

**MINUTES OF THE ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
BOROUGH OF ORADELL
APRIL 17th, 2023**

Chairman Michelman called the Zoning Board of Adjustment meeting to order at 7:30 p.m. Notice of this meeting was published in the official newspapers, prominently posted in the Borough Hall, and filed with the clerk in accordance with the requirements of the Open Public Meetings Act.

ROLL CALL:

Present: Mr. Bartlett, Mr. Degheri, Ms. Odynski, Mr. Santaniello, Ms. Cobb, Mr. Michelman

Absent: Mr. Barrows

Also Present: Mr. Regan, Esq.
Mr. Depken, Zoning Administrator
Mr. Atkinson, Borough Engineer
Ms. Reiter, Borough Planner

Correspondence

None

Closed Session

Ms. Cobb moved to adopt the resolution and was seconded by Mr. Santaniello. The Board went into closed session to discuss pending litigation.

Approval of Minutes

None

Appointments

- a. Appointment of Jeffrey R. Surenian as special legal counsel – affordable housing
Mr. Michelman moved to adopt the resolution and was seconded by Ms. Cobb
ROLL CALL:
AYES: Mr. Santaniello, Ms. Odynski, Mr. Bartlett, Ms. Cobb, Mr. Michelman
- b. Appointment of Caroline Z. Reiter, P.P., AICP of T & M Associates as Board Planner
Ms. Cobb moved to adopt the resolution and was seconded by Mr. Degheri
ROLL CALL:
AYES: All in favor

Memorialization of Resolutions

CAL# 850-20

Aly, Waleid M. and Alegre K.

890 Oradell Avenue – Block: 502, Lot: 15

Ms. Cobb moved to adopt the resolution and was seconded by Mr. Santaniello.

ROLL CALL:

AYES: Mr. Degheri, Mr. Santaniello, Ms. Odynski, Mr. Bartlett, Ms. Cobb, Mr. Michelman

CAL. # 864-22

Block 221, Lot 2

RK Holdings, LLC

240 Kinderkamack Road

Mr. Barrett stated that the applicant's planning expert has completed his testimony and he encouraged the Board and its professionals to ask questions. Ms. Reiter asked Mr. Page for clarification regarding the adjacent lot analysis marked as Exhibit A-31. Ms. Reiter asked if the lot can accommodate the larger sized building. Mr. Page referenced comparable buildings in the area; affirming his belief that the lot can accommodate the proposed restaurant. Mr. Page also noted the master plan recommendation that restaurants be considered a permitted use in the B-1 Zone. Ms. Reiter asked if it would be possible to construct a building that would be more in compliance. Mr. Page referred to Exhibit A-30 which emphasizes the disparity in the property line relating to the 10-foot setback. Ms. Reiter confirmed with Mr. Page that the applicant proposed the size based on the number of patrons they are hoping to accommodate. Mr. Depken noted that two truck turning templates were digitally submitted and Mr. Page distributed physical copies for the Board. The turning templates were marked exhibit A-31 and A-32. Mr. Depken stated that the earliest time contractors can begin work in town is 7 AM and he asked if the refuse company could accommodate that schedule. Mr. Barrett indicated that he will coordinate with the applicant and the proposed company. Mr. Degheri asked Mr. Page for his opinion on the size of the kitchen in comparison to the size of the seating area. Mr. Page stated that there are 42 seats on the first floor and 48 seats on the second floor so the kitchen, prep area, and buffet area must accommodate all of the patrons.

On behalf of the objector, Mr. Mayland asked Mr. Page questions in connection with floor area ratio totals in reference to Exhibit A-31. Mr. Mayland reserved the right to cross examine Mr. Page in the future due to the fact that the turning templates were not submitted 10 days prior to the meeting for review. Mr. Mayland asked Mr. Page to describe some examples of vehicles that would fit the measurements of the turning template. Mr. Page indicated that the templates represent an ADA van and a delivery van. Mr. Mayland continued to question Mr. Page regarding different vehicle sizes and their turning radiuses. Mr. Mayland asked for clarification regarding parking and Mr. Page reiterated calculations relating to municipal parking and street parking availability. Mr. Mayland asked Mr. Page to describe how the site would suit the proposed restaurant. Mr. Page replied that in his opinion the location is suited for a restaurant as it will upgrade the central business district.

Mr. Latsounas of 50 Beverly Road asked Mr. Page if he is aware of the 5 parking spaces on the east side of Kinderkamack Road that have signage for 30-minute parking. Mr. Page replied yes. Mr. Latsounas noted that some of the businesses are open until 7 PM. Mr. Latsounas moved on to ask for clarification regarding the flashing pedestrian sign. Mr. Page elaborated on the signage which would be contingent upon Bergen County approval. Mr. Latsounas concluded by questioning Mr. Page on parking availability for specific neighboring side streets.

Mr. Michelman stated that it is 8:50 P.M. and called for a break in the hearing.

Mr. Michelman reconvened the hearing at 9:00 P.M.

Mr. Mayland briefly stated that the reason for his client's objection is because they feel that the development is oversized on an undersized lot. He moved on to discuss the multiple variances being requested and mentioned the fact that restaurants are not considered a permitted use in the B-1 Zone despite the master plan recommendation. Mr. Mayland explained the professionals who will testify and called his first witness. Mr. Tombalakian was sworn in by Mr. Regan and he was deemed an expert in the fields of civil engineering traffic engineering. Mr. Mayland asked Mr.

