

**BOROUGH OF MIDLAND PARK – ZONING BOARD OF ADJUSTMENT MINUTES**

**October 24, 2022**

PLEASE TAKE NOTE:

ON WEDNESDAY, OCTOBER 24, 2022, THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MIDLAND PARK HELD A SPECIAL MEETING IN THE MIDLAND PARK COUNCIL CHAMBERS, 280 GODWIN AVE., MIDLAND PARK, NJ. THE FORMAL MEETING BEGAN AT 7:30 P.M

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FORMAL MEETING

READING OF THE OPEN PUBLIC MEETINGS ACT

PLEDGE OF ALLEGIANCE

ROLL CALL:

Mr. Les Andersen	present	Mr. Nick Papapietro	present
Mr. David Zuidema	present	Mr. Mark Braunius	present
Mr. John Meeks	present	Mr. Mark Divak	excused
Mr. Richard Formicola	present	Mr. William Placier, Alt #1	excused
		Mr. David Barlow, Alt #2	present

Attendance by Board Professionals: R. Landel, Esq., Attorney, R. Wostbrock, Engineer, and D. Novak, Borough Planner

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**PUBLIC HEARINGS:**

**Nouvelle LLC – 714 Godwin Avenue – BL 55 LT 8** - Atty. Matthew Capizzi of Capizzi Law Offices on behalf of the applicant. Notices in Order. Application is for site plan and use variance approval for the construction of a 4-unit, multi-family apartment building. Each unit will be two bedrooms and it will be affordable housing for very low-income families and occupied by a disabled veteran and his or her family members. The property will be subject to a 30-year deed restriction that will memorialize the affordability controls and the preference towards disabled veterans as an occupier of the dwelling units. The property is proposed to be serviced by 10 parking spaces where 8 are required. The principal variance sought is a D1 use variance for the multi-family use in a single-family residential zone. There are several bulk variances including a height variance, a variance to exceed the maximum number of allowable stories, maximum curb cut, maximum driveway length, etc.

**Michael Fisher, Engineer** – accepted as expert and sworn in. Mr. Fisher reviewed the existing conditions as shown in **Exhibit A1** – Site plan revised 8/24/22 – 5/12/22, 9 Sheets and **Exhibit A2** – Colorized exhibit of sheet 2 of site plan, dated 10/24/22. Reviewed the delineation of the wetlands for which the NJ DEP has accepted the applicant’s line verification. The former dwelling was demolished by the previous owner; existing today is a paved driveway and some concrete pads. The site slopes from the southwest to the northeast at an approximately 5% +/- grade, with surface runoff draining towards the wetlands. Utility connections are available. Neighboring properties are primarily residential, with the exception of one neighbor being a commercial use. **Exhibit A3** – colorized exhibit of site layout sheet 3 of site plan with proposed landscaping – dated 10/24/22; which includes the proposed landscaping. Board discussed any jurisdiction Wyckoff may have over this application, applicant acknowledges that, as a possible condition or approval, they would have to either get approval or a waiver from Wyckoff. Mr. Fisher reviewed the proposed redevelopment of the site including removing existing improvements, construct a 3.5-story 4 dwelling unit affordable housing apartment building that will be serviced by 10 parking spaces, there is a loading/turnaround area, a dumpster enclosure, and landscaping screening. The proposed structure is to be 2,275 SF and meets all the setback requirements. The site is to be graded to minimize the impact and maintain the existing drainage pattern, which is in a northeasterly direction. Parking lot runoff is to be captured by a catch basin in the northerly corner of the lot which is also proposed to be surfaced by permeable pavers to mitigate runoff. Greater than 50% of the foundation will be exposed due to the grade, causing the need for the variance for allowable stories. Parking lot is to have 6 spaces on the western side, surfaced with permeable pavers, and an addition 4 spaces that include 1 handicap accessible space and a van accessible aisle adjacent to the building. Proposed parking spaces will be 24’ in width, a variance for driveway aisle width is needed. A variance for maximum curb cut is also sought, 48’ is proposed where 20’ is allowed; the proposed width is required to allow for enough turning radius to enter the site.

