

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

**RESOLUTION GRANTING SITE PLAN AND VARIANCE APPROVAL FOR
PREMISES KNOWN AS BLOCK 13, LOT 1,
KNOWN AS 30 PROSPECT STREET, 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 MJ Prospect Holdings LLC d/b/a Ohana Dental LLC for site plan and variance approval for the premises known as Block 13, Lot 1 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, December 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, David Repetto, Esq., together with all exhibits submitted as evidence; and

WHEREAS, along with the application, the applicant submitted the following plans:

Site Plan prepared by GB Engineering, LLC dated July 5, 2022 with a final revision date of December 2, 2022 consisting of one page:

Architectural plan prepared by RDS Architects dated December 22, 2021 consisting of one page; and

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

A-1 Sheet with photos of the existing building and floor plans:

A-2 The Site Plan prepared by GB Engineering, LLC dated July 5, 2022 with a final revision date of December 2, 2022 consisting of one page, which was the same as submitted with the application.

A-3 Ariel photo of the Premises dated December 15, 2022.

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 letters to the Planning Board dated November 14, 2022 and December 16, 2022, updated on December 19, 2022; and

WHEREAS, the Planning Board also considered the following documents:

Letter of Denial from the Midland Park Zoning Official dated January 10, 2022;

WHEREAS, it has been determined that the following variances are required as part of the application:

Sec. 34-8.3h Front yard setback: 30 feet required, 28.13 feet existing, 28.13 proposed for addition.

Sec. 34-8.3g Maximum improved coverage: 40% permitted, 56.3% proposed;

Number of Parking Spaces 21 spaces required (20 with EV ready space); 12 proposed

Testimony

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

Roger Schlicht was accepted by the Board as an expert in the field of architecture. He introduced what was marked as Exhibit A-1 which included a page showing six photographs of the existing site. He used the Exhibit to explain the proposed improvements to the building which consists of closing in a small front porch area and adding an addition for the full length of the south side of the existing structure. The addition would replace the exterior handicapped ramp. The addition towards the rear would consist primarily of a foyer, stairs and a handicap lift leading to a waiting area. The front part of the addition would be one new treatment room. Currently, there are three treatment rooms. With the addition, there would be six treatment rooms with five being downstairs and one upstairs. The enclosure in the front would have the same front yard setback as the existing structure, which he noted was a current variance condition. The addition to the south side would be approximately the same width as the current handicap access structure.

Thomas Stearns was accepted by the Board as an expert in the field of engineering. He introduced Exhibit A-2 which was the same site plan as submitted with the application. He generally described the existing site. The proposed addition would result in minimal changes to the site. There are currently 12 parking spaces located along the south and east side of the property. The spaces have been adjusted so that there is now a handicap space where one does not currently exist, and a striped access has been added from that space to the main entrance. The concrete steps and sidewalk in the front will be removed resulting in a reduction of the improved coverage on the property from 56.6% to 56.3%. There are a number of existing variance conditions which are not affected by this application including minimum lot depth, minimum front yard to East Center Street, and parking in the front yard.

The site currently contains an existing seepage pit near Center Street and one in the parking area near the south property line, along with a trench drain in the entrance area at Prospect Street. No changes to the drainage system are proposed or necessary. No changes to the site lighting are proposed. In response to a comment from a Board member concerning the building lighting on the south side and how it would be affected by the addition, he acknowledged that the addition would interfere and agreed that that light could be removed and

two lower lights could be installed on the addition wall.

With respect to the number of parking spaces, he calculated the parking spaces required based on the building square footage of 2011 square feet with the addition. At the required one space per 100 square feet, 20.1 or 21 spaces are required. However, if the applicant were to install three electric vehicle charging stations, the applicant is entitled to a 10 percent reduction, so 19 would be required. A Board member noted that the Midland Park ordinance prohibits nonelectric cars from using the electric charging station parking spaces, which, with the shortage of parking spaces available, may create a problem. The ordinance only requires the applicant to install one make ready space. The applicant agreed that it would comply with whatever the Board were to require.

Donna Holmquist was accepted by the Board as an expert in the field of planning. She testified generally as to the use of the properties in the area and noted that off-site street parking was available on East Center Street, Prospect Street and side streets across Prospect Street. She reviewed the buffering on the property lines and noted that although they are deficient according to Midland Park zoning ordinance, they exist and are sufficient to buffer the adjoining properties.

