

**BOROUGH OF MIDLAND PARK  
COUNTY OF BERGEN  
PLANNING BOARD**

**RESOLUTION GRANTING SITE PLAN AND VARIANCE APPROVAL FOR  
PREMISES KNOWN AS BLOCK 3, LOT 24.01,  
KNOWN AS 1 GODWIN AVE., BOROUGH OF MIDLAND PARK  
COUNTY OF BERGEN, STATE OF NEW JERSEY**

**WHEREAS**, an application has been submitted to the Borough of Midland Park Planning Board by 1 Godwin Ave., LLC for site plan and variance approval for the premises known as Block 3, Lot 24.01 on the current tax assessment map of the Borough of Midland Park; and

**WHEREAS**, a public hearing of the Planning Board was held on Monday, October 18, 2021 (in which due notice was given) and during which the Planning Board heard testimony by the applicant and its consultants, representatives, and experts, and the Planning Board reviewed and considered all correspondence, maps, plats, reports and public input, if any, on the application, as well as a presentation by the applicant's attorney, Bruce Whitaker, Esq., together with all exhibits submitted as evidence; and

**WHEREAS**, during the public hearing the following was introduced by the applicant as exhibits:

- A-1 Application;
- A-2 Affidavit of Publication and Notice to Public;
- A-3 Plans prepared by William B. Page, Page Consultants, Inc., consisting of 7 pages, with an original date of July 20, 2021, with pages 1-3 updated through September 28, 2021;
- A-4 Plans prepared by William B. Page, Page Consultants, Inc., consisting of 7 pages, with an original date of July 20, 2021, with pages 1-3 and 5 updated through October 18, 2021;
- A-4 Plan prepared by Buchholz Architects dated July 22, 2021, consisting of one page;
- A-4 Plan prepared by William B. Page, Page Consultants, Inc., dated July 20, 2021, consisting of one page;
- A-5 Report prepared by Sola Salon Studios;
- A-6 Floor plan of proposed Sola Salon Studio.

**WHEREAS**, the submissions by Applicant have been reviewed by the Planning Board engineers, LAN Associates, Inc., and their comments and recommendations are set forth in their letter to the Planning Board dated October 13, 2021 ("LAN Report"); and

**WHEREAS**, the Planning Board also considered the following documents:

1. Inter-office memo from the Midland Park Fire Prevention Official which is dated as received on October 6, 2021;
2. Inter-office memo from the Midland Park Traffic Officer which is dated as received on October 6, 2021;
3. Inter-Office memo from the Superintendent of Public Works; and

**WHEREAS**, the property has the following existing variance and site plan design conditions:

Front yard setback: 25 feet required; 15.5 feet existing;

Maximum impervious coverage: 75% permitted, 92.35% existing;

Parking in front yard prohibited; existing parking adjacent to Godwin Ave and Cottage Street violate this restriction;

Parking must be set back 6 feet from rear or side yard lot line: requirement not met along west and south property lines;

Improved lot coverage not permitted within five feet of lot line: requirement not met along west and south property lines;

Minimum parking aisle width of 24 feet required for 90-degree parking: created by extending deficient parking space length in limited area;

Loading space required: no loading space exists or is proposed; and

**WHEREAS**, the applicant requests the following variance relief:

Number of parking spaces: 131 required, 68 provided;

Maximum of one sign permitted on each façade: two signs proposed on west facing façade;  
and

### **Testimony**

**WHEREAS**, The Planning Board heard testimony from the applicant's representatives as follows:

Bruce Whitaker, attorney for the applicant, gave the Board an overview of the application. The site is currently improved with a commercial structure that has not been used for a number of years. The applicant proposes to use the basement office for its own use and has a lease with Sola Salon for a beauty salon for the entire main floor. Sola Salon is not a prototype beauty salon and the

significance of the difference is that the parking requirement will be less intense than envisioned by the zoning ordinance requirements for a beauty salon. 131 parking spaces are required pursuant to the zoning ordinance and the site currently has 68 available.

In describing the Sola Salon franchise, there are 500 locations across the country. The floor space is leased to independent contractors. Each leases a specific area of the floor as shown on the exhibits that will be presented. The independent contractors set their own hours and each contractor averages about 35 hours a week, which can vary.

The basement office will be used as administrative offices by the owner of the building with a maximum of three or four employees onsite at any time. This will require less parking than what's required for a normal office space use.

The variances requested with respect to the bulk variances at site are all existing as the site is fully developed. He noted that the site has previously had more intense uses such as a medical office with eleven doctors.

Rich Steier appeared on behalf of the applicant. He is one of the principles of the applicant. The building is now vacant. There are two floors of about 7,500 square feet each. Both floors are currently improved with offices and examination type rooms. The building was previously used for doctor's offices on both floors. It was also occupied by a security firm in part of the building.

The applicant proposes to use one-third of the basement for its own use. Generally, it would be only one or two people at the site but no more than four at any time, which would be very rare. There would be no visitors. Normal office hours will be Monday through Friday, 9:00 a.m. to 5:00 p.m.

