

February 25, 2024

Borough of Midland Park
Planning Board
280 Godwin Ave
Midland Park, NJ 07432

Attn.: Jessica Harmon

Via e-mail: jharmon@midlandparknj.org

Subject: Resolution Compliance Review
Jacobsen Real Estate, LLC
Site Modifications to
41 Birch Street
Block 26.01, Lots 31.02 & 31.03

Dear Ms. Harmon:

The applicant has provided several documents in order to demonstrate partial compliance with the conditions of their planning board approval, which was granted on 8/21/23 and memorialized on 9/18/23. The following documents have been submitted, which form the basis of our review:

1. Letter from Law Office of Eric David Becker, LLC, Dated 2/20/24
2. Bergen County Soil Conservation District Plan Certification, Dated 7/07/24
3. Letter from Environmental Technology Inc., Dated 2/16/24
4. Letter from Weissman Engineering Co., P.C., Dated 7/21/23
5. Draft Deed prepared by Eric David Becker, Esq.

The applicant indicates that several items remain outstanding. This partial submission was intended to provide the board with some information regarding the status of the applicant's completion of the resolution conditions.

Below are the conditions of approval, taken from the approved Planning Board Resolution. Below each condition are our comments regarding the status of each of those conditions.

1. *That the granting of the application is subject to the approval of the Bergen County Planning Board, if necessary.*

This general condition remains in effect.

2. *All improvements will be constructed or located in accordance with the Plans, except as may be set forth herein. Notwithstanding, no approval granted herein shall be deemed to supersede any building code requirements.*

This general condition remains in effect.

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.*

This general condition remains in effect.

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.*

This general condition remains in effect.

5. *All lighting on the site shall be restricted to this site and shall not spill over on any other sites.*

This general condition remains in effect.

6. *This approval is subject to all of the representations made by the applicant and its experts.*

This general condition remains in effect.

7. *The applicant shall obtain and submit to the Planning Board a certification from the Bergen County Soil Conservation District if required.*

A plan certification from BCSCD dated 7/07/23 has been provided.

8. *The applicant shall prepare a Deed merging the two lots into one lot, the form of which shall be submitted to the Board attorney and engineer for approval;*

A draft deed has been provided, showing the merged lots. There appears to be a typographical error on the lot line length of the first bearing/distance in the legal description of the draft deed. This should be corrected.

In section 3 of the draft deed, it indicated "Being commonly known as 41 & 37 Birch Street, Midland Park, NJ 07432". The site plan indicates that the 2-story frame dwelling on existing lot 31.03 is designated as #31. This should be clarified.

9. *The applicant shall submit an application for Flood Hazard Area verification for the vicinity of the area of work to the New Jersey Department of Environmental Protection and shall obtain any required NJDEP permitting relating to this project. A copy of all required NJSDEP permits should be provided to the Planning Board, which application shall include the drainage ditch located on the property.*

We have not yet been provided with a copy of a Flood Hazard Area verification for the site. A copy should be provided when it is submitted to NJDEP.

A letter from Environmental Technology Inc. (Dated 2/16/24) was provided describing the wetlands conditions on the site. ETI explains that there are wetlands and transition areas affecting the site, and that a portion of the existing concrete bins are within that transition area. However, because the concrete bins were constructed prior to July 1, 1988 (the date of the enactment of the Freshwater Wetlands Protection Act), their modification is not a regulated activity (as it pertains to wetlands regulations), and that the other proposed site alterations are located outside of the regulated wetlands transition area. As such, no NJDEP permitting (with regards to wetlands) is required.

The delineated wetlands and transition areas (as described in the ETI letter) should be shown on the revised site plan to demonstrate compliance with NJDEP regulations.

10. *Any salt that is stored on the property shall be covered from the elements to prevent runoff;*

The writer visited the site on 2/25/24, and it does appear as though the salt is stored in a covered enclosure.

11. *The four sheds shown on the plans along the east property line will be relocated to the area between the storage bins and the parking area near Birch Street. The plans shall be revised and the location of the sheds will be subject to the review and approval of the Board engineer;*

The writer visited the site on 2/25/24, and there are now three sheds located in the area between the storage bins and the parking area near Birch Street. The applicant indicates that fourth shed has been removed from the property. The site plan should be revised to show the exact location of these three sheds.

12. *The applicant shall plant Norway Spruce along the east property line from the rear of the 2 Story Metal Building to the rear property line. The plants shall be 8 to 10 feet high and planted 8 to 10 feet apart;*

The writer visited the site on 2/25/24, and there do appear to be several coniferous trees stockpiled on site, however at the time of the visit, they were not yet planted.

13. *There shall be no use of the 2 story frame dwelling located on current lot 31.03 without the approval of the Planning Board;*

The applicant has requested temporary relief from the requirement to vacate the 2-story dwelling, as the current residential tenant has requested to stay until the end of the school year so their high school senior child can complete the school year in town. The board should discuss this request and provide direction to the applicant.

Any future proposed use of the 2-story frame dwelling in question would require approval of the Planning Board.

14. *All equipment shall be removed from the railroad property and there shall be no further use of the railroad property by the applicant or other users of this property without the approval of the Planning Board;*

The writer visited the site on 2/25/24, and at the time of the visit, no equipment was noted to be parked on the railroad property adjacent to the subject property.

15. *The applicant shall submit calculations for the requirement of the number of parking spaces;*

The applicant indicates that parking calculations will be forthcoming.

16. *No accessory structure may be higher than twelve feet;*

This condition remains in effect.

17. *Any and all outstanding escrow fees shall be paid in full and the escrow account shall be replenished to the level required by ordinance within 30 days of the adoption of a resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance as applicable;*

This general condition remains in effect.

18. *Any conditions of approval stipulated to by the applicant during the hearing are incorporated herein, even if not specifically stated;*

This general condition remains in effect.

19. *The aforementioned approval shall be subject to all requirements, conditions, restrictions, and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein.*

This general condition remains in effect.

In order to expedite subsequent reviews, any revised plan submissions should include a point-by-point response indicating how each comment has been addressed. Feel free to contact me with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Erik Boe', with a long horizontal flourish extending to the right.

Erik Boe, PE, LEED AP

cc: Darryl Siss, Esq. (via email: darryl@trslawfirm.com)
David Becker, Esq. (via email: dbecker@davidbecker.esq.com)