Mr. Fisher explained the permeable paver drainage system. Currently, runoff runs across the site to the north toward the wetlands and that flow will be maintained. Runoff will travel across the pavement of the parking lot and infiltrate through the permeable paver system, anything that does not will be caught in the catch basin that will discharge it into the recharge area. Once the system exceeds its capacity, any overflow will be discharged to the wetlands. Per Mr. Fisher, there is no disturbance occurring in the wetland area. Two 15' pole mount LED light fixtures are proposed as shown on sheet 5 of 9 of **Exhibit A1**, which will have backlight control. One will be located along the parking area to the west and the other adjacent to the proposed building, and there is expected to be no light spillage to the adjacent property lines. Four shade trees are proposed across the parking lot, as much of the existing landscaping is to be maintained as possible, juniper and green giant arborvitae will also be planted across the parking lot and the building frontage on Godwin Avenue with foundation plantings.

Mr. Papapietro questioned whether the lighting will be visible from the neighbor's deck or pool; per Mr. Fisher, that based on the lighting analysis done, there is no spillage – their light fixture won't put light onto the neighboring property. Mr. Braunius questions the need for a height variance, and the potential for instead lowering the height of the building; Mr. Fisher, together with the architect, considered a roof pitch change but felt they would still need the variance. Mr. Braunius maintains the opinion that both the roof pitch and the building itself could be lowered. Per Mr. Fisher, County site plan approval is not required but they will have to obtain County DPW approval for the curb cut, which would be a condition of approval. Mr. Andersen asks about the decision to orient the building toward the side; given the configuration and the size of the building and the wetlands, they would not be able to provide an adequate amount of parking should the building be situated otherwise, and the former dwelling also faced the same direction. Mr. Papapietro also asked about the plan for snow plowing; Mr. Fisher understands that the majority of the snow would be plowed toward the northerly side. Atty Landel asked for further information regarding the proposed drainage system; Mr. Fisher again explained the permeable paver system and the stone bed, as well as the maintenance manual that would be required. Per Mr. Fisher, there will not be more water flowing to the wetlands as a result of this construction. Half of the roof area runoff plus all of the parking area runoff is greater than the increase in impervious surfaces that is proposed and all that water will be directed to the drainage system, the remainder of the roof area will be discharged to the wetlands. The increase in impervious surfaces is 5800 SF.

Per Mr. Wostbrock, this is not a major development requiring more stringent regulations from the DEP with regard to stormwater, further explains the functions of a porous paver system and the overflow pipe. By the calculations provided, this application meets the typical Borough requirements for a small development. Mr. Wostbrock is satisfied with the calculations provided. Mr. Braunius continued to question whether the building can be lowered. Mr. Papapietro questioned what happens with the permeable pavers when there is snow and ice. Mr. Wostbrock stated that they tend not to ice as quickly because of the porous nature, water is still able to percolate through the joints, but plowing and maintenance techniques may be different. In a heavy downpour, some of the water will go in and the rest will run across it and go into the catch basin to the stone bed, once saturated any overflow will go to the wetlands. Mr. Braunius questioned the height of the retaining wall, which is 4' in height at the tallest section. Per Mr. Fisher, every attempt was made to lower the grade in the front corner, but it would impact the driveway draining off to the catch basin.

Mr. Wostbrock discussed the grading, is of the opinion that Mr. Fisher's design works against the existing grading of the property and feels the building could be lowered which could eliminate the need for a ramp entry. Mr. Fisher reviewed the factors that impacted his decision: the retaining wall, the grade of Godwin Avenue, the turnaround area, access from the street, etc. Further discussion continued regarding the location of the driveway and its impact on the plans, Mr. Wostbrock agrees that the current layout with the building closer to the commercial neighbor is appropriate. Mr. Wostbrock maintains that the building could be lowered to make the entry flush with the curb, lowering the finished floor and the height of the building, which would eliminate the need for the height variance – 34'2" is proposed where 32' is allowed. Per Mr. Fisher, this was looked at extensively and would cause a pooling of water in front of the building and trap water against the foundation, which creates more of an issue than the need for a height variance. Mr. Wostbrock also questioned the need for the 48' driveway curb opening; the additional length is to allow for vehicles, including delivery and garbage trucks, to enter and exit the site without crossing over into oncoming traffic to

