



Referring to his memo dated 03/12/2021, Mr. Banisch stated that Ms. Gander had provided responses to Chairwoman Piedici's request for comments and updates on the Parks and Recreation Plan Element of the Master Plan and that those comments provide an initial basis for the Board's review of the element. Ms. Gander confirmed that an assessment survey will be launched during the late spring and that she would update the Board once the feedback has been analyzed over the summer.

In response to a comment about how to further enhance the connectivity between the recreational areas in the Township, Mr. Banisch showed a composite map of two (2) maps from the Master Plan: The Bicycle, Pedestrian and Greenway Plan (Figure V-4) and Active and Passive Recreation Areas (Figure VII-1). Opining that the composite map showed the difficulties involved in enhancing connectivity, he suggested that the Board consider establishing bike path signage or dedicated bike/pedestrian walking lanes along roadways that are wide enough to accommodate them. He stated that the opportunity to request such things usually arises during site plan or subdivision application hearings. Should the developer be amenable, it becomes a condition of approval hence, the cost is born by the developer, not the Township. A straw poll indicated that the Board was in favor of continuing this practice.

Noting that Ms. Gander had recommended in her review that several items listed in the element's Goals and Objectives section had been completed and should therefore be removed or adjusted, Mr. Banisch suggested that rather than removing them, they should be revised and continue as policy statements. The Board was in favor of that suggestion and asked Ms. Gander and Mr. Banisch to work together to make those revisions.

Chairwoman Piedici opened the meeting to the public, either present or via telephone, for comments about the Parks and Recreation Plan Element.

Todd Edelstein, 172 Riverside Drive, suggested that the composite map that Mr. Banisch had shown be included in the 2021 Master Plan. He also commented on revisions to that map and also felt that requests to developers for connectivity amenities should remain as suggestions so as not to become too onerous.

Hearing no further comments, that portion of the meeting was closed.

Chairwoman Piedici asked Ms. Gander to advise the Board when the survey results are ready and advised that she would then be scheduled to return for further discussion and review of the element.

#### **COMMENTS FROM MEMBERS**

Chairwoman Piedici stated that Application PB21-002, Adriane Shaw, would be heard at the 04/20/2021 meeting. This application was originally scheduled to be heard during the 03/02/2021 meeting however because of insufficient notice, it was removed from the agenda. The applicant requested that a new hearing date be set as soon as possible since it was not the applicant's fault or the Board's fault that the hearing had to be rescheduled. Noting that there is also an application scheduled to be heard on 05/04/2021, Chairwoman Piedici stated that the next Master Plan discussion would be held during the 05/18/2021 meeting.

#### **COMMENTS FROM STAFF** - None

#### **ADJOURN**

On motion by Ms. Asay, seconded by Ms. Manduke, all eligible in favor and carried, the meeting was adjourned at 8:16 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary  
Planning Board

*Adopted as drafted 04/06/2021*

03/24/2021 dskpjd

**BERNARDS TOWNSHIP PLANNING BOARD**

**JAMES MARTIN AND LOIS BERMAN  
BLOCK 2001, LOT 4  
35 SPRUCE STREET**

**APPLICATION NO. PB19-006**

**RESOLUTION MEMORIALIZING GRANT OF “C(1)” AND “C(2)” VARIANCES, A STATUTORY PLANNING VARIANCE, AND MINOR SUBDIVISION APPROVAL**

**WHEREAS**, James Martin and Lois Berman (the “**applicant**”) are the owners of certain property located in the Township of Bernards (the “**Township**”) having an address of 35 Spruce Street and being designated on the Township tax maps as Block 2001, Lot 4 (“**property**”), and the property is a 7.5-acre lot situated in the R-2 Residential zone district (the “**R-2 zone**”) and is developed with a single family residential dwelling (the “**existing dwelling**”) located in the front, southeasterly portion, of the property, a barn (the “**barn**”) and a shed (the “**shed**”) located in the rear, westerly portion, of the property;

**WHEREAS**, the applicant submitted an application dated November 27, 2019 (the “**application**”) to the Bernards Township Planning Board (the “**Board**”) seeking minor subdivision approval and “c(1)” and “c(2)” variance relief to allow the subdivision of the property to create a 4.044 acre southerly lot containing the existing dwelling and the barn (“**proposed lot 4.01**”) and a 3.58 acre northerly lot containing a proposed new dwelling (the “**proposed dwelling**”) and the shed (“**proposed lot 4.02**”) (the “**proposed subdivision**”);

**WHEREAS**, the Board has exclusive subject matter jurisdiction over the application pursuant to N.J.S.A. 40:55D-20 by virtue of N.J.S.A. 40:55D-47, 60 and 70;

**WHEREAS**, a number of documents were submitted with regard to the application by the applicant, Board and Township experts and officials, all of which documents are on file with the Board and are part of the record in this matter, and the following are the latest versions of the plans, drawings and documents for which Board approval is sought, which plans, drawings and documents have been on file and available for public inspection for at least 10 days prior to the hearing on the application in accordance with N.J.S.A. 40:55D-10b:

1. Minor Subdivision Plans (5 sheets) prepared by Yannaccone, Villa & Aldrich, LLC dated October 28, 2019, revised May 1, 2020 (the “**site plans**”).

**WHEREAS**, the Board held a public hearing on the application commencing on August 18, 2020, continuing on September 8, 2020, and concluding December 8, 2020, with proofs of publication and services of notices of the hearing being submitted to and on file with the Board, thereby conferring procedural jurisdiction over the application with the Board, during which hearing the applicant was represented by Frederick B. Zelle, Esq. and the Board was represented by Jonathan E. Drill, Esq.;

**WHEREAS**, the following individuals testified during the hearing on the application, were subject to cross examination, and the testimony is part of the record in this matter:

1. James Martin (co-applicant),
2. Rudy Holzman, PE (applicants' engineering expert),
3. David Banisch, PP (Board's planning expert),
4. David Schley, PP (Township planner),
5. Peter McNally (interested property owner),
6. Catherine Kirkwood (interested property owner), and
7. Randy Santoro (interested property owner);

**WHEREAS**, the following exhibits were entered into evidence during the hearing and are part of the record:

- A-1 Aerial map of the subject area with a parcel overlay, and
- A-2 Blocks / lots shown in the 500-foot buffer area;