He noted that the building has been vacant for 8 years.

A board member noted that the floor plan showed six offices and questioned why six offices were needed for only four people. The witness testified that they were just designing to use up space and the number of people would be limited as represented.

The applicant proposed to completely renovate the building with a new roof, façade, and landscaping. He estimated that the cost of renovation would be approximately three million dollars, including tenant upgrades.

Alex Krukis, testified on behalf of the applicant. He is the director of operations and construction for the New Jersey franchises of Sola Salon. He is responsible for planning and design of facilities and the construction and ongoing operation. There are six current franchises in New Jersey. The stylists that lease the space are independent professionals with a minimum of 3 years' experience, are licensed and have an established clientele.

East stylist has a designated area that is leased and they are solely responsible for that area. That area is not used by any other stylist. Each stylist's area is fully enclosed and locked and only that stylist has access. There is only one client in the space at a time. This reduces the number of

vehicles and the parking requirement. It was noted that although some suites have two chairs, there is only one client present at a time as the other chair may be a washing station.

Although the hours that the site will be open will be 8:00 a.m. to 10:00 p.m. 7 days a week, most stylists typically work 3 to 4 days a week for a maximum of 35 hours. Therefore, the site is not entirely used at any one time by all of the stylists. No walk-ins are permitted. All existing customers are clientele of the individual stylist and are scheduled in advanced. There is approximately 110 square feet for each stylist and there's no area for a waiting room for other customers. Access to the building is controlled and no access is permitted if there is not an appointment.

In evaluating a potential site, he relies on the data from all 500 existing franchise sites and then applies local parking criteria. He has experienced no parking issues at other locations in New Jersey.

Sola Salon prepared the parking study which was introduced as Exhibit A-5. The report indicates that based on their studies, the maximum occupancy normally does not exceed 60 percent even during the peak demand period. Based on their national data, 1.5 parking spaces per styling chair is sufficient. In evaluating a location, the parking demand for operators in New Jersey are analyzed and based on this analysis, the parking at this site would be sufficient. Calculating the number of spaces required based on 1.5 spaces per stylist results in a requirement of 60 spaces, which is met at this site.

In response to an inquiry from a board member, franchisees may not sublease their space to another user as that is not permitted by New Jersey state license requirements.

William Page testified on behalf of the applicant. He was accepted by the Planning Board as an expert planner and engineer.

He introduced Exhibit A-4 which is a set of the latest drawings which addressed the comments in the board engineer's report. He noted that the site is already improved, and the parking layout exists. The applicant proposes additional landscaping along Godwin Ave. which will be an improvement, wall pack lights on the building are proposed and a pole light near the dumpster area. All lights will be shielded. All lighting levels will meet the requirements of the zoning ordinance. In reviewing the comments from the Board of Engineer, the applicant can comply with all of the comments. He noted the existing variance conditions on the site that exist and will not be affected by this application.

He acknowledged that several parking spaces back up into an aisle with less than the 24 feet required by the zoning ordinance. This is condition is created because a number of existing parking stalls are deficient in length and the length has been increased to meet the requirements of the zoning ordinance, resulting in a reduction in the aisle width. In response to a comment from a board member, he also acknowledged that the aisle on the south side of the property significantly exceeds the 24-foot maximum required aisle width. He acknowledged that the parking spaces along the south side of the property are right up against the property line and it would be possible to reduce the width of the aisle and move those spaces further onto the property and provide a buffer between this

use and the residential use on the adjoining property. This would require reducing one parking space on the west side of the property and moving the dumpster area.

In evaluating the variance conditions, the only new variance created is the parking variance by virtue of the proposed beauty salon use. All of the existing bulk variance conditions currently exist and cannot be reduced without the loss of parking spaces. The property has been used in its improved condition for a long period of time without any detriment to the surrounding area. Referencing Exhibit A-3, he described the additional shrubs and grasses proposed to improve the landscape area. This represents an improvement of the aesthetics of the property. Along with the west side of the property, there is insufficient room to add significant landscaping as a buffer to the adjoining commercial use.

With respect to the parking variance, it is his opinion that the proposed use is significantly different than the normal and customary beauty salon type use and as may have been considered when the parking requirements for such type use were put in the ordinance. It is his opinion that this meets the criteria of NSJA 40: 55D-70c2 in that the parking provided for the different type of use will be sufficient.

### **Public Comment and Questions**

**WHEREAS**, the matter was open to the public for questions of the witness and comments to the application. No one from the public appeared.