With respect to the parking variance, it is her opinion that the Midland Park zoning ordinance requirement of one parking space per 100 square feet is excessive as compared to most townships and according to the Institute of Transportation Engineers (ITE) studies. The ITE prepares ongoing studies and surveys and publishes their findings in a manual which is updated frequently. The most recent studies indicate that the parking for medical and dental is 4.3 spaces per 1,000 square feet. That would result in a requirement of 9 spaces for this property. Applying the required parking per employee using ITE studies would be 1.26 space per employee. The would calculate to 11 spaces required for 8 employees. She testified that she observed the actual number of vehicles in the parking lot over a period from Wednesday through Saturday and found that the maximum number occupied spaces during weekdays was 9 spaces and the average was 7 to 8 spaces. Based on the ITE study manual and her observations, it is her opinion that 12 parking spaces is sufficient for this building and operation with the addition.

She is of the opinion that the parking variance can be justified as a C2 variance (N.J.S.A. 55D-70C(2)). It is her opinion that it advances the purposes of the Municipal Land Use Law as it allows for the appropriate use and development of this property to promote the public health and general welfare and allows a desirable visual environment through creative development with the proposed addition. The positive criteria are met through allowing the development of a beneficial use with a modest increase in the square footage of the building and the proposal improves the aesthetics of the building by enclosing the ADA access with direct access to the off street parking with the entrance in the rear. It is her opinion that there is no negative impact as the parking will be sufficient.

James Venuti and Misato Fukuda testified. They are the owners of the applicant and are both dentists involved in the practice. In responding to the Board's concern that the increase in the number of examination rooms will result in an increase in a number of patients and an issue with the parking they testified that only four of the rooms are used at one time. The other two are being cleaned and set up for the next patient. The examination room on the second floor is

used only for special Botox treatments for privacy concerns. Currently, there is only one doctor at the site at one time with five staff members, comprised of a hygienist and administrative staff. With the new addition, there will be two doctors, two hygienists and four administrative staff. Patients are scheduled for 1 hour time periods. The patient visits generally do not take 1 hour, so there is no overlap in patients. The number of patients at the site at any one time will generally not exceed four. They will never have six patients occupying all of the examination rooms at one time. They noted that, as they are married, they come in one car. They have not experienced any parking issues in the past and do not anticipate there will be a shortage of parking.

Public Comment and Questions

WHEREAS, the matter was open to the public for questions of the witnesses and comments on 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 applicant currently operates a dental practice at the site which is a permitted use.
2. The existing variance conditions for minimum lot depth, minimum front yard to both Prospect Street and East Center Street, and the parking in the front yard are not affected by the addition or alterations to the site.
3. The enclosure of the front porch area follows the existing setback line and does not create any further encroachment into the front yard setback. The addition on the south side of the building is approximately the same width as the existing exterior ADA ramp.
4. The proposed addition represents an improvement as it creates an interior ADA access with the remaining area consisting of a waiting room. Although the number of treatment rooms is increased from three to six, the increase is mitigated by the applicant's representation that their procedure is that only four of the treatment rooms will be occupied at one time and the other two treatment rooms will be unoccupied while being cleaned and disinfected and the use of one room is specifically used for Botox treatments. Enclosing the ADA access ramp will result in an aesthetic improvement to the exterior building.
5. The configuration of the parking will be improved, although the number of parking spaces will remain the same. There will be an improvement by the addition of an ADA parking space with a direct striped access to the main entrance in the rear of the building.
6. The Board finds the applicants' testimony that they have not experienced any parking issues in the past to be credible and there have been no reports of any parking issues in the area.

7. The Board also finds the testimony of the applicant's planner to be credible with respect to the studies contained in the ITE manual concerning the number of parking spaces required along with the planner's observations of current parking levels. The fact that a good part of the proposed addition will consist of a waiting area and ADA access somewhat mitigates the minimal expansion of 436 square feet. Currently, 15.65 or 16 spaces are required and 12 are provided. With the proposed addition, 20.11 or 21 spaces will be required.

8. The Ordinance requires one make ready EV space. The Ordinance provides that each make ready EV space counts as two parking spaces, reducing the parking requirement to 20 spaces.

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 MJ Prospect Holdings LLC d/b/a Ohana Dental LLC for preliminary and final site plan approval for those premises known as Block 13, Lot 1, 30 Prospect Street, 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, if necessary.
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. The applicant will replace the building mounted exterior light located on the south side of the building with exterior lights located on the addition, subject to the review

and approval of the Board engineer with respect to location. All lighting on the site shall be restricted to this site and shall not spill over on any other sites. The Board shall retain jurisdiction to review the lighting for a period of six months after the issuance of the certificate of occupancy and require modifications as may be deemed necessary.

- 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.
- 8. Compliance with all checklist items and requirements in the correspondence from LAN Associates dated December 16, 2022, revised December 19, 2022.
- 9. The applicant shall install one make ready EV parking space in accordance with the applicable provisions of the Zoning Ordinance.
- 10. The applicant shall install a knox box for access for emergency services.

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: January , 2023

Planning Board of the Borough of Midland Park

JESSICA HARMON, *Secretary*

By: _____
KENT RIGG, *Chairman*