**WHEREAS, AFTER CONSIDERING THE APPLICATION, DOCUMENTS ON FILE WITH THE BOARD, TESTIMONY AND EXHIBITS REFERENCED ABOVE, AND GIVING APPROPRIATE WEIGHT TO SAME, AND BASED ON ITS UNDERSTANDING OF THE APPLICABLE LAW, THE BOARD MAKES THE FOLLOWING FACTUAL FINDINGS AND LEGAL CONCLUSIONS FOR THE PURPOSE OF MEMORIALIZING IN A WRITTEN RESOLUTION IN ACCORDANCE WITH N.J.S.A. 40:55D-10g(2) ITS ACTION IN GRANTING THE APPLICATION SUBJECT TO CONDITIONS AS SET FORTH BELOW:**

A. **FACTUAL FINDINGS**

1. **The Property, Zoning and Existing Development.** As set forth above, the property is 7.5 acres in size and is situated in the R-2 zone. The property is located between the westerly terminus of Spruce Street and the northbound lanes of Route 287. Single family residential dwellings are principal permitted uses in the R-2 zone and barns and shed are permitted accessory uses in the R-2 zone. As set forth above, the existing dwelling is located in the front, southeasterly portion, of the property, and the barn and shed are located in the rear, westerly portion, of the property. Spruce Street is a 600 +/- foot long paved public street contained within a 50-foot wide right of way which terminates at the property's easterly boundary. The westerly end of the Spruce Street right-of-way provides 25 feet of public street frontage to the property and 25 feet of public street frontage to an adjoining lot. At the end of the public right-of-way, the roadway continues for another 850 +/- feet as a private gravel driveway within a 50-foot-wide easement located partly on the property. This private common driveway provides access to the existing dwelling on the property and to three other dwellings located on adjoining lots 3, 3.01 and 25.

2. **The Application and Necessary Relief.** As set forth above, the application requests minor subdivision approval with "c" variances to divide the property to

create proposed lot 4.01, a southerly 4.044-acre lot containing the existing dwelling and the barn, and proposed lot 4.02, a northerly 3.458-acre lot, containing the proposed dwelling and the shed. Proposed lot 4.02 includes the existing 25 feet of public street frontage, while lot 4.01 maintains frontage on the private access easement. The application requests “c” variances to allow the following deviations from the following zoning ordinance regulations and the Board determined that the deviations should be considered under the following “c” variance rubrics. First, a “c(1)” or so-called “hardship” variance relief from ordinance section 21-15.1.d.1 / Table 501 as to minimum front yard for lot 4.01, where 100 feet is required, 40.5 feet currently exists to the south, and 76.3 feet currently exists to the east, measured from the access easement. Second, a “c(2)” or “benefits v. detriments” variance from ordinance section 21-21.2.a which requires all lots to have frontage on a public street unless development occurs under the PRD provisions of the ordinance or unless specifically provided for elsewhere in this chapter. Third, a so-called “statutory planning” variance pursuant to N.J.S.A. 40:55D-36 from N.J.S.A. 40:55D-35, which requires that all building lots abut a fully improved street, and proposed lot 4.01 does not front on a public street but will only have frontage on a private access easement. Fourth, a “c(2)” variance from ordinance section 21-15.1.d.1 / Table 501 as to minimum lot frontage for lot 4.01 where 125 feet is required, 25 feet exists for lot 4, and 0 feet is proposed for lot 4.01 along a public right of way and 775.8 feet is proposed for lot 4.01 along a private access easement. Fifth, a “c(2)” variance from ordinance section 21-15.1.d.1 / Table 501 as to minimum lot frontage for lot 4.02 where 125 feet is required and 25 feet is proposed along a public right of way and 125.2 feet is proposed along a private access easement.

3. **The “C(1)” Front Yard Setback Variance to Allow the Existing Dwelling to Remain After Subdivision.** The Board’s findings are as follows as to the “c(1)” variance from ordinance section 21-15.1.d.1 / Table 501 as to minimum front yard for lot 4.01 where 100 feet is required, 40.5 feet exists to the south and 76.3 feet exists to the east, measured from the access easement, to allow the existing dwelling to remain after subdivision.

a. **Positive Criteria of the “C(1)” Variance.** As to the positive criteria of the “c(1)” variance as to the front yard setback of the existing dwelling, the Board finds that the location of the existing dwelling is an extraordinary and exceptional condition affecting the property in that its location is a lawfully created pre-existing condition. The Board specifically finds and notes that, at the time of the initial approval and construction of the existing dwelling, the front yard setback regulation was 75 feet. Thus, the existing 76.3 easterly front yard setback (which is the actual front of the existing dwelling) was in fact compliant with the ordinance regulation at that time. The Board finds that requiring the applicant to relocate the existing dwelling to comply with the front yard setback regulation would be unreasonable under the circumstances and would result in exceptional and undue hardship upon the applicant. As such, the Board finds that “c(1)” variance relief is warranted to allow the existing dwelling to remain in its existing location after subdivision, but subject to satisfaction of the negative criteria.

b. **Negative Criteria of the “C(1)” Variance.** As to the first prong of the negative criteria of the “c(1)” variance, the Board finds that the location of the existing dwelling after subdivision will not create any substantial negative impacts because the existing dwelling’s location has resulted in no negative impacts to neighbors in the past so is not expected

to result in any negative impacts to neighboring property owners in the future. As to the second prong of the negative criteria, provided that the conditions set forth below are imposed and complied with, the Board finds that the “c(1)” variance can be granted without substantial impairment of the intent and purpose of the master plan and zoning ordinance because the deviation is an existing condition which will not be exacerbated and that the proposed subdivision overall results in a reasonable and functional division and use of the property.

