



Law Office *of*
Eric David Becker LLC

Eric David Becker
Attorney at Law

253 Madison Avenue
Wyckoff, New Jersey 07481
Tel: 201-560-0822
Fax: 201-560 0824

dbecker@davidbeckerresq.com
www.davidbeckerresq.com

VIA EMAIL (mberninger@midlandparknj.org)

September 20, 2022

Mark Berninger, Zoning Official
Borough of Midland Park
Borough of Madison
Borough Hall
280 Godwin Avenue
Midland Park, NJ 07432

**RE: CLC Landscaping (tenant)/
Jacobsen Real Estate, LLC (landlord)
31 & 41 Birch Street
Midland Park, NJ 07432
(Block 26.01, Lots 31.02 & 31.03)**

*OK with me.
MMB
9/27/22*

Dear Mr. Berninger:

As you are aware I have been retained by Jacobsen Real Estate, LLC (landlord/owner), to provide legal representation as it attempts to resolve the encroachments with its neighboring property owner. At this time, CLC Landscaping (tenant) is operating on the above referenced property under a Temporary Certificate of Occupancy (TCO), which it is my understanding will expire on October 18, 2022. By way of this letter I am requesting a six (6) month extension of this TCO as we are still working on resolving this issue.

The undersigned has been in communication with the owner of the neighboring property (Kentshire Independent Senior Living / Richman Property Services) for a possible purchase of the portion of its property where the encroachments exist. As you can imagine, the development of a proposed subdivision plan, the financial arrangements to include a purchase price, and the levels of approval necessary from a large corporate entity have resulted in this requiring several months of negotiations and still require additional time to resolve this issue in its entirety.



I am available to discuss the additional time needed as to this extension, and if an appearance is deemed appropriate or necessary before the Planning Board, I will make myself available for that as well.

Very truly yours,

Eric David Becker, Esq.

cc: Darryl Siss, Esq. – Planning Board Attorney (via email)
Jessica Harmon – Planning Board Secretary (via email)
Glenn & Melissa Jacobsen (via email)

BOROUGH OF MIDLAND PARK – PLANNING BOARD MINUTES
DECEMBER 20, 2021

PLEASE TAKE NOTE:

ON MONDAY, DECEMBER 20, 2021, THE PLANNING BOARD OF THE BOROUGH OF MIDLAND PARK HELD A REGULARLY SCHEDULED MEETING IN THE MIDLAND PARK COUNCIL CHAMBERS, 280 GODWIN AVE., MIDLAND PARK, NJ. THE FORMAL MEETING BEGAN AT 7:30 P.M.

SUNSHINE LAW STATEMENT: This meeting is being held in accordance with the Sunshine Law, notice having been published according to law with a copy on file in the Borough Clerk's Office and a copy posted on the bulletin board in the Municipal Building.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Kent Rigg, Chairman	present	Ms. Stephanie Pantale	excused
Councilman Ken Kruis	present	Mr. Robert Mulder	present
Mayor Harry Shortway, Jr.	present	Alt. #1 Ms. Isabel Duffy	present
Mr. Michael Rau	present	Alt. #2 Mr. Bruce Goldsmith	present
Mr. David Wostbrock, Vice-Chair	present		

Attendance by Board Professionals: D. Siss, Attorney; E. Boe, Engineer; J. Burgis, Planner; B. Tombalakian, Traffic Consultant

Minutes of 11/15/21 meeting – approved

ZONING CERTIFICATES:

CLC Landscape Design – 41 Birch Street – BL 26.01 LT 31.02 – Richard Cording, applicant, sworn in – Mr. Cording took over construction division and does landscape design. Property will be used for offices and equipment storage; loading equipment and parking trucks. There is no existing site plan for this property, Mr. Cording only has a very old survey from the previous owner. Board recommends that an existing conditions survey be submitted. The Board questions the gas cans on site and if they're going to be welding; gas cans kept in a truck or trailer for use on job sites, they have a mechanic that welds for the purposes of maintaining their own equipment. The house and camper are not a part of the property he is leasing. Motion to approve the zoning certificate with a survey of existing conditions due in 90 days by Mr. Wostbrock, seconded by Councilman Kruis; all voted in favor. Mr. Cording was advised that the survey should be submitted to Mr. Boe for approval, he does not need to appear before the Board again unless there is an issue.

