

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

**RESOLUTION GRANTING AMENDED SITE PLAN AND VARIANCE APPROVAL
FOR PREMISES KNOWN AS BLOCK 40, LOT 1.04,
KNOWN AS 19 CENTRAL 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 HBR Realty LLC for amended site plan and variance approval for the premises known as Block 40, Lot 1.04 on the current tax assessment map of the Borough of Midland Park; and

WHEREAS, public hearings of the Planning Board were held on Monday, April 17, 2023 and June 19, 2023 (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, Benjamin Wine, Esq., together with all exhibits submitted as evidence; and

WHEREAS, during the public hearing the following was introduced by the applicant as an exhibit:

A-1 Survey prepared by Omland & Osterkorn, Inc. dated June 7, 2023; and

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 February 27, 2023 with a revision date of June 15, 2023; and

WHEREAS, the Planning Board also considered the following documents:

1. Inter-office memo from the Midland Park Fire Prevention Official which is dated March 2, 2023;
2. Inter-office memo from the Midland Park Traffic Officer which is dated February 27, 2023;
3. Inter-Office memo from the Construction Official which is dated February 27, 2023; and

WHEREAS, the following variances and design waivers are requested:

32-6.2-d-1 Parking spaces are required to be 9 feet wide and 18 feet long. Proposed parking spaces are between 8.2 and 10.3 feet wide and between 15.7 and 16.2 feet long.

Number of parking spaces 91.3 spaces required (with change to residential), 24 proposed; and

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

Benjamin Wine, Esq. appeared on behalf of the applicant at the April 17, 2023 hearing. He explained that the applicant proposed to convert the two commercial units located on the second floor of the property into two residential units. Each residential unit will have one bedroom with a den. He acknowledged the board engineer's report that indicated that the approved site plan for the property showed 28 spaces and that at some point, the parking had been modified so that there are now either 24 or 25 spaces. Changing the commercial uses to residential uses would reduce the parking requirement.

He indicated that there is an approved site plan from 1989 which provides 28 parking spaces which plan was submitted with the application and that there was an approval granted by the Board of Adjustment in 2016 which indicated in the Resolution that there were 28 parking spaces. There apparently was no plan presented as part of the 2016 application. At some point the parking lot was re-stripped and there is a question as to how many parking spaces currently exist as no plan showing current conditions was presented. The Board expressed concern that the 1989 plan shows spaces on the side of the building which may conflict with a telephone pole. The Board and the applicant agreed that the matter would be carried to a future hearing so the Applicant could prepare a plan showing the current and proposed parking layout.

Kiersten Osterkorn appeared at the June 19, 2023 hearing and was accepted by the Board as an expert in planning and engineering. She introduced the plan which was marked as Exhibit A-1. She testified that the previously approved site plan provided for 28 spaces, but the site had been re-stripped at some point and now was generally in accord with the survey marked as A-1. The proposed plan shows 24 spaces, which is a reduction of 4 spaces from the previously approved plan. She acknowledged that although the plan indicated there were 9 spaces along Central Avenue, only 8 spaces are shown. After some discussion with the Board and the Board engineer, it was agreed that an additional space could fit at the end of that row so that there would be 9 spaces. There was also discussion as to the location of an ADA-compliant parking space, and it was agreed that such a parking space could be placed along the row of parking spaces directly in front of the building.

The site plan that was approved provides spaces that are deficient in size according to the zoning ordinance and that vary in size. It is her opinion that the proposed parking plan is a better plan, as the spaces more closely conform to the requirements of the zoning ordinance, although there are some that remain deficient in size. Because of the size of the lot and existing structure, a hardship exists in that the required number of parking spaces cannot be provided. As shown on the plan, with the use of the second floor as commercial offices, 96.5 spaces would be required. If the office space on the second floor was permitted to be converted to apartments, 91.3 spaces would be required which is a reduction of 5.2 spaces required. From a planning standpoint, this represents a less-intense use of the site and offsets the reduction of 4 spaces from the approved site plan. She has observed the parking on the site and does not feel that the parking demand has created an issue with the number of parking spaces; and

WHEREAS, the matter was open to the public for questions of the witness and comments to the application. Mark Braunius appeared at the April 17, 2023 hearing and questioned whether ADA compliant spaces were required; and

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

1. The applicant proposes to convert the office space located on the second floor of the existing structure into one bedroom residential apartments. This mixed use is permitted in the zone.

2. The current approved site plan shows 28 parking spaces on site, a number of which encroach over the property line onto Madison Avenue. The Board notes that one of the parking spaces shown on this site plan along the side of the building cannot be used as there is a telephone pole in the middle of the space. As noted in the report from the Planning Board engineer, the spaces as depicted on the approved plan are irregular and deficient in size according to the zoning ordinance.

3. The existing parking lot layout does not match the approved plan. The proposed plan presented by the applicant proposes 24 parking spaces which is a reduction of 4 spaces from the approved plan. However, the spaces and the aisle width are larger and more closely comply with the zoning ordinance requirements than the approved plan. The current parking configuration as proposed has existed for some time and there has been no issue with the number of parking spaces.

4. The number of parking spaces required for the second floor commercial use of 2,310 square feet is 9.2 spaces. Converting that area to two apartments requires 4 parking spaces which is a reduction in the requirement of 5.2 parking spaces. This more than offsets the reduction of 4 spaces from the approved site plan to the proposed site plan.

5. The Board finds that a hardship exists as the area available for parking is limited and it is an existing improved site. The proposed parking layout represents an improvement over the approved plan and the existing layout as the size of the parking spaces more closely complies with the requirements of the zoning ordinance. There is no detriment as the change in use from commercial to residential reduces the parking requirement and represents a less intense use of the site.

WHEREAS, the Planning Board has considered the request by the applicant for the parking variance and design waiver 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 HBR Realty LLC for amended site plan approval, along with the variance 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, if necessary.
2. 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.
3. To the extent not set forth above, the applicant shall comply with any and all applicable requirements of the Federal Americans with Disabilities Act.
4. This approval is subject to all of the representations made by the applicant and its' experts.
5. The parking lot is to be striped in accordance with the plans introduced as Exhibit A-1 with the exception that the end parking space located directly in front of the building on the right side be an ADA compliant accessible parking space and a space be added to the end of the parking spaces along Central Ave. so there will be 9 spaces in that row as noted on the site plan.
6. The two new residential apartments will be limited to one bedroom units.

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 amended site plan and variance. 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: July 17, 2023

Planning Board of the Borough of Midland Park

By: _____
KENT RIGG, *Chairman*

JESSICA HARMON, *Secretary*