4. **Findings as to the “C(2)” Variances from the Requirement as to Frontage on a Public Street and Lot Frontage Requirements of the R-2 Zone to Allow the Proposed Subdivision.** As set forth above, the applicant requested a “c(2)” variance from ordinance section 21-21.2.a, which requires that all lots shall have frontage on a public street unless development occurs under the PRD provisions of the ordinance or unless specifically provided for elsewhere in the ordinance. The applicant also requested a “c(2)” variance from ordinance section 21-15.1.d.1 / Table 501 as to minimum lot frontage for lot 4.01 where 125 is required and 0 feet is proposed along a public right of way and 775.8 feet is proposed along a private access easement and for lot 4.02 where 25 is proposed along a public right of way and 125.2 feet is proposed along a private access easement. The Board’s findings as to the positive and negative criteria of these “c(2)” variances to allow the proposed subdivision are as follows:

a. **Findings as to the Positive Criteria of the “C(2)” Variances as to Frontage on a Public Street and as to Minimum Lot Frontage.** Provided that the conditions set forth below are imposed and complied with, the Board finds for the following reasons that “c(2)” variances to allow the deviations from the frontage on a public street and minimum lot frontage requirements can and should be granted. First, the Board finds and notes that lot 4 is significantly larger than all the other lots in the R-2 Zone (which provides a minimum lot size of two acres) and that by subdividing the property into two (2) smaller properties, it would bring the subject lots closer in conformance to the other lots in that zone. Second, the Board finds that the applicant’s proposal results in a subdivision where the lots have frontage along a private access easement thus, along with the public street frontage for proposed lot 4.02, still maintain sufficient access to and from the lots. In addition, the Board finds that proposed lot 4.01, which would have no public street frontage, would still have significant frontage on the private driveway/access easement and that the driveway would be at maximum capacity, with the private driveway providing a more rural look, which is in character with the larger R-2 lots. As such, the Board finds that granting the “c(2)” variances to allow the proposed subdivision promotes the purposes of zoning set forth in the MLUL, specifically N.J.S.A. 40:55D-2a (promoting the public health, safety, and general welfare) since the proposed subdivision provides for appropriate lot sizes in the zone, N.J.S.A. 40:55D-2e (promoting the establishment of appropriate population densities) and N.J.S.A. 40:55D-2g (providing sufficient space for residential uses) since the proposed subdivision makes use of the property for appropriately sized residential development. The Board finds that the proposed subdivision provides for a more functional and aesthetically pleasing design overall, particularly since the applicant could have developed the property into three separate lots. In this regard, the Board notes that the applicant has agreed to the recording of a restrictive covenant / deed restriction prohibiting any further subdivision of either of the lots in the future. Finally, in light of the public welfare benefits resulting from the proposed subdivision, the Board finds that these zoning benefits are community wide benefits and not simply a private benefit to the applicant.

Therefore, provided that the conditions set forth below are imposed and complied with, the Board finds that the zoning benefits resulting from the grant of the “c(2)” variances will substantially outweigh any detriment.

b. **Findings as to the Negative Criteria of the “C(2)” Variances as to Frontage on a Public Street and as to Minimum Lot Frontage.** Provided that the conditions set forth below are imposed and complied with, the Board finds that the “c(2)” variances as to frontage on a public street and as to minimum lot frontage can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the master plan and zoning ordinance for the following reasons. First, the Board finds that there will be no negative impacts resulting from deviating from the required street frontage primarily due to the fact that existing conditions are such that lot 4 already deviates from such requirements and is presently developed with a residential dwelling and associated uses. The Board further recognizes and finds that the proposed subdivision will continue to maintain access to lot 4.01 through the easement, while lot 4.02 would have access from the end of Spruce Street, thus not creating any significant negative impacts in this regard. The Board also finds that the size of the property at 7.5 acres can accommodate the proposed subdivision without creating significant negative impacts to neighboring properties, and that the addition of the new, second lot will not result in any negative visual, operational, nuisance or other impacts, provided the conditions set forth herein below are imposed. Second, the Board finds that the grant of the variances will not impair the intent or purpose of the master plan and zoning ordinance, particularly in light of the fact that the application presents a more efficient design for the property overall. The Board finds and notes that the 2010 Master Plan specifically incorporates the purposes of the MLUL, and the Board finds that the proposed subdivision is consistent with Master Plan goals, including as to promoting appropriate population densities that will contribute to the well-being of the neighborhood, maintaining rural and agricultural environments and providing sufficient space in appropriate locations. As such, the Board finds that the variances can be granted to allow the deviations without substantially impairing the intent and purpose of the master plan and zoning ordinance.

5. **Findings as to Statutory Planning Variance from the Requirement in the MLUL that all Building Lots Abut a Fully Improved Street.** As set forth above, the applicant requested a so-called planning variance pursuant to N.J.S.A. 40:55D-36 from N.J.S.A. 40:55D-35, which requires that all building lots abut a fully improved street, and proposed lot 4.01 does not front on a public street but will only have frontage on a private access easement. The Board’s findings as to the statutory planning variance are as follows. The Board finds that the circumstances of this case do not require the building or structure to be related to a street based on the fact that the existing private access drive currently serves four (4) dwellings without any problems and/or safety issues and the addition of the proposed dwelling is not expected to create any problems and/or safety issues in the future provided that the following condition is imposed and complied with. The Board does require as a condition of approval, however, that the access drive be widened to a minimum of 18-feet and a maximum of 20-feet with stone and/or pavement material to the satisfaction of the Township Engineer to ensure adequate and safe access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety.

6. **Findings as to Minor Subdivision Review.** The Board's findings as to minor subdivision review and approval are as follows. With the exception of the variances that have been requested, the Board finds that the documents referenced above will comply with all other applicable zoning ordinance regulations and all applicable subdivision ordinance requirements, provided that the conditions set forth below are imposed and complied with. For the foregoing reasons, the Board's ultimate finding is that minor subdivision approval is warranted provided that the conditions set forth below are imposed and complied with.

## B. **CONCLUSIONS OF LAW**

1. **The "C(1)" Front Yard Setback Variance to Allow the Existing Dwelling to Remain After Subdivision.** As set forth above, there exists a lawfully created nonconforming front yard setback deviation relative to the existing dwelling, which condition will remain as part of the proposed subdivision. The Board's conclusions as to the "c(1)" front yard setback variance to allow the existing dwelling to remain where located after the proposed subdivision are as follows.