Yudin's Inc. – 300 Greenwood Avenue – BL 53 LT 4.01 – Robert Yudin, applicant, sworn in – uses the site for storage of major appliances. Mr. Yudin rents a space across the street and ran out of space, so he is renting this location for additional storage space. The Board brought up a comment from the Zoning Officer regarding the parking lot; Mr. Yudin's rental comes with one parking space, but they do not use it, since they park at the other location. The only time a vehicle is on site is when they load or unload. Motion to approve the zoning certificate by Mr. Wostbrock, seconded by Mayor Shortway; all voted in favor.

PUBLIC HEARING:

ABDD V. LLC/Dunkin' – 195 Godwin Avenue – BL 20.10 LT 5.01 – Councilman Kruis certified that he has listened to the prior hearing's recording and is eligible to vote; Mayor Shortway recused due to a conflict. Atty. Craig Feldman present on behalf of the applicant; continued application from the November meeting. Atty Feldman clarifies the settlement with the residential neighbor, Mrs. Ennis; the town or the Board are not obligated to enforce or follow-up on any post-construction matters that the applicant and Mrs. Ennis agreed to, except to the extent that some items like the fence are now a part of the site plan.

Joshua Sewald, Professional Engineer with Dynamic Engineering Consultants, previously sworn in. **Exhibit A6** – Site Plan Exhibit, dated 12/3/21. Prepared by Dynamic Engineering; the modifications made to the plan are reviewed. The overall footprint of the building has been reduced by 321 SF to 1,850 SF; the Baskin Robbins component has been eliminated, the outdoor freezer was brought inside. Two employee-

Zoning Certificate Checklist

1. Is the property located in the I-1 or I-2 Zone? Yes X No .
2. If yes, the application must be submitted to the Planning Board pursuant to 34-21.3d.
3. Is the Proposed use permitted? Yes X No .
4. If no, application must be made to the Zoning Board of Adjustment.
5. Is there an increase in the parking requirements for the proposed over the previous use? Yes No ?
6. If no, skip to question #9.
7. If yes, does the site have enough parking spaces to meet the requirements of the Zoning Ordinance? Yes No ?
8. If the answer to question #7 is no, an application must be made to the Zoning Board for a Parking variance.
9. Is there an accurate site plan, existing conditions plan, or an As-Built drawing on file, approved by the Planning Board or Zoning Board? Yes No ?

1. If the property is in the I-1 or I-2 zone, the applicant must submit a plan and parking analysis to the Planning Board for approval.
2. If the property is in the B-1, B-2, or B-3 Zone, the zoning officer at his discretion, may approve the plan and parking analysis for the purposes of issuing the Zoning Certificate.

NAME OF APPLICANT CLC LANDSCAPE DESIGN

ADDRESS 41 BIRCH ST. BLOCK 26.01 LOT 31.02 ZONE I-2

PREVIOUS TENANT JACOBSEN LANDSCAPE PREVIOUS USE LANDSCAPE CONST. + EQUIP. STORAGE

UNIT# AREA Sq. Ft. 4200 PROPOSED USE LANDSCAPE CONST. + EQUIP. STORAGE

CHANGES

RELOCATION? - PHONE 973-417-7904 EMAIL RICH.SR@CLCDESIGN.COM

DATE 12/6/21 ZONING OFFICIAL M. Runy APPROVED-Yes No ✓

UCC USE GROUP: PREVIOUS USE S-1 PROPOSED USE S-1 COO REQUIRED? No

Question what the existing building on the premises will be used for.
Also, I don't know if the entire site is being used by CLC or if Jacobsen is still occupying a portion. Please question. I also believe a new Site Plan would be in order. There is a stream that runs through the property and there is also a travel trailer stored on the premises. Parking lot was recently paved, and maybe more area than was originally paved. Drainage may be an issue.

