

BOROUGH OF MIDLAND PARK – PLANNING BOARD MINUTES

APRIL 17, 2023

PLEASE TAKE NOTE:

ON MONDAY, APRIL 17, 2023, 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	present	Ms. Stephanie Pantale	present
Councilman Ken Kruis	present	Mr. Robert Mulder	present
Mayor Harry Shortway, Jr.	present	Alt. #1 Ms. Isabel Duffy	present
Mr. Michael Rau	excused	Alt. #2 Mr. Bruce Goldsmith	present
Mr. David Wostbrock	excused		

Attendance by Board Professionals: D. Siss, Attorney; E. Boe, Engineer

ZONING CERTIFICATES:

Rockfield Landscaping – 27 Greenwood & 19 Birch Street – BL 32 LTs 2 & 3.04 – Blythe Yost, owner – No changes to sites, previous business R&S Landscaping was purchased by Ms. Yost, Rockfield is a DBA so business is continuing to run as R&S Landscaping and they are running the exact same operation with no changes. Motion to approve the Zoning Certificates made by Ms. Pantale. Seconded by Councilman Kruis; all voted in favor.

PUBLIC HEARINGS:

Ridgewood Water – 32 Birch Street – BL 32 LT 4 – Preliminary/Final Site Plan Review – Wortendyke PFAS Treatment Facility - Applicant requested to carry to June 19, 2023, meeting. Motion to carry made by Ms. Pantale. Seconded by Mr. Mulder; all voted in favor.

Jacobsen Real Estate LLC – 41 Birch Street – BL 26.01 LT 31.02 – Atty. David Becker on behalf of the applicant – Applicant is requesting to carry to the May 15th meeting and ask for an extension of the Temporary Zoning Certificate for CLC Landscaping which expires this month, would like another 6 months. The applicant will be abandoning the residential use on the adjoining lot and use it for solely the commercial use and will modify the plans to reflect the Board's concerns as well as the environmental concerns discussed at the previous meeting. Motion to grant the 6-month extension on the TCO and carry to the May 15th meeting made by Mr. Mulder. Seconded by Ms. Pantale, all voted in favor.

HBR Realty LLC – 19 Central Avenue – BL 40 LT 1.04 – Atty. Benjamin Wine of Prime & Tuvel on behalf of the applicant. Applicant noticed for the site plan waiver they are applying for, but also for site plan approval in case the Board deems it necessary, notices are in order.

The property is a mixed-use structure with 4 commercial units on the ground floor, 2 commercial units on the second floor and 2 residential units on the second floor, applicant is seeking to convert the 2 upper commercial units to residential. The work was started, and Mr. Berninger issued a zoning violation for it, which this application would rectify. This proposal would reduce the parking requirement per ordinance. There was a ZBA application filed in 2016 that approved 28 parking spaces, which the prior owner modified to 24 spaces; applicant is willing to re-stripe to comply with the 28 approved spaces. The 2 apartments that were previously commercial spaces are approximately 750-800 SF each, there are no structural changes to the building, and no site improvements other than the possible re-striping of the lot. Based on the 1989 site plan that is on file, there is approximately 13,300 SF of gross floor area. The requirement for an entirely

commercial use would be one parking space per 250 SF which equates to approximately 52.5 parking spaces. Converting 2 of the commercial units to residential lowers the requirement by approximately 2-3 spaces. Regarding the site plan on file, it is from 1989; no new site plan is on file from the ZBA approval in 2016. In 2016, the previous owner/applicant agreed to obtain 3 parking spaces from the adjacent NJ Transit lot, Mr. Wine has been unable to determine if that was ever done but will continue to investigate and honor that condition is necessary. The Board requests an updated survey to fulfill the condition of the 2016 ZBA approval, and a written parking calculation for the site broken down by the tenants and the uses showing what is required and what is provided.

Meeting opened to the public for questions and comments.

Mark Braunius – 35 Plane Street – Sworn in; Asked about the ADA space requirement with regard to the parking issues. 1 ADA space is provided and existing on the 1989 site plan, but today's standards, 2 would be required. Board discussed the loss of a space to have 2 ADA spaces, vs approving 1 ADA space. Board also questioned the spaces on the side of the building and whether the existing utility poles would effect the approved parking layout. Mr. Braunius also asked if the concrete bumpers were being removed; per Mr. Wine they are already gone.

Meeting closed to the public.

Mr. Wine defers to the Board on how they would like to proceed; whether it is a site plan waiver consisting of 28 spaces and 1 ADA space as is on the 1989 site plan or an amended site plan approval to re-stripe and create an additional ADA space. Converting the 2 upper commercial units to residential brings the site into closer conformance with our ordinance regarding mixed-use buildings.