a. **Standards Applicable to Review of the "C(1)" Variance.** The Board has the power to grant "c(1)" or so-called "hardship" variances from zoning ordinance regulations pursuant to N.J.S.A. 40:55D-70c(1) where "(a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, (b) or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon, the strict application of any regulations...would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property." The "hardship" that the applicant must prove is not inutility, meaning that without the variance the property would be zoned into inutility. Inutility caused by a zoning regulation would require a variance to avoid an unconstitutional taking of the property. The Board may – but is not required to – grant a "c(1)" variance where the hardship at issue is not confiscatory but, rather, inhibits "the extent" to which the property can be used. Lang v. North Caldwell Board of Adjustment, 160 N.J. 41, 54-55 (1999). It must be noted that a hardship variance is not available for intentionally created situations as constituting "self-created" hardship. Commons v. Westwood Board of Adj., 81 N.J. 597, 606 (1980); Chirichello v. Monmouth Park Board of Adj., 78 N.J. 544, 553 (1979), and/or for mistakes. Deer-Glen Estates v. Borough of Fort Lee, 39 N.J. Super. 380, 386 (App. Div. 1956). Neither is a hardship variance available to relieve "personal hardship" of the owner, financial or otherwise. Jock v. Wall Township Zoning Board of Adj., 184 N.J. 562, 590 (2005). Finally, the Board may not exercise its power to grant a "c(1)" variance otherwise warranted, however, unless the so-called "negative criteria" has been satisfied. Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70: "No variance or other relief may be granted ... without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance." The phrase "zone plan" as used in the N.J.S.A. 40:55D-70 means master plan. Medici v. BPR Co., 107 N.J. 1, 4, 21 (1987).



b. **Grant of the “C(1)” Front Yard Setback Variance.** As set forth in the factual findings above, the Board found that the lawfully created pre-existing nonconforming location of the existing dwelling vis-à-vis front yard setback is an extraordinary and exceptional condition affecting the property in that its location is a lawfully created pre-existing condition, and that requiring the applicant to relocate the existing dwelling to comply with the front yard setback regulation would be unreasonable under the circumstances and would result in exceptional and undue hardship upon the applicant.. The Board also found that, provided the conditions set forth below are imposed and complied with, the variance to relieve the hardship could be granted without substantial detriment to the public good and without substantial impairment of the master plan or zoning ordinance. As such, the Board concludes that it can and should grant the “c(1)” front yard setback variance at issue subject to the conditions set forth below.

2. **The “C(2)” Variances from the Frontage on a Public Street Requirements and Lot Frontage Regulations.** The Board’s conclusions as to the “c(2)” variances from the frontage on a public street requirements and the lot frontage regulations of the R-2 zone are as follows.

a. **Standards for Considering the “C(2)” Variances.** The Board has the power to grant “c(2)” or so-called “benefits v. detriments” variances pursuant to N.J.S.A. 40:55D-70c(2) where, in an application or appeal relating to a specific piece of property, the purposes of [the MLUL] would be advanced by a deviation from the zoning ordinance requirements, and the benefits of the deviation from the zoning ordinance requirements would substantially outweigh any detriment. This is the so-called “positive” criteria of a “c(2)” variance. The zoning benefits resulting from permitting the deviation(s) must be public benefits (“improved zoning and planning that will benefit the community”) and not merely benefits for the private purposes of the owner. Kaufmann v. Warren Township Planning Board, 110 N.J. 551, 563 (1988). The zoning benefits resulting from permitting the deviation(s) are not restricted to those directly obtained from permitting the deviation(s) at issue; the benefits of permitting the deviation can be considered in light of benefits resulting from the entire development proposed. Pullen v. South Plainfield Planning Board, 291 N.J. Super. 1, 9 (App. Div. 1996). Finally, while “c(1)” hardship variances are not available for self-created situations and/or for mistakes, an intentionally created situation or mistake does not serve to bar a “c(2)” variance because the focus of a “c(2)” variance is not on hardship but, rather, on advancing the purposes of zoning. Ketcherick v. Mountain Lakes Board of Adj., 256 N.J. Super. 647, 656-657 (App. Div. 1992); Green Meadows v. Montville Planning Board, 329 N.J. Super. 12, 22 (App. Div. 2000). Even if an applicant proves the “positive” criteria of a “c(2)” variance, the Board may not exercise its power to grant the variance unless the so-called “negative criteria” has been satisfied. Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70, “no variance or other relief ... may be granted ... unless such variance or other relief ... can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.” The phrase “zone plan” as used in the N.J.S.A. 40:55D-70 means the Town “master plan.” Medici v. BPR Co., 107 N.J. 1, 4, 21 (1987).

b. **Grant of the “C(2)” Variances.** As set forth in the factual findings above, the Board found that the grant of “c(2)” variances to allow for the deviations as to frontage

on a public street and as to the required frontage regulations would advance the purposes of the MLUL provided that the conditions set forth below are imposed and complied with. The Board further found that the benefits of the deviations would substantially outweigh any detriments provided, again, that the conditions set forth below are imposed and complied with. The Board also found that the deviations resulted in benefits to the community, and not solely for the benefit of the applicant. Finally, provided that the conditions set forth below are imposed and complied with, the Board found that the grant of the “c(2)” variances would not result in substantial detriment to the public good or substantial impairment of the intent or purpose of the master plan or zoning ordinance. As such, the Board concludes that it can and should grant the “c(2)” variances at issue subject to the conditions set forth below.

3. **The Planning Variance from N.J.S.A. 40:55D-35.** The Board’s conclusions as to the so-called “planning” variance from N.J.S.A. 40:55D-35 are as follows:

a. **Standard for Considering a Planning Variance.** The Board may grant a planning variance pursuant to N.J.S.A. 40:55D-36 from the requirement in N.J.S.A. 40:55D-35 that no permit be issued for the construction of a building unless the lot on which the building will be constructed abuts an official and fully improved street, and for direction to issue a permit for a building not related to an official and fully improved street pursuant to N.J.S.A. 40:55D-36 where: (1) refusal to issue the permit “would entail practical difficulty or unnecessary hardship” or (2) “the circumstances of the case do not require the building or structure to be related to a street.” N.J.S.A. 40:55D-36 provides further, however, that before the Board directs the issuance of such a permit, the Board must establish and impose “conditions that will: (1) provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety, and (2) protect any future street layout shown on the official map or on a general circulation plan element of the municipal master plan...”

b. **Grant of Planning Variance.** As set forth in the factual findings above, the Board found that the circumstances of this case do not require the building or structure to be related to a street based on the fact that the non-improved access drive currently serves four (4) dwellings without any problems and/or safety issues and the addition of the proposed dwelling is not expected to create any problems and/or safety issues in the future provided that the following condition is imposed and complied with. The Board further found that the required condition is that the access easement must be widened with stone or pavement material to a minimum of 18-feet and a maximum of 20-feet to the satisfaction of the Township Engineer to ensure adequate and safe access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety. As such, the Board concludes that it can and should grant the statutory planning variance subject to the conditions set forth below.