X

APPLICATION FOR ZONING CERTIFICATE FOR NON-RESIDENTIAL USE

280 Godwin Avenue
Borough of Midland Park, NJ 07432

RECEIVED AT
BOROUGH OF MIDLAND PARK
DEC - 2 2021
BUILDING DEPT.

\$100 APPLICATION FEE
PAYABLE TO "BOROUGH OF MIDLAND PARK"
Cash _____ Check # 1036 (AS)

STREET ADDRESS OF PROPERTY: 41 BIRCH STREET, MIDLAND PARK, NJ 07432 ZONE: I-2 BLOCK: 26⁰¹A LOT: 31.02 B+C

NAME OF OCCUPANT: " GLENN JACOBSEN AREA OF BLDG. - SQ.FT. 4200 sq ft AREA OF OCCUPANT - SQ.FT. 4200 sq ft SECTION OF BLDG. ALL

SOLE PURPOSE OF OCCUPANCY/PLANNED USE (INCLUDING PRODUCTS OR SERVICES SOLD/MANUFACTURED):
Landscape Construction / Masonry

PREVIOUS TENANT, IF APPLICABLE: JACOBSEN LANDSCAPE DESIGN + CONSTRUCTION

NAME OF APPLICANT - IF A CORPORATION, NAME AND ADDRESS OF INDIVIDUAL MAKING APPLICATION:
CLC LANDSCAPE DESIGN - RICH CORDING -

APPLICANT'S ADDRESS: 58 RINGWOOD AVE, RINGWOOD, NJ 07456

APPLICANT'S PHONE: (973) 417-7904 E-MAIL: RICHSP@CLCDDESIGN.COM

NAME OF OWNER OF BUILDING: GLENN JACOBSEN ADDRESS OF OWNER: 10 NEW CITY STREET ESSEX, CT 06426

CERTIFICATION THAT ALL CONDITIONS OF SITE PLAN AND BUILDING PERMIT HAVE BEEN MET: [Signature]
(PROPERTY OWNER SIGNATURE)

LIST OF ALL OTHER OCCUPANTS OF BUILDING

Name:	Type of Business:
<u>JACOBSEN LANDSCAPE DESIGN + CONSTRUCTION</u>	<u>LANDSCAPE CONSTRUCTION</u>

Incoming Shipments	TYPE CONVEYANCE	PRODUCT	COMMENTS
Number Weekly: <u>5</u>	<u>PRIVATE</u>	<u>TREES/LIMBCH/GRAVEL BOULDERS/DUMDBSTER</u>	<u>LANDSCAPE MATERIALS</u>
Outgoing Shipments			
Number Weekly:			

NUMBER OF PEOPLE: in 15 Max 20 NUMBER OF DAILY CUSTOMERS/VISITORS: (0-2) WILL YOU DEAL WITH THE GENERAL PUBLIC? YES NO

DURATION OF OPERATION: From 7:00AM To 7:00PM NUMBER OF DAYS OPEN WEEKLY: 5

WATER USED: _____ EXTENT OF NOISE: TRUCKS/MACHINES (SKIDSTEER/LOADERS)
SMELLS OR ODORS: _____ OTHER NUISANCES: _____

FLAMMABLES OR EXPLOSIVES USED OR STORED? NO YES
YES, EXPLAIN gasoline cans + welding

PROPOSED PERIOD OF OCCUPANCY: FROM NOV 15, 2021 TO NOV 15, 2024

NOTE: A SIGN PERMIT IS REQUIRED FOR ANY NEW SIGNS OR SIGN CHANGES - FLAGS AND BANNERS ALSO REQUIRE PERMITS. NEON SIGNS ARE PROHIBITED

EVERY OCCUPANT MUST HAVE ITS OWN CERTIFICATE OF OCCUPANCY. IF YOU VACATE, THE NEW OCCUPANT WILL REQUIRE A NEW CERTIFICATE

APPLICANT SIGNATURE Richard Cordy DATE 11/10/21