

BOROUGH OF MIDLAND PARK – PLANNING BOARD MINUTES

AUGUST 21, 2023

PLEASE TAKE NOTE:

ON MONDAY, AUGUST 21, 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	absent
Councilman Ken Kruis	present	Mr. Robert Mulder	present
Mayor Harry Shortway, Jr.	present	Alt. #1 Ms. Isabel Duffy	present
Mr. Michael Rau	present	Alt. #2 Mr. Bruce Goldsmith	present
Mr. David Wostbrock	absent		

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

ZONING CERTIFICATES:

Elsa's Attic – 11 Paterson Avenue – BL 19 LT 3.01 – Roberta Amazzini, owner – will have antiques and home goods for sale. The Board has a memo from the Zoning Officer saying the site plan is approved and adequate parking exists. Motion to approve the Zoning Certificate made by Mayor Shortway. Seconded by Mr. Mulder; all voted in favor.

PUBLIC HEARINGS:

Jacobsen Real Estate LLC – 41 Birch Street – BL 26.01 LT 31.02 – Atty. David Becker on behalf of the applicant; received Department comments. Notices are in order. Application is for & 41 Birch Street, also known as Block 26.01, lots 31.02 & 31.03, to remove several encroachments on a neighboring property and reverse subdivide as the landscaping company uses both lots, abandoning the residential use on the second lot for future office space. These changes will make the property more conforming. There are several variances needed to move the encroaching accessory structures which are warranted due to the irregular shape of the property, topography issues such as a drainage ditch, and two pre-existing main structures. The application also contains some waivers which will be addressed as well, per Atty. Becker, the applicant is not proposing to do anything on site physically except to move those accessory structures onto the property, so they don't encroach anymore, there's no other proposed physical changes.

Nick Rodriguez, Company Manager of CLC Landscape (tenant) – sworn in. CLC is a landscape design construction company, stores aggregate and trucks on site, loads trucks, and houses office staff there. Applicant proposes to move the encroaching accessory structures, but due to the limitations of the space, variance relief is needed for the setbacks. No lighting changes proposed, existing lighting is adequate. Mr. Rodriguez reviewed the accessory structures and their uses including the bins, hoop house, pavilion, and sheds. **Exhibit A** – Site Plan, revised 7/12/23. Prepared by Weissman Engineering, 1 sheet. The main building is used for office space upstairs, and the mechanic is downstairs. There are 45 employees total, with about 35 direct reports on site.

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

Ken Peterson – questioned whether the applicant maintains salt inside the canopy during the winter, if there is runoff, what is ground is there. Per Mr. Rodriguez, salt is stored there, with no runoff as it is covered, and the ground is aggregate.

Meeting closed to the public.

Thomas Donohue, Engineer – sworn in. Accepted as expert. Mr. Donohue reviewed the existing conditions: property consists of two different parcels in the I2 zone, the combined lot area is 49,879.9 SF and is irregular in shape. There is a drainage ditch that runs through the eastern portion of the combined properties. There is a two-story metal building on the corner of Birch Street, and a twenty-two-car parking lot on an asphalt pavement area adjacent to the building. Lot 31.03 contains a two-story residential building. There are accessory structures, concrete pavement, and gravel areas throughout. To the south of the property is the Goffle Brook, to the west is the railroad property, and to the north is Birch Street. The applicant is proposing to consolidate the two lots into one, eliminate the residential use to be converted into office use, and relocate the existing tents/sheds onto the property.

Mr. Donohue reviewed the waivers and variances requested. The variances are:

- two tents being relocated onto the property, proposing a 2' rear yard setback where 15' is required.
- southerly shed has a 2' rear yard setback, second shed has a 14' rear yard setback where both of those are 15' as required.
- three larger sheds have a 5' side yard setback where 15' is required, and the smaller shed/most northerly shed, has a 2' side yard setback where 15' is required.
- concrete storage bins being relocated along the rear property line have a half-foot setback. If they are considered an accessory structure, a 15' setback would be required, and they are proposing 0.5'
- 2-story metal building, has an existing non-conforming 4' side yard setback where 15' is required
- residential building will be an accessory structure and will have existing non-conforming conditions. The side yard setback is 4.6' to the east where 15' is required, front yard is 24.6' where 25' is required, and it is an accessory structure closer to the front yard than the principal building.
- combined properties have lot coverage of 80.4% where 80% is permitted, variance for 0.4% needed.

Per Mr. Donohue, none of the structures are going to be in flood hazard areas. **Exhibit B** – FEMA flood mapping showing the floodplain of the Goffle Brook. The applicant will submit a flood hazard area verification to the DEP to be submitted to the Board as a condition of approval.