4. **Minor Subdivision Review.** The Board’s conclusions as to minor subdivision review are as follows:

a. **Standards Applicable to Minor Subdivision Review.** N.J.S.A. 40:55D-47 is the starting point for consideration of a minor subdivision application and provides that “minor subdivision approval shall be deemed to be final approval of the subdivision.” N.J.S.A. 40:55D-50a is thus the focal point for consideration of the minor subdivision as it

provides that final subdivision approval “shall” be granted if the detailed drawings, specifications, and estimates of the application conform to the standards of all applicable ordinances and the conditions of preliminary approval. As such, if the application complies with all ordinance requirements, the Board must grant approval. Conversely, if the application does not comply with all ordinance requirements, the Board must deny approval. Cortesini v. Hamilton Planning Board, 417 N.J. Super. 201, 215 (App. Div. 2010). However, there are two exceptions: The first exception is where an application does not comply with all ordinance requirements but the Board grants relief in terms of variances or exceptions. In that case, the Board then must review the application against all remaining ordinance requirements and grant approval if the application complies with all such remaining requirements. The second exception is where the application does not comply with all ordinance requirements but a condition can be imposed requiring a change that will satisfy the ordinance requirement. In that case, the Board can either grant approval on the condition that the application or plan be revised prior to signing the plan to comply with the ordinance requirement or the Board can adjourn the hearing to permit the applicant the opportunity to revise the application or plan prior to the Board granting approval.

b. **Grant of Minor Subdivision Approval.** As set forth above in the factual findings, provided that the variances requested in the application are granted and that the conditions set forth below are imposed and complied with, the Board found that the documents referenced above will comply with all remaining applicable zoning ordinance regulations and all applicable subdivision ordinance requirements. As the Board has concluded that the variances sought in the application can and should be granted, the Board further concludes that minor subdivision approval can and should be granted, subject to the conditions set forth below being imposed and complied with.

5. **Imposition of Conditions.** Boards have inherent authority to impose conditions on any approval it grants. North Plainfield v. Perone, 54 N.J. Super. 1, 8-9 (App. Div. 1959), certif. denied, 29 N.J. 507 (1959). Further, conditions may be imposed where they are required in order for a board to find that the requirements necessary for approval of the application have been met. Alperin v. Mayor and Tp. Committee of Middletown Tp., 91 N.J. Super. 190 (Ch. Div. 1966) (holding that a board is required to impose conditions to ensure that the positive criteria is satisfied); Eagle Group v. Zoning Board, 274 N.J. Super. 551, 564-565 (App. Div. 1994) (holding that a board is required to impose conditions to ensure that the negative criteria is satisfied). Moreover, N.J.S.A. 40:55D-49a authorizes a board to impose conditions on a preliminary approval, even where the proposed development fully conforms to all ordinance requirements, and such conditions may include but are not limited to issues such as use, layout and design standards for streets, sidewalks and curbs, lot size, yard dimensions, off-tract improvements, and public health and safety. Pizzo Mantin Group v. Township of Randolph, 137 N.J. 216, 232-233 (1994). See, Urban v. Manasquan Planning Board, 124 N.J. 651, 661 (1991) (explaining that “aesthetics, access, landscaping or safety improvements might all be appropriate conditions for approval of a subdivision with variances” and citing with approval Orloski v. Ship Bottom Planning Board, 226 N.J. Super. 666 (Law Div. 1988), aff’d o.b., 234 N.J. Super. 1 (App. Div. 1989) as to the validity of such conditions.); Stop & Shop Supermarket Co. v. Springfield Board of Adj., 162 N.J. 418, 438-439 (2000) (explaining that site plan review “typically encompasses such issues as location of structures, vehicular and

pedestrian circulation, parking, loading and unloading, lighting, screening and landscaping” and that a board may impose appropriate conditions and restrictions based on those issues to minimize possible intrusions or inconvenience to the continued use and enjoyment of the neighboring residential properties). Further, municipal ordinances and Board rules also provide a source of authority for a board to impose conditions upon a developmental approval. See, Cox and Koenig, New Jersey Zoning and Land Use Administration (Gann 2020), sections 28-2.2 and 28-2.3 (discussing conditions limiting the life of a variance being imposed on the basis of the Board’s implicit authority versus by virtue of Board rule or municipal ordinance). Finally, boards have authority to condition approval on review and approval of changes to the plans by Board’s experts so long as the delegation of authority for review and approval is not a grant of unbridled power to the expert to approve or deny approval. Lionel Appliance Center, Inc. v. Citta, 156 N.J. Super. 257, 270 (Law Div. 1978). As held by the court in Shakoor Supermarkets, Inc. v. Old Bridge Tp. Planning Board, 420 N.J. Super. 193, 205-206 (App. Div. 2011): “The MLUL contemplates that a land use board will retain professional consultants to assist in reviewing and evaluating development applications” and using such professional consultants to review and evaluate revised plans “was well within the scope of service anticipated by the applicable statutes. It was the Board, and not any consultant, that exercised the authority to approve the application.” The Board concludes that the conditions set forth below are warranted and should be imposed on all of the above-mentioned bases.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD, BY MOTION DULY MADE AND SECONDED ON DECEMBER 8, 2020, THAT THE FOLLOWING RELIEF IS GRANTED SUBJECT TO THE CONDITIONS SET FORTH BELOW:**

**C. RELIEF GRANTED**

1. **Grant of “C(1)” Front Yard Variance to Allow Existing Dwelling to Remain in its Existing Location after Subdivision.** Subject to the conditions set forth below being imposed and complied with, the Board hereby grants a “c(1)” variance from ordinance section 21-15.1.d.1. / Table 501 as to minimum front yard setback for lot 4.01 where 100 feet is required, to allow 40.5 feet which exists to the south and 76.3 feet which exists to the east measured from the access easement, which will allow the existing dwelling to remain in its existing location after subdivision.

2. **Grant of “C(2)” Variance as to Frontage on a Public Street.** Subject to the conditions set forth below being imposed and complied with, the Board hereby grants a “c(2)” variance from ordinance section 21-21.2.a to allow lot 4.01 not to have frontage on a public street where frontage is required.

3. **Grant of “C(2)” Variance from Lot Frontage Requirement.** Subject to the conditions set forth below being imposed and complied with, the Board hereby grants a “c(2)” variance from ordinance section 21-15.1.d.1. / Table 501 to allow a lot frontage for lot 4.02 of 25 feet along the public right of way where 125 feet is required.

