

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

**March 29, 2022**

PLEASE TAKE NOTE:

ON WEDNESDAY, MARCH 29, 2023, 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. Mark Divak	present
Mr. David Zuidema	present	Mr. William Placier	present
Mr. Richard Formicola	present	Mr. David Barlow	present
Mr. Nick Papapietro	present	Mr. Joseph Eliya, Alt #1	present
		Mr. James Capalbo, Alt #2	excused

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

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**PUBLIC HEARINGS:**

**Nouvelle LLC – 714 Godwin Avenue – BL 55 LT 8 – Settlement Proposal** – Atty. Landel explained the settlement process for the benefit of the public, this hearing is to review the settlement proposal and changes to the previous application. Notices are in order, and all Board members are eligible to vote.

Atty. Jason Hyndeman of Price Meese on behalf of the applicant; this is a re-hearing of a prior application that was denied for 714 Godwin Avenue use variance and bulk variances. Atty. Hyndeman reviewed the bulk variances included with this application. On January 11, 2023, the Board memorialized their denial premised on increased activity and drainage/stormwater issues, which the applicant appealed. Both parties negotiated a tentative settlement, and the Judge remanded it back to the Board. The testimony in this hearing will be regarding the amended plan; they are only presenting the changes.

**Michael Fisher, Engineer** – Previously accepted as expert, license is still in good standing; sworn in. Mr. Fisher prepared the previous plans and was involved in the settlement negotiations. **Exhibit A1** – Consent Order for Remand to the Midland Park Zoning Board of Adjustment signed by the Honorable Christine A. Farrington, J.S.C., dated 3/14/23. Mr. Fisher has seen the Consent Order and drafted the revised plans. The permeable paver drainage system has been eliminated in favor of a more traditional dry well system, with half of the roof area draining to a separate 1,000-gallon dry well system located between the proposed building and the dumpster area, with any overflow draining to the wetlands. Per Mr. Fisher, the combined storage capacity is 20% more than the previous drainage system that was proposed. **Exhibit A2** – Dykstra & Walker Grading and Utility Plan, sheet 4 of 9, mounted and revised, revision date 3/10/23.

**Richard Wostbrock, Board Engineer** – sworn in. Mr. Wostbrock reviewed the calculations and agrees that this plan proposes a 20% increase in storage capacity over the previous proposal.

Mr. Fisher addressed an additional element of the settlement proposal which concerned headlights and reflection lights. The amended plans propose adding a 4' privacy fence and 5 additional green giant arborvitaes along the parking lot property line. The 3 existing pine trees that are there will be removed to accommodate the new arborvitaes, which will provide immediate screening and are the maximum number of trees that can be placed there. They will have a planted height of 6', can get up to 20-25' tall, and will be placed with the minimum distance for spacing. **Exhibit A3** - Dykstra & Walker Lighting and Landscaping Plan, sheet 5 of 9, mounted and revised, revision date 3/10/23. **Exhibit A4** - Dykstra & Walker Soil Erosion and Sediment Control Plan, sheet 6 of 9, mounted and revised, revision date 3/10/23. **Exhibit A5** - Dykstra & Walker, full set of revised Preliminary and Final Site Plan, sheets 1 through 9, last revision date 3/10/23.

**Exhibit B1** – Borough of Midland Park comments from Fire Department, DPW, Construction Official, Fire Prevention, Traffic Safety Officer, and Ambulance Corps. Board discussed Department Comments with Mr. Fisher. The applicant will be providing a Knox Box as requested by Fire Prevention, but not a hydrant as previously discussed. The Police Department requested additional guest parking, which Mr. Fisher reviewed – the place to add an additional space would create another variance for parking as well as a loss in landscaping and an increase in impervious coverage. The applicant is amenable to adding an additional space if the Board wants it, but the proposed plan is compliant with RSIS standards in excess of 2 spaces without it; this would be a 3<sup>rd</sup> guest space.

**David Novak, Borough Planner** – sworn in. Mr. Novak confirms the applicant has met and exceeded the RSIS parking standard. RSIS requires 8 spaces, and the applicant is proposing 10. Guest parking is not included in that requirement.

