't come, then the Board can consider a Zoning violation because it would be a Zoning violation because he is not allowed to have all the work that he did on converting it to a living space.

**Mr. Hagarty:** Any other new business that anybody wishes to discuss? Our next meeting as said we have at least those on October 14<sup>th</sup> at 7:30

**Open Floor to the Public:** **Mr. Hagarty:** Now I will entertain to open the meeting to the Public on any matters.

**Mr. Ford:** I will make a motion to open, seconded by Mrs. Gilson

**Mr. Hagarty:** All in favor

**All Present “aye”**

**Close Floor to the Public:**           **Mr. Hagarty:** Seeing none of the public present I will entertain a motion to close the meeting to the public.

**Mr. Ford:** Make a motion to close, seconded by Mrs. Gilson.

**Mr. Hagarty:** All in favor?

**All present “aye”**

**Motion to Adjourn:**           **Mr. Hagarty:** I will entertain a motion to adjourn this meeting

**Mr. Waddington:** Make a motion, seconded by Mrs. Gilson

**Mr. Hagarty:** All in favor?

**All “aye” motion carried; meeting adjourned at 8:27 PM**