4. **Grant of “C(2)” Variance from Lot Frontage Requirement.** Subject to

the conditions set forth below being imposed and complied with, the Board hereby grants a “c(2)” variance from ordinance section 21-15.1.d.1. / Table 501, where 125 feet of lot frontage along the public right of way is required, to allow zero (0) feet of lot frontage for lot 4.01 along a public right of way.

5. **Grant of Statutory Planning Variance.** Subject to the conditions set forth below, the Board hereby grants a planning variance pursuant to N.J.S.A. 40:55D-36 from the requirement in N.J.S.A. 40:55D-35 that no permit be issued for the construction of a building unless the lot on which the building will be constructed abuts an official and fully improved street, and for direction to issue a permit for a building not related to an official and fully improved street.

6. **Minor Subdivision Approval.** Subject to the conditions set forth below being imposed and complied with, the Board hereby grants minor subdivision approval of the proposed subdivision.

#### **D. CONDITIONS**

1. **Revisions to the Site Plans for Approval.** Revisions to the site plans referenced above shall be made by notes and/or drawings to the satisfaction of the Township Planner and Board engineering expert by September 16, 2021 (which is within six (6) months of the adoption of the within resolution on March 16, 2021) to incorporate the comments emanating in the following letters and/or memos prepared by the following Board and/or Township professionals and/or as discussed by the Board on the record during the hearing on the application provided below. In the event that the applicant fails to make the revisions as required and/or fails to obtain signatures on the site plans as required, all within said time period, or extension thereof as granted by the Board, the approval shall expire and become automatically null and void. (The Board notes that, in the absence of the within time limitation condition, it would decline to grant conditional approvals and, instead, would continue the hearing on an application for no more than a six month period to provide the applicant with the opportunity to revise the plat, plans and documents and, failure by the applicant to resubmit same to the Board within that period or submission within that period but failure of the applicant to make all the required revisions, would result in denial of the application.) Any dispute(s) concerning satisfaction of any conditions related to the revisions of the plans/plats may be brought to the Board for resolution by written letter application submitted by the applicant without the necessity for public notice but on written notice to the Township Engineer and Township Planner.

a. **Following comments emanating from the memo to the Board from David Schley, PP, AICP (Township planner) dated August 7, 2020:**

- (1) Intentionally omitted as no revisions are required.
- (2) Intentionally omitted as no revisions are required.
- (3) Intentionally omitted as no revisions are required.

- (4) Intentionally omitted as no revisions are required.
- (5) The zoning schedule must be clarified/corrected with regard to the 60.5' front yard specified for lots 4 and 4.01. The schedule appears inconsistent with the plan.
- (6) The steep slopes mapping and calculations must be revised to be based on 10' (not 2') contour intervals.
- (7) The Tree Replacement Plan table must be revised to be consistent with the Tree Schedule relative to the number of trees greater than or equal to 10" diameter that will be removed and, additionally, a tree replacement plan/schedule shall be provided for all trees that were previously removed without permits.
- (8) The proposed replacement trees shall be native species and must be specified at planting sizes of at least 2.5" – 3" caliper for shade trees, 8' – 10' high for ornamental trees and 6'-8' high for evergreen trees.
- (9) The spacing between the proposed maple trees shall be increased beyond the +/-10' spacing proposed.
- (10) The submitted application for tree removal permit indicates that the number of trees removed from the site within the past two years is unknown, though in July of 2019 the applicant obtained from the Township Engineering Department a permit for tree removal which had previously occurred in the area of the proposed dwelling. The plans shall be revised to include replacement trees for all previously removed living trees.
- (11) The dwelling cross section on sheet 4 must be amended to identify the proposed "finished grade" calculated in accordance with the definition of "height of structure" in ordinance section 21-3.1 of the Land Development Ordinance. As stated in the Definition, the calculation of height at the time a construction permit application is submitted will be based upon the finished grade identified on the approved subdivision plan.
- (12-18) Intentionally omitted as addressed in subsequent conditions.

b. **Following comments emanating from the memo to the Board from David Banisch, PP, AICP (Board planning expert) dated August 14, 2020:**

- 1 - 9. Intentionally omitted.
10. Sheet 3 of 5 identifies three (3) interconnected catch basins at the end of Spruce Street. One on Lot 25 within the access and drainage easement and two (2) on existing Lot 4. Sheet 2 of 5 does not identify one of the existing catch basins on Lot 4 that will be relocated onto proposed Lot 4.02 if the subdivision is approved. That is the catch basin located closest to the stub end of Spruce Street on the north side of the gravel driveway. It is located in overgrowth and it appears that soils are potentially eroding from around the catch basin into it.

- a. Plans shall be revised to address this condition with soils removed from proximity to the basin. This condition shall be corrected with grading and revegetation.

11. Proposed Lot 4.02 is infill development among existing residentially developed properties to the north, east and south.

- a. Revise the plans to add landscaping to buffer the common property line with Lot 24 to the east (23 Spruce Street).
- b. Lot 5 to the north (28 Ash Street) appears to include a row of evergreen shrubs on site to buffer the dwellings from proposed Lot 4.02; however, deciduous growth occupies the proposed Lot 4.02 and Lot 5 common property line and a leaves-off season inspection of the property line screening may indicate the need for buffer plantings along or in the vicinity of the common property line between proposed Lot 4.02 and Lot 5.
  - i. Revise the plans to install rows of evergreen tree plantings along or in close proximity to the common property lines between proposed Lot 4.02 and Lots 24 & 5. Add a note to the plans stating that the extent of plantings shall be determined by a field inspection by the Board's Landscaping Subcommittee (during "leaves off" conditions).

12. Overhead electric and telephone/cable utility lines extend from a utility pole on existing Lot 4 (proposed Lot 4.01) to the west exterior wall of the dwelling on Lot 24 to the east (23 Spruce Street). The utility lines cross proposed Lot 4.02 and are relatively low hanging. Plans indicate that all utilities are to be installed underground on Lot 4.02. It appears the overhead wires that extend from utility pole on Lot 4 to the dwelling on Lot 24 will require relocation by the development of proposed Lot 4.02. Plans do not indicate any proposed utility relocate to remedy this situation.