enter and exit the site which offers a better alternative to the delivery trucks stopping on Godwin Avenue. Concern was also expressed regarding the proposed turnaround area, Mr. Fisher to provide a turning template at the next meeting. Mr. Novak questioned the outdoor amenity space shown on **Exhibit A2**, which is a series of picnic tables and benches. Mr. Novak also suggested some lower landscaping screening the loading area in addition to the arborvitae. Mr. Braunius also brought up that the picnic area should be ADA accessible, which Mr. Fisher agreed to.

Meeting opened to the public for questions of Mr. Fisher.

**Jessica Strader – 720 Godwin Avenue** – Sworn in; asked about the location of the dumpster, if she should expect more water on her property because of the proposed design, if the lighting plan took into consideration the reflective surfaces of cars, if consideration was given to her pool or to the traffic on Godwin Avenue, if the applicant or engineer spoke to the neighbors about the car accidents they have gotten into or how much their basements flood, if the elements of this design plan would be needed for a single family home. **Frank Pastor – 720 Godwin Avenue** – Sworn in; asked if their company would be responsible if they flood the wetlands and flood neighbor's houses. **Anthony Romano – 140 Elmwood Place, Wyckoff** – Sworn in; questioned what type of water infiltration testing was done and if a runoff analysis was done. **Michael Olson – 97 Midland Avenue** – Sworn in; questioned if water will be pushed to the wetlands, and why the building is sideways, what happened to the R1 zone and keeping it a single-family home. **Jennifer Duka – 15 Brook Road, Wyckoff** – Sworn in; wanted to know if any consideration was given to the brook that runs through the area, what is the maintenance like for the permeable pavers and who is responsible for them. **Mary Schaper – 101 Midland Avenue** – Sworn in; asked where fire trucks and ambulances will go to fight a fire. Mr. Papapietro asked if the applicant was considering adding a fire hydrant, Mr. Fisher spoke with the MPFD Chief, and it is not necessary. **Glen Sternitzke – 89 Midland Avenue** – Sworn in; asked whether the applicant considered seepage pits and what the capacity of the drainage system is, who will maintain and inspect the system, why the building can't be lowered, and whether water will come in the curb cut. **Judith Kaslow – 93 Midland Avenue** – Sworn in; questioned the location of the wetlands on the property and whether they plan to build in the wetlands. Per Mr. Andersen, would probably be a condition of approval, if they were to be approved, that that portion cannot be developed.

Meeting closed to the public.

Mr Zuidema mentioned that he is familiar with permeable pavers and the maintenance required, they are typically maintained by DEP licensed contractors. Mr. Papapietro asked about the vertical filter that is part of this drainage system. Mr. Fisher explained that the system is designed to encourage runoff to infiltrate vertically not horizontally, there is a filter fabric that keeps dirt out of the system but also encourages the direction of flow. The stone bed of the drainage system is over 4' in depth, with a surface area of 935 SF, and has a retention of about 7,000 gallons of runoff. The permeability rating of the soil testing that was done showed a high rate of infiltration. Mr. Wostbrock feels that the filter fabric may not encourage the water to go down as Mr. Fisher asserts, suggests they consider an impermeable liner, further discussed the idea with the Board. Per Mr. Wostbrock, stormwater is less likely to go uphill to the westerly neighbor's property and basement.