Regarding the variances, Mr. Donohue stated that this is an irregularly shaped property with a drainage ditch running through it. There is no substantial detriment to the neighbors by needing the setback variances, especially since relocating the structures removes them from encroaching on a neighboring property, bringing the site more into conformity.

Mr. Becker discussed the attempt to purchase the portion of the property where the encroachment is from the neighbor, but it did not work out. Per Mr. Rodriguez, the tent will have salt under it in the winter, and it will be on concrete so it should not wash out into the soil and stream. The bins are concrete block, 6' long by 3' high. Board questioned whether the drainage ditch has a drainage area subject to regulation by the DEP, but the FEMA map does not reflect the floodplain of that tributary, applicant expects that to be determined with the verification they would submit.

Discussion continued regarding the tents and their height; tents are approximately 15-20' high. Accessory structures have a limit of 12' in height so could trigger the need for a D variance. Applicant agreed to measure them, submit the measurements, and if they are over 12' in height to modify them to conform. The Board expressed concern regarding the corner where the sheds and tent are, and the lack of a buffer in that area. Applicant expressed that with the proposed setbacks there is not enough space for plantings. Applicant agrees to move the four structures to the island in between the parking lots and the gravel area, which would get rid of several variances, and allow for planted buffering; Norway Spruces with 8-10' spacing and a planted height of 8-10', as many as the space allows. Applicant to submit details to Mr. Boe for approval.

Meeting opened to the public for questions of Mr. Donohue and comments of the application.

Ken Peterson, sworn in. Per Mr. Peterson, the landscaping company leases land off the railroad company which has no screening, you can see all the equipment stored there from Bank Street and feels there should

be screening there. Every day a trailer or dump truck backs in and is visible from the homes on Bank Street and it is an eyesore. Mr. Peterson also has concerns about the dwelling becoming an office and any requirements that entails, and he noticed they are now subleasing the property to a masonry company.

Mr. Becker advised that there is nobody going into the proposed office building right now, if and when they do get a tenant, they would need to go back before the Board. Per Mr. Rodriguez, the masonry company is not a sublease, it is an employee of Mr. Rodriguez under the same company. The Board discussed the issue with the railroad property, as no permission has been granted or applied for to store equipment there, and it would need site plan approval.

Mr. Becker requested a break to confer with the applicant at 8:19 PM.
Meeting resumed at 8:20 PM.

Applicant will move the equipment off the railroad property and it will not be a part of this application and clarifies there is no sublease from the masonry company. Atty. Becker provided a summary: the applicant proposes to do a reverse subdivision, has eliminated six of the variances by moving the sheds, all eight waivers requested remain, the applicant is adding the Norwegian Spruces at the dimensions discussed, the sheds will be removed from the neighboring property and moved on site, the residential use will be abandoned, and the height of the tents will be modified to ensure they are not more than 12', and application will be made to the DEP.

Motion to approve the application subject to the changes and conditions discussed made by Mr. Mulder.

Atty. Siss reviewed the conditions: the FHA submission, height of the tent structures cannot exceed 12', four sheds will be moved to the island area, there will be Norway Spruce installed along from the back of the building to the rear property line, 8-10' spacing and 8-10' in height, the residential structure will not be used until a submission is made for approval from this Board, all equipment and uses on the railroad property will be removed as not part of this approval, and a parking calculation based on existing uses will be provided.

Seconded by Councilman Kruis; all voted in favor.

COMMUNICATIONS:

714 Godwin Avenue – BL 55 LT 8 – BCSCD application and approval; informational – no action taken.

Ridgewood Water – 32 Birch Street – BL 32 LT 4 – Notice of NJ DEP Flood Hazard Area Individual Permit and Flood Hazard Area Verification Method 6 Application; informational – no action taken.

Zoning Ordinance Review - #19-2023 – An Ordinance to Amend Ordinance #08-21, "Zoning", More Particularly to Amend Section 34-1.4 Thereof (Cannabis & Vaping) – Motion that the Board finds that this Zoning Ordinance change is not averse to the Master Plan and directing Atty. Siss to write a letter to the Council advising of the finding made by Mr. Mulder. Seconded by Mr. Goldsmith; all voted in favor.

NEW BUSINESS:

Chairman Rigg advised the Board that he noticed a TV monitor on the side of the building at the Midland Park Shopping Center that is about 4' high and 2' wide and advertising businesses that aren't on site. This type of sign would be defined as a billboard, and it runs continuously. The Board believes this kind of sign to be prohibited. Board Secretary to contact the Zoning Official for follow-up regarding the sign.

Meeting adjourned – 8:32 PM
Jessica Harmon