### **Findings of Fact and Conclusions of Law**

**WHEREAS**, the Planning Board makes the following findings of fact/conclusions of law:

1. The site is currently improved with a commercial structure and existing site improvements. The overall condition of the site is somewhat deteriorated and it has been vacant for a lengthy period of time.
2. The uses proposed by the applicant are permitted in the B-3 zone.
3. All of the "bulk" variances noted are existing conditions. The applicant proposes to install additional landscaping which will improve the general appearance of the site, especially from Godwin Ave, which is a main thoroughfare. The applicant also proposes building interior and exterior renovations which will improve the appearance of the building and the site.
4. The parking on the site has been used as it exists for a lengthy period of time. Because of the unique shape of the property it would be impossible to remove the variance conditions without removing a significant number of parking spaces, which would make the property difficult to use for permitted uses.
5. With respect to the variance required for the signage on the west side of the building, although technically two signs are shown which exceeds the ordinance limitation of

one sign, the signs consist of a logo and wording identifying the tenant and could be considered as one sign together. The design for the Cottage Street side of the building is similar, except for the distance between the two signs.

6. The applicant has agreed to reduce the aisle width along the south side of the building and move the existing parking spaces in approximately 8 feet and create a landscape buffer between those parking spaces and the adjoining residential property. This would require the loss of only one parking space but would represent a significant improvement in the appearance of the site, and the buffering between the residential property and offset the loss of one parking space.
7. The method of conducting the beauty salon business is significantly different than a normal beauty salon in that the area for each stylist is limited, and the number of clients present at one time for each stylist is limited. As there is no waiting area, and appointments are strictly controlled, the requirement for parking is significantly reduced from a normal beauty salon operation as may have been contemplated for the requirements in the zoning ordinance. The testimony of the representative from Sola Salon is persuasive in that the entity has significant experience in operating this type of operation and compelling data regarding the need for parking. In addition, the limitation of the number of persons present in the office area reduces the need for parking spaces. Accordingly, the criteria for a C2 variance is met as the parking will be sufficient for the uses proposed. There is no detriment to the public as the improvements to the property will be significant and the number of parking spaces will be sufficient, which meets the intent of the zoning ordinance.

**WHEREAS**, the Planning Board has considered the request by the applicant for the variances and waivers set forth above. In considering the overall application to be in accordance with sound and proven zoning and planning principles, the Planning Board has determined that, based on the above-mentioned facts and the testimony of the witnesses, the requested variances can be granted without causing a substantial detriment to the public good, nor substantially impairing the intent and purpose of the Midland Park Zoning and Land Use Ordinance.

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Board that based upon the above findings of fact and conclusions of law that the application of 1 Godwin Ave., LLC for preliminary and final site plan approval on those premises known as Block 3, Lot 24.01, 1 Godwin Ave., along with the waivers and variances set forth herein in accordance with the plans and exhibits is hereby granted; and

**BE IT FURTHER RESOLVED** that the approvals set forth above are subject to the following conditions:

1. That the granting of the application is subject to the approval of the Bergen County Planning Board.
2. All improvements will be constructed in accordance with the Plans. Notwithstanding, no approval granted herein shall be deemed to supersede any

building code requirements.

3. The applicant shall obtain and comply with any federal, state, county, and borough government rules, ordinances, or regulations with regard to the granting of the applications hereto, including the payment of all fees and escrows, established by the borough for the review of the subject application.
4. To the extent not set forth above, the applicant shall comply with any and all applicable requirements of the Federal Americans with Disabilities Act.
5. All lighting on the site shall be restricted to this site and shall not spill over on any other sites and will meet all lighting minimum and maximum requirements of the Zoning Ordinance. The applicant shall install shields on all exterior lighting. The Planning Board and the Borough of Midland Park will have the right to review and require modifications to the site lighting for a period of 1 year from the date of the issuance of a final certificate of occupancy for both tenants.
6. This approval is subject to all of the representations made by the applicant and its' experts.
7. The applicant shall obtain and submit to the Planning Board a certification from the Bergen County Soil Conservation District, if required.
8. The applicant will address all of the comments contained in the LAN Report.
9. The parking spaces along the south property line will be moved north approximately 8 feet off of the property line and the applicant will install a landscape buffer along the south property line in accordance with the requirements of the Zoning Ordinance and subject to the approval of the Board engineer.
10. All damaged sidewalks and curbing along Godwin Avenue and Cottage Street will be repaired/replaced, subject to the review and approval of the Board engineer.
11. The beauty salon operation on the first floor will be the type as described in this resolution and may not be changed in any way without the approval of the planning board. No additional workspaces or chairs may be added from what is shown on the plan submitted. No waiting area may be provided.
12. Exterior lawn sprinklers will be installed along Godwin Avenue.
13. The office area on the lower level only may be occupied by the owner of the property and there may be a maximum of 5 persons present at any time. No additional, useable floor area on this floor is permitted without the approval of the Planning Board.

**BE IT FURTHER RESOLVED** that the Chairman and the Secretary of the Board are hereby authorized to affix their signatures to this resolution granting approval for preliminary and final site plan and variances. The Secretary of the Board is hereby authorized to advertise the action taken by way of this resolution in the local newspaper and furthermore send certified copies of this resolution to the Borough tax assessor, construction code enforcement official, building sub-code official, zoning official, the borough attorney, and the applicant's attorney.

Approved: November 15, 2021

**Planning Board of the Borough of Midland Park**

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JESSICA HARMON, *Secretary*

By: \_\_\_\_\_  
KENT RIGG, *Chairman*