**Exhibit A6** – Email from Michael Varner, Bergen County Department of Planning and Engineering, dated 3/27/23. Mr. Fisher reviewed Mr. Varner's email – this project is not subject to County site plan review; it is only subject to review by the Operations Division. Mr. Varner did make recommendations regarding line-of-sight maintenance, traffic striping, and signage for the turnaround area, which Mr. Fisher will meet all of those recommendations. Board questioned whether the applicant was planning to go underground with the utilities, Mr. Fisher stated that it was not explicitly part of this proposal.

Board questioned Mr. Fisher regarding maintenance required for the drainage pits versus the permeable paver system. The pits are opened 4 times annually to be inspected, and after every storm exceeding 1" rainfall. Sediment is removed once it exceeds 3" or a minimum of once a year. The applicant is agreeable to maintaining the system and submitting an Operations and Maintenance Plan, and for that to be a condition of approval.

Atty. Landel asked Mr. Wostbrock if he felt this was a better proposal than the previous plan. Per Mr. Wostbrock it is not better or worse, people are more accustomed to the traditional pits for drainage. There is an increase in capacity and the pits are moved further away from the structure and neighboring lot which is an improvement. This system meets and exceeds the requirements.

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

**Jessica Strader – 720 Godwin Avenue** – Sworn in; asked questions about the details on the vinyl fence and plantings, who is responsible for maintaining foliage, risks of water around the pits, where does the water overflow to, how far would extra parking spot be from property line if added. **Michael Olson – 97 Midland Avenue** – Sworn in; questioned the runoff into the wetlands. **Philip Florey – 110 Godwin Avenue, Wyckoff** - Sworn in – questioned where they hit the water table and how deep the pits are being buried, and if the grade will be changed. **Anthony Romano – 140 Elmwood Place, Wyckoff** - Sworn in; asked if they can say the water problem in the area will not get worse. **Judith Kazlau – 93 Midland Avenue** - Sworn in; questioned capacity of pits and what they will do about overflow. **Steven Paz – 720 Godwin Avenue** - Sworn in; asked when they dug for their tests since we have been in a drought, what happens to the water in the pits. **Frank Pastor – 720 Godwin Avenue** – Sworn in; asked why water won't go into his basement.

Meeting closed to the public.

**Luciano Bruni, Principal/Owner of Nouvelle LLC** – sworn in. Explains the applicant's position as to the underground utilities. They will discuss with PSE&G and attempt to go underground if PSE&G will replace the pole at their cost. The existing pole leans toward the road and services the commercial building next door, if they are adding another transformer for this development that pole will likely need to be replaced. As part of this settlement, the applicant agrees they will run the utilities underground if it is no cost for them to do a new pole with a transformer.

Open to public for questions of Luciano Bruni, with none, meeting closed to the public.

Board discussed the previously agreed to conditions, the applicant still agrees to the conservation easement, developers' agreement, and 30-year deed restriction. The Board agrees that the additional guest parking space would be a problem, as it would take away green space, add more coverage, and would look better aesthetically the way it is.

Meeting opened to the public for comments.

**Michael Olson** – still under oath; expressed concerns about the wetlands **Jessica Strader** – still under oath; expressed concerns about the wetlands ecosystem and having high density housing on a small wet lot and its effect on the surrounding neighborhood, is against this multi-unit proposal. **Judith Kazlau** – still under oath; has concerns about refuse pick-up, the value of her home going down, and runoff into the wetlands. **Mary Schaper – 101 Midland Avenue** – Sworn in; has concerns about emergency services accessing the property during an incident. **Philip Florey** – still under oath; has an issue with the building facing his property, feel this is changing the zoning and setting a precedent. **Anthony Romano** – does not believe the additional 20% capacity will solve the water problem already existing at this site.

Meeting closed to the public.

Atty. Landel reviewed that a super majority is still required and the case law regarding the inherently beneficial use. Mr. Andersen acknowledges that it is an inherently beneficial use, the major concern previously was the water but the 20% increase in capacity is a substantial difference that alleviates the detriments. Mr. Papapietro agrees that the storage capacity increase makes a difference in the concerns previously had regarding this application. Mr. Formicola asked what recourse there would be if this were to be approved and then there were to be problems; the developer's agreement should cover any issues.

Motion to approve the prior application with the revisions made in the settlement proposal including all conditions agreed to previously and during this hearing made by Mr. Barlow. Seconded by Mr. Papapietro; all voted in favor except for Mr. Zuidema who abstained.

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Meeting Adjourned – 9:25 PM  
Jessica Harmon