- a. Add a note to the plans stating that any utility relocation for Lot 24 that is made necessary by the development of proposed Lot 4.02 shall be the responsibility of the applicant and coordinated with the property owner of Lot 24 prior to the issuance of a building permit for construction on proposed Lot 4.02.

13. Intentionally omitted.

14. Intentionally omitted.

2. **Subdivision to be Perfected by Map or Deeds Subject to Review and Approval by Township Engineering Department and the Township Attorney.** The

subdivision shall be perfected by map or deeds which shall be subject to the review and approval of the Township Engineering Department and the Township Attorney prior to recording with the County Clerk. The map or deeds must specify the proposed lot numbers shown on the plans, i.e., lot 4.01 for the existing dwelling and lot 4.02 for the proposed dwelling, and that the street address for the proposed dwelling will be 29 Spruce Street. See condition #3 below as to the no further subdivision restriction which shall be included in the subdivision deeds if the subdivision is perfected by deeds or recorded by separate documents if the subdivision is perfected by map. If the subdivision is perfected by map, the map shall include a note stating that "Lot 4.01 and lot 4.02 shall not be further subdivided and a restrictive covenant / deed restriction shall be recorded which shall run with the land as to both lot 4.01 and lot 4.02 prohibiting further subdivision."

3. **Restriction Against Further Subdivision.** Lot 4.01 and lot 4.02 shall not be further subdivided and a restrictive covenant / deed restriction shall be recorded which shall run with the land as to both lot 4.01 and lot 4.02 prohibiting further subdivision. The restrictive covenant / deed restriction shall be subject to the review and approval of the Township Engineering Department and the Township Attorney prior to recording with the County Clerk. The restrictive covenant / deed restriction shall be included in the subdivision deeds if the subdivision is perfected by deeds. The restrictive covenant / deed restriction shall be recorded as separate documents if the subdivision is perfected by map.

4. **Pre-Construction Meeting.** The applicant shall attend a pre-construction meeting with the Township Engineering Department prior to the start of any construction activity.

5. **Engineering Permit Required for Work Within the Spruce Street Right-of-Way.** An engineering permit shall be obtained prior to any work within the Spruce Street right-of-way.

6. **Spruce Street to Remain Unobstructed During Construction.** All construction vehicle and equipment parking and storage as well as all other activities and storage related to construction taking place on lot 4.02 shall occur on lot 4.02, and at no time shall such activities and/or storage occur on Spruce Street or on any other properties.

7. **Duty to Repair Roads Damaged by Construction Activities.** The applicant shall have a duty to repair any and all roads that may be damaged by construction activities to the satisfaction of the Township Engineering Department. This shall include gravel roads as well as paved roads.

8. **Widening of Access Road Over Access Easement.** The applicant shall widen the access road over the access easement along Lot 4 to no less than 18-feet and no more than 20-feet by stone and/or paved material.

9. **Inspection of Installed Landscaping by the Planning Board's Landscaping Committee.** Prior to the issuance of a certificate of occupancy for lot 4.02, all installed landscaping planted to satisfy buffering or tree replacement requirements of the within approvals shall be subject to inspection by a Board-appointed landscaping committee during



“leaves off” conditions. The applicant shall notify the Township Engineer and Township Planner upon completion of the landscaping to initiate scheduling of the inspection. The owners of property within 200 feet of lot 4.02 shall be permitted to attend the field inspection and to comment on the landscaping, and it shall be the responsibility of the applicant to notify those property owners once the inspection is scheduled, and the applicant shall be required to provide at least 10-day written notice to those property owners of the date and time of the inspection. The applicant shall provide additional plantings and/or make other changes to the landscaping as deemed necessary and appropriate by the landscaping committee to better achieve the purposes of the landscaping. Any dispute(s) concerning the determinations of the landscaping committee may be brought to the Board for resolution by written letter application submitted by the applicant without the necessity for public notice but on written notice to the Township Engineer and Township Planner.

10. **Replacement of Trees Previously Removed from the Rear of the Property.** In accordance with the testimony and discussion during the December 8, 2020 hearing session, the applicant shall plant some of the required replacement trees in the rear, westerly portion of the property, in locations where trees were previously removed. The applicant may defer planting these trees until after the inspection by the Board’s landscaping committee, so that the applicant may seek guidance from the landscaping committee as to the locations of these replacement trees.

11. **Minimum Northerly Side Yard Setback on Lot 4.02.** The dwelling constructed on lot 4.02 shall be no closer than 60.3 feet to the northerly side property line.

12. **Development Fee.** A development fee shall be submitted for lot 4.02 in accordance with section 21-86 of the Land development Ordinance.

13. **Submission of Digital Plans.** The applicant shall submit digital copies of all plans and documents in formats acceptable to the Township Engineering Department.

14. **Easements, Dedications and Conveyances.** Any and all easements, dedications and/or conveyances running to and in favor of the Township which are proposed on the plan and/or subdivision plat and/or required as a condition of the approval resolution shall, in addition to being identified on the applicant’s plans, maps and/or plats, be contained in separate documents if required by the Township Attorney to be prepared at the direction of the Township Attorney after the metes and bounds descriptions and maps of the easement, dedication and/or conveyance areas have been reviewed and approved by the Township Engineer. Said documents shall specifically outline the grant of the easement, dedication and/or conveyance and its purpose and shall contain a metes and bounds description and maps of the easement, dedication and/or conveyance area. All such documents shall then be recorded and, upon completion of the recording process, be transmitted to the Township Clerk for maintenance with other title documents of the Township.

15. **Time to Perfect Subdivision.** In accordance with N.J.S.A. 40:55D-47d, the applicant shall perfect the subdivision by September 22, 2021 (which is within 190 days from March 16, 2021, the date the within resolution is adopted) unless otherwise extended pursuant to

N.J.S.A. 40:55D-47f or -47g, in which case the subdivision shall be perfected by the extended date. In the event that the subdivision is not perfected within the time limitations provided, the within approvals shall automatically expire and become null and void.

16. **Time to Obtain Construction Permits, Commence and Complete Construction, and Obtain Certificates of Occupancy.** In accordance with Board Rule 2:4-9.8, the applicant shall apply for and obtain a construction permit for the proposed dwelling on lot 4.02 by March 16, 2023 (which is within two years of the adoption of the Board's resolution on March 16, 2021). If during said two year period, or extension thereof as granted by the Board, the applicant fails to obtain a construction permit, the approval shall automatically expire and become null and void. The applicant shall also have one year from the date of issuance of the construction permit to commence construction and obtain a permanent certificate of occupancy. If during said one year period, or extension thereof as granted by the Board, work is not commenced and/or a permanent certificate of occupancy is not obtained, the within approvals shall automatically expire and become null and void.