Husam Al Nasr, owner – sworn in. Board discussed the location of the second-floor access, and the rail/fence at the second floor emergency exit. Per Mr. Al Nasr, that is an emergency exit only, like a fire escape. There is a question as to whether the current tenants are using that exit as a regular means of ingress and/or egress, and the safety of the rail there. Mr. Al Nasr to send a letter to his tenants regarding use of the second-floor exit and possible post signage, as well as make sure some kind of code compliant fall protection or stair rail is installed on the back of the building at the emergency exit.

The applicant opts to carry this application to the next meeting to allow for the applicant to produce a parking plan including the 2 ADA spaces and fulfill the condition of obtaining a survey and 3 spaces from the NJ Transit lot. Motion to carry the application to the May 15th meeting made by Ms. Pantale. Seconded by Mr. Mulder; all voted in favor.

ABDD V LLC/Dunkin' – 195 Godwin Avenue – BL 20.10 LT 5.01 – Notices are in order. **Atty.** Craig Feldman of Paris Ackerman on behalf of the applicant. Applicant received previous approval from the Board. Is now seeking amended site plan approval for the retaining wall on the southern portion of the property adjacent to the church which was built differently than what was proposed and approved last year.

Kyle Kavinski, Engineer – accepted as expert and sworn in. **Exhibit A1** – Site plan drawing, dated 8/20/21, revised 3/28/23. 1,852 SF Dunkin' was constructed with one-way circulation around the building, 14 parking spaces and a drive-thru. A retaining wall was constructed on the southern property line adjacent to the church and their retaining wall. The retaining wall was required because of the steep grade drop-off. A soldier pile retaining wall was proposed. **Exhibit A2** – Wall exhibit/set of colored pictures of the site, prepared 4/17/23. Soldier pile wall was going to provide more space for the cobblestone wall but the applicant was unable to construct that kind of wall because of the soil condition which had large rocks and shale, and the applicant has concerns that it would damage the adjacent stone wall. Instead, a large gravity block wall was constructed, it does not change the traffic flow, curb line, or site circulation. There was a change in the location of the landscaping with small plantings shifted from the base of the wall as proposed to the top of the wall, but no change in the amount of landscaping. There is no change to the impervious coverage, the width of the wall is 28" vs the proposed wall which would have been 8". There were concerns from the rear residential neighbor about the fence and the grade at that portion of the property line which is being worked out between the applicant and Atty. Becker who is representing the neighbor. Board

expressed concerns regarding the flow of larger trucks through the drive-thru area since the wall as constructed is very close to the curb line.

Meeting opened to the public for questions of Mr. Kavinski; with none; meeting closed to the public.
Meeting opened to the public for comments.

Mark Braunius – 35 Plane Street – Wants to know what inspections our engineer made on this, why no one in the Borough was notified prior to this change in construction, has many concerns since there was no supervision on a major change.

Meeting closed to the public.

Mr. Mulder asked if the church and the neighbor are satisfied; the church is, the neighbor is still working out fencing and lighting issues, but Attys. Becker and Feldman are confident the issues will be resolved. Mr. Mulder feels the wall as constructed looks better and will hold up better. Motion to approve the application made by Mr. Mulder. Mr. Boe is satisfied with the design, however requests certification that it was constructed in accordance with the design shown on the plans, as well as any photos or other information pertaining to the construction of the wall and drainage information. May request test excavations if the photos are not sufficient. Motion to carry the application to the May 15th meeting so applicant can provide the additional information requested made by Ms. Pantale. Seconded by Mr. Goldsmith. Councilman Kruis, Ms. Pantale, Ms. Duffy, Mr. Goldsmith, and Mr. Rigg voted in favor; Mr. Mulder voted no; Mayor Shortway abstained. Motion passed.

RESOLUTIONS:

2023 Board Engineer – Motion to approve the resolution and contract for Erik Boe as Board Engineer from March through the rest of 2023 made by Ms. Pantale, seconded by Mayor Shortway; all voted in favor.

90 Midland Avenue – BL 45 LT 9.01 – Designation of Area in Need of Redevelopment – Motion to approve the resolution made by Ms. Pantale. Seconded by Mr. Mulder; all voted in favor.

COMMUNICATIONS

190 Bank Street – BL 34 LT 3.06 – BCSD Letter – no action taken.

Memo from Mark Berninger re: pet training/grooming business – no action taken.

Draft Ordinance Review – Revocation of Zoning Certificate – No comments. Motion to recommend the Zoning Ordinance Change to the Mayor & Council made by Ms. Pantale. Seconded by Mr. Mulder; all voted in favor.

Meeting adjourned – 9:06 PM
Jessica Harmon