Atty. Capizzi requested a 5-minute break at 9:29 PM; Meeting resumed at 9:36 PM

**Yogesh Mistry, Architect** – accepted as expert and sworn in. **Exhibit A4** – Architectural Plan A-2.01 dated 8/22/22, 1 sheet. Mr. Mistry reviewed the floor plan. Each of the 4 units is two bedrooms, single bath, living area, dining area, and kitchen. There are two on the ground floor with a corridor in the middle, and the same on the second floor. The front entry faces the parking lot. The first floor is 2230 SF, and the second floor is 2270 SF, there is a total of 4500 SF of livable area and there is an additional 2230 SF basement as well, which is storage and utility space. Each individual apartment is 986 SF, will have its own washer and dryer and its own HVAC system. The building will be sprinklered and the first-floor units will be ADA adaptable. The front of the building will look like a single-family home. **Exhibit A5** – Colorized version of front elevation. The aesthetic is very colonial in nature. Other roof pitches or methods of lowering the building were considered but were not appropriate. Details of the structure include asphalt shingle roofing, burgundy shutters, gray siding, white trim, and a stone veneer at the base of the building. **Exhibit A6** – Colorized

version of right-side elevation. Additional landscaping has been added to the Godwin Avenue facing elevation to help screen the building and the utilities, so buffering beyond what is on the original submission is proposed.

Mr. Papapietro asked what the left side elevation will look like; it is depicted on sheet A-2.01, more of the stone and basement are exposed, there are no plantings proposed on that side, but there is landscaping proposed on the east side facing the office building. Applicant would consider some additional landscaping on that side to screen/buffer the A/C condensers. Mr. Braunius suggests making changes to the right-side elevation to help it look more desirable from the street, also discussed changes to the proposed veneer to help make lowering the building possible. Mr. Braunius also questioned the utilities in the basement; per Mr. Mistry there will be hot water heaters, sprinkler tank, and furnaces. Applicant would be agreeable to a condition of approval that says the basement would be limited to storage and utilities, and that the attic would not be habitable and remain unfinished. Discussion continued regarding the building height. Mr. Braunius also suggested they consider a way to reduce the ramp for the benefit of future disabled occupants. Per Atty. Capizzi, the applicant has done many similar housing projects and they appreciate the issue, the applicant and professionals will see if further adjustment can be made. Mr. Novak recommends providing a comparative exhibit to illustrate what an alternative roof pitch would look like. Mr. Novak also asked questions regarding the affordability, as the Uniform Housing Affordability Control typically requires at least a 3-bedroom unit. Per Atty. Capizzi, it's exempt from UHAC because it's a National Housing Trust Fund provider and because the applicant is providing housing for disabled veterans.

Meeting opened to the public for questions of Mr. Mistry.

**Corrie Bouma – 715 Godwin Avenue** – Sworn in; lives directly across the street, and requested a visual that shows the scale of the building height compared to the commercial building next to it. **Jessica Strader** – still under oath; asked what the square footage is of the average single-family home in Midland Park, why Mr. Mistry said this structure would look like all the other residential homes in town, if there will be a sump pump in the basement, and requested confirmation that the basement would be used only for storage and utilities. Ms. Strader also asked where the utilities are running across the property to the building, for more information regarding the height of the building and the grade, and for clarification regarding the 3-bedroom exemption.

Meeting closed to the public.

Mr. Braunius asked if the applicant plans to go overhead or underground with the utilities. Mr. Mistry advised that the utilities will be overhead. Mr. Papapietro asked why they can't go underground and Atty. Capizzi stated that the common place in that corridor is overhead. The Board is concerned about aesthetics; applicant to revisit ways to increase the landscaping or modify the elevation to assist with the issue.

Atty. Capizzi requested to close for the evening and carry to the next available meeting. Revised plans to be submitted for the November 9, 2022, meeting. Mr. Papapietro commented that drainage, the height, and the aesthetics of the Godwin Avenue elevation were major concerns, wondered if the applicant would consider changing the project from a 4-unit to a 3-unit building. Atty. Capizzi advised that would not be an option for them, but they will revisit the grading, the landscaping, and the elevations to address the concerns of the Board when they come back.

Motion to carry the application to 11/9/22 without further notice made by Mr. Braunius. Seconded by Mr. Barlow; all voted in favor. Mr. Andersen advised the public of the next meeting date and time and that no further notice would be provided to them.

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Meeting Adjourned – 10:15 PM  
Jessica Harmon