17. **Escrow Fees.** In accordance with Board Rule 2:4-9.6, any and all outstanding escrow fees shall be paid in full and the escrow account replenished to the level required by ordinance within 10 days of the adoption of a resolution, within 10 days of written notice that a deficiency exists in the escrow account, prior to signing the subdivision plat or deed perfecting the subdivision, prior to the issuance of any permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance (whichever is applicable). Failure to abide by this condition after receiving written notice shall result in the relief granted terminating and becoming null and void. All written notices shall be sent to the applicant directly. The Township may elect to send a courtesy copy to the applicant's attorney but any such courtesy copy shall have no legal effect.

18. **Specific Approvals and Permits.** The within approval shall be conditioned upon the applicant obtaining permits and/or approvals from all applicable agencies and/or departments including (if applicable) but not necessarily limited to the following municipal, county and/or state agencies and/or departments:

- a. Township Board of Health;
- b. Somerset County Department of Health;
- c. Bernards Township Sewerage Authority;
- d. Somerset - Union Soil Conservation District certification / approval including of the soil erosion and sediment control plan;
- e. Somerset County Planning Board unconditional approval, and
- f. NJDEP approval of any aspect of the proposed development within its jurisdiction.

19. **Subject to Other Approvals and Laws.** The within approval and the use of the property remains subject to all conditions of prior Board approvals not eliminated or modified by the within approval. The within approval and the use of the property are also conditioned upon and made subject to any and all laws, ordinances, requirements and/or regulations of and/or by any and all municipal, county, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of the property are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. In the event of any inconsistency(ies) between the terms and conditions of the within approval and any approval(s) required above, the terms and/or conditions of the within approval shall prevail unless and until changed by the Board upon proper application.

\*\*\*\*\*

**VOTE ON MOTION DULY MADE AND SECONDED ON DECEMBER 8, 2020:**

**THOSE IN FAVOR: ASAY, ESPOSITO, MCNALLY, HURLEY, MANDUKE, MASTRANGELO. DAMURJIAN & PIEDICI.**

**THOSE OPPOSED: NONE.**

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The above memorializing resolution was adopted on March 16, 2021 by the following vote of eligible Board members:

<u>Members</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
ASAY	X			
ESPOSITO	X			
MCNALLY	X			
HURLEY		(No longer a Board member)		
MANDUKE	X			
MASTRANGELO				X
DAMURJIAN	X			
PIEDICI	X			

I, Cyndi Kiefer, Secretary to the Planning Board of the Township of Bernards in the County of Somerset, do hereby certify that the foregoing is a true and correct copy of the memorializing resolution duly adopted by the said

2021-03-15-v4

Planning Board on March 16,  
2021.



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**CYNDI KIEFER, Board Secretary**



# Resolution of the Township of Bernards Planning Board

277 S. Maple Ave  
908-204-3026; www.bernards.org

## Resolution #21-06

Change Order #1 – Increase of \$1,410.00

Professional Services Contract for 2020 Planning Board Planner

Awarded to Francis J. Banisch III PP/AICP, NJ Lic # 33L100168600 and David J. Banisch PP/AICP,  
NJ Lic # 33L100556500 of the Firm Banisch Associates, Inc.

For a New Not to Exceed Amount of \$6,410.00  
(Excluding Charges covered by Escrow Funds)

**WHEREAS**, the Bernards Township Planning Board adopted Resolution #20-02 on January 7, 2020 in the amount of \$ 5,000.00 appointing Francis J. Banisch III PP/AICP, NJ Lic. # 33L100168600 and David J. Banisch PP/AICP, NJ Lic # 33L100556500, of the firm Banisch Associates, Inc., as Planning Board Planner; and

**WHEREAS**, the Chief Financial Officer has certified that funds will be made available in the 2020 Current Professional Planning Services of the Planning Board Other Expenses, account #0-01-21-180-204; and

**NOW, THEREFORE BE IT RESOLVED**, by the Bernards Township Planning Board of the Township of Bernards, Somerset County, New Jersey that the Purchasing Agent is hereby authorized to issue a change order to; Francis J. Banisch III PP/AICP, NJ Lic. # 33L100168600 and David J. Banisch PP/AICP, NJ Lic # 33L100556500, of the firm Banisch Associates, Inc., in the amount of \$1,410.00 for a new not to exceed amount of \$6,410.00.

**NOW THEREFORE BE IT FINALLY RESOLVED**, by the Bernards Township Planning Board of the Township of Bernards, Somerset County that this resolution be placed on file and available for public inspection in the office of the Bernards Township Planning Department.

I agree to the terms as stated in the Resolution and by signing this document, I am committed to following all terms of this award.

  
\_\_\_\_\_  
Francis J. Banisch III, PP/AICP, NJ Lic # 33L100168600

  
\_\_\_\_\_  
David J. Banisch, PP/AICP, NJ Lic # 33L100556500

### EXPLANATORY STATEMENT:

Continued planning services from David Banisch are required in order to begin review of the Township's Master Plan and development regulations.

Date: 03/09/2021 Cyndi Kiefer, Board Secretary

**CFO CERTIFICATION**

I, Sean McCarthy, Chief Financial Officer of the Township of Bernards, hereby certify the line item appropriations to be charged are Planning Board Other Expenses, for Professional Planning Services, account Fees and Compensation #1-01-21-180-204 for an additional amount of \$ 1,410.00 for a new not to exceed amount of \$ 6,410.00.

Date: March 11, 2021



Sean McCarthy, Chief Financial Officer

**PURCHASING CERTIFICATION**

I hereby certify that I have reviewed this resolution for accuracy.

Date: March 11, 2021



Francis J. Decibus, QPA  
Purchasing Agent

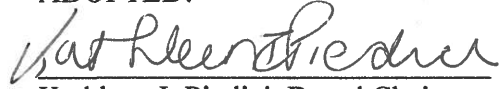
Dated: March 16, 2021

ATTEST:



Cyndi Kiefer, Board Secretary

ADOPTED:



Kathleen I. Piedici, Board Chairman