Tombalakian to provide his comments regarding the site plan. Mr. Tombalakian referenced what is being proposed by the applicant, he then referred to Exhibit A-25 on the easel. He discussed several areas of concern regarding safety on the site. Mr. Tombalakian explained that the minimum width for two-way traffic would be 22 feet where the applicant is proposing 18.2 feet for their driveway. He moved on to discuss the proposed landscape buffer, curbing, and drainage. Mr. Tombalakian elaborated on drainage and his clients concern for the proximity of the applicant's proposed cul-tech system. He recommended that soil testing be conducted before any approvals are granted instead of it being a condition of approval. He mentioned that his client is deeply concerned with the basement of their building being flooded because that area is utilized as a conference room. Mr. Tombalakian moved on to note that he finds the testimony of the applicant conflicting regarding truck parking/ turning because original testimony affirmed that employees would do food shopping with a standard vehicle. He then encouraged the Board to consider the safety of crossing Kinderkamack Road despite the proposed blinking crossing sign. Mr. Mayland asked Mr. Tombalakian to expand upon the exhibits that Mr. Page just distributed. Mr. Tombalakian stated that in his opinion, stopping Kinderkamack Road for garbage pickup will be a difficult and dangerous feat for the hauler. Mr. Tombalakian also emphasized that coordinating with the County regarding the flashing sign/bus stop location could be a very lengthy process. Mr. Mayland asked Mr. Tombalakian to expand upon the lighting plan proposed by the applicant. Mr. Tombalakian referred to Exhibit A-25 where the light pole is indicated but light spillage is not calculated. Mr. Mayland asked Mr. Tombalakian to point out any other concerns he has regarding the site civil engineering aspects of the application. Mr. Tombalakian brought up the proposed size for the loading space and its inadequacy to accommodate a box truck. Mr. Tombalakian concluded his testimony regarding the site/ civil engineering aspect of the property. At this point, Mr. Michelman noted that the application will not be brought to a vote at the current meeting and requested an extension to the 120-day shot clock and Mr. Barrett obliged. Mr. Atkinson asked Mr. Tombalakian if there is an existing driveway at the property in a similar location to which Mr. Tombalakian replied yes. Mr. Atkinson asked that he elaborate on his previous testimony that the driveway is unsafe when there is an existing driveway. Mr. Tombalakian confirmed that the existing driveway serves a vacant lot which was previously a residential home. He affirmed his belief that the driveway proposed by the applicant cannot effectively accommodate a two-story restaurant. Mr. Depken corrected him confirming that the previously burned building had a retail use. Mr. Atkinson asked Mr. Tombalakian if it is customary for establishments in downtown areas to utilize municipal parking. Mr. Tombalakian confirmed that it is customary - however Oradell's ordinances dictate that parking must be provided on site. Mr. Atkinson corrected this by confirming there is a condition within the ordinance that relates to variance relief for sites which lack onsite parking. Mr. Atkinson and Mr. Tombalakian moved on to discuss the necessity of a soil test being done before an approval is granted. Mr. Atkinson asked Mr. Tombalakian to reiterate his concerns regarding the 3-foot buffer. Mr. Tombalakian affirmed his previous statement that the proposed development is oversized and a smaller development would provide for a better buffer. Mr. Atkinson proceeded to note that the objector's existing trees create a hardship for the applicant as they attempted to create a design which would keep the mature vegetation healthy. Mr. Michelman stated that the Board will not require the applicant to have a soil test done for the objector's benefit. Mr. Regan asked Mr. Tombalakian how long the objector has utilized the basement area as a conference room. Mr. Tombalakian replied that he is unsure and Mr. Regan noted that his question seeks to determine if there was any impact on the objector's basement when 240 Kinderkamack Road was being developed. Mr. Mayland stated that he will confer with his client and report back. Ms. Cobb asked Mr. Tombalakian to explain how safety would be impacted in the event there was onsite parking available. Mr. Tombalakian replied that onsite parking would allow for less pedestrians crossing Kinderkamack Road. In response, Ms. Cobb questioned if the influx of vehicles would cause any issues. Mr. Tombalakian states that proper visibility would need to be established for vehicles going in and out of the site. Mr. Degheri expressed his desire to know if the conference room/basement of the objector's property has had flooding issues in the past. Mr. Tombalakian continued to advocate for the soil test being conducted prior to approvals being granted in an effort to determine if his client will have flooding issues in the future. Mr.

Michelman asked how frequently there would realistically be two vehicles utilizing the driveway going the opposite way. Mr. Tombalakian replied that during peak dinner time patrons who are elderly or handicapped will be looking for the handicapped parking in the back of the building resulting in people having to turn around. Mr. Michelman referenced previous testimony that there would be a sign in the back of the building that would indicate there is no parking available. Mr. Regan confirmed that this was mentioned in prior testimony and the no parking sign was going to be incorporated as a condition of approval. Mr. Michelman affirmed his belief that two vehicles going in the opposite direction in the driveway would be a rare occurrence. Mr. Degheri confirmed that the site plan depicts a sign which will read "no customer parking loading zone only". Mr. Barrett confirmed that rebuttal testimony will be provided when the objector concludes with testimony from their professionals. Mr. Regan asked a question regarding Exhibit A-31 and Mr. Tombalakian replied that the question would be deferred to the objector's planner, Mr. Burgis. Mr. Tombalakian requested time review the exhibits presented by Mr. Page earlier that evening to provide testimony on traffic and parking at the following meeting.

Old Business

None

New Business

Mr. Michelman stated that the Board is in need of two alternate members and asked that members of the public notify the mayor if they wish to serve. Mr. Depken added that the Financial Disclosure statements need to be submitted by the Board Members and further information will be provided by the Borough Clerk.

Mr. Michelman opened the meeting to the public for any matters.

Mr. Michelman closed the meeting to the public.

Motion to adjourn was made by Ms. Cobb and seconded by Mr. Santaniello, all in favor.

The meeting was adjourned at 10:17 P.M.