

**MINUTES OF THE ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
BOROUGH OF ORADELL
JUNE 21st, 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. Barrows, Mr. Bartlett, Mr. Degheri, Ms. Odynski, Mr. Santaniello, Ms. Cobb, Mr. Michelman

Absent: None

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

Correspondence

- a. Sign plan drawings prepared Shore Point Engineering last revised May 22, 2023 in connection with 700-800 Kinderkamack Rd. – Block: 905, Lot(s): 1 & 2 – RW Oradell LLC
- b. Transmittal letter prepared by Joshua J. Koodray, Esq. of Sills Cummis & Gross dated June 9, 2023 in connection with 700-800 Kinderkamack Rd. – Block: 905, Lot(s): 1 & 2 – RW Oradell LLC
- c. Transmittal letter dated June 9, 2023 and exhibits related to garbage collection in connection with 240 Kinderkamack Rd. – Block: 221, Lot: 2 – RK Holdings, LLC
- d. Email correspondence from David E. Mayland, Esq. of Strasser & Associates, P.C. dated June 12, 2023 in objection to further testimony in connection with 240 Kinderkamack Rd. – Block: 221, Lot: 2 – RK Holdings, LLC
- e. Case Management Order establishing briefing and hearing date filed June 6, 2023 regarding 66 Kinderkamack Road – Block: 113, Lot: 5 – 66 Kinderkamack LLC litigation

Approval of Minutes

Approval of the March 20, 2023 meeting minutes

Ms. Cobb motioned to approve the minutes and was seconded by Mr. Santaniello.

ROLL CALL:

AYES: All in Favor

Memorialization of Resolutions

None

Applications

CAL. # 864-22

Block 221, Lot 2

RK Holdings, LLC

240 Kinderkamack Road

Mr. Barrett introduced his witness Frank Pinto who was sworn in by Mr. Regan. Mr. Pinto stated that Pinto Service INC. is a third-generation family-owned waste management company that provides their services to commercial and industrial establishments. Mr. Barrett asked Mr. Pinto if the plan prepared by Mr. Page accurately depicts how the haulers would access the site. Mr. Pinto confirmed that the plan is accurate and explained how the truck would execute a 4-point turn to collect the waste from the wheeled container. The photo of the truck submitted to the Board was marked Exhibit A-35 and the garbage truck turning template was marked Exhibit A-36. Mr. Barrett asked Mr. Pinto to explain the kind of container which would be used on the site. Mr. Pinto stated that a 4 cubic yard front load wheeled container would be utilized. Mr. Barrett asked Mr. Pinto if he serves other customers within the Borough of Oradell. Mr. Pinto confirmed that the company services establishments along Kinderkamack Road in both Oradell and River Edge. He noted that these properties are entered and exited with the driver conducting a 3- or 4-point turn with the truck entering nose in and then exiting nose out. Mr. Barrett asked Mr. Pinto to provide the names of some customers. Mr. Pinto stated that the company serves Nigito Realty and Joyce Chinese Cuisine and the document detailing the accounts serviced was marked Exhibit A-37. Mr. Pinto confirmed that the company has had no issues or difficulties when servicing these locations. Mr. Bartlett stated that the template only depicts the truck traveling north and asked if the driver would ever come south. Mr. Pinto stated that the northbound travel is consistent with the driver's existing route. Mr. Michelman asked Mr. Pinto if a truck was actually pulled in to verify the template or the testimony is based on his knowledge. Mr. Pinto affirmed that his testimony is based on the knowledge of the surrounding area and the truck size.

Ms. Callahan of 615 Brookside Avenue asked Mr. Pinto a question regarding the length of the contract he has with the applicant. Mr. Pinto stated that there is no contract in place since the applicant does not know the opening date of her establishment. Mr. Barrett added that the Board has not granted an approval so it would not make sense for the applicant to establish a contract at this point. Ms. Callahan asked Mr. Pinto if he is confident that any carting company could conduct such a turn and Mr. Pinto expressed his confidence.

Mr. Mayland asked Mr. Pinto if he prepared the turning radius document. Mr. Pinto replied that he did not prepare it. Mr. Mayland asked if he had any discussions regarding the preparation of the document. Mr. Pinto indicated that he did not have in depth discussion with Page Consultants who prepared the document. Mr. Mayland continued to question Mr. Pinto's involvement with the preparation of Exhibit A-36. Mr. Pinto confirmed that he gave the dimensions of the truck to the applicant who then coordinated with Mr. Page, but he himself never spoke to Mr. Page. Mr. Mayland addressed the Board stating that he objects to the Exhibit A-36 until Mr. Page testifies on how it was drafted. Mr. Michelman and Mr. Regan agreed that the exhibit is acceptable as is. Mr. Mayland asked if Mr. Page will be testifying regarding the exhibit and Mr. Barrett indicated that he will not be. Mr. Mayland asked Mr. Pinto various questions which affirmed the fact that he never physically drove a truck on to the site. Mr. Mayland asked Mr. Pinto if he knows the dimensions of the drive isles for the other properties that he services to which Mr. Pinto replied no. Mr. Mayland asked that Mr. Pinto explain the process of pick up and leaving the property. Mr. Pinto stated that the template offers an accurate picture of how the truck would turn in, collect the waste, then conduct a 3- or 4-point turn and leave the property. Mr. Mayland asked Mr. Pinto if he is aware that there is a bus stop directly in front of the property. Mr. Pinto confirmed he is aware of the bus stop and confirmed that the truck will not interfere. Mr. Mayland asked Mr. Pinto if he gave the specific measurements of the wheel base to the applicant to which he replied no. Mr. Mayland indicated that his rebuttal witness is not present yet. At 7:57 PM Mr. Michelman stated that the case will be suspended and the Board will move on to the following case until the witness arrives. At 8:17 the case resumed and Mr. Mayland called Mr. Tombalakian. Mr. Mayland asked Mr. Tombalakian to elaborate on Exhibit A-35, the garbage truck turning template submitted by the applicant. Mr. Tombalakian stated that in his professional opinion the plan is incomplete as it

does not indicate the wheel base width or wheel path of the intended vehicle. He noted that based on the template the truck utilizes the entire driveway to turn on to the site and it would cross over the curb line. Mr. Michelman asked Mr. Tombalakian if it is possible or impossible for a 30-foot truck to pull in to the site nose first, conduct a K-turn, then leave the site nose first. Mr. Tombalakian replied that he would not say it is impossible but unlikely. Ms. Cobb asked Mr. Tombalakian to elaborate on earlier testimony that the truck would go over the curb line. In response, Mr. Tombalakian referred to the template noting that the outline of the truck to the eastern reach of the site appears to go over the curb line. Further discussion ensued regarding garbage pickup and suggestions were made that the smallest truck available be used and that the truck cannot back in to the site. At this point Mr. Michelman invited members of the public to provide their final comments.

Mr. Callahan of 615 Brookside Avenue was sworn in by Mr. Regan. Mr. Callahan stated that in his professional opinion as an architect the building is too big for the site. He noted that no parking is provided on site which forces people to cross Kinderkamack Road. Mr. Callahan concluded by affirming his opinion that the proposal was designed poorly.

Mr. Latsounas of 50 Beverly Road was sworn in by Mr. Regan. Mr. Latsounas stated that the proposed restaurant will bring food diversity to the community. He noted that the restaurant at 304 Kinderkamack was approved and it could be considered discriminatory if the applicant is not approved. Mr. Latsounas added that the neighboring establishments are opposed for selfish reasons such as parking. He concluded by urging the Board to grant an approval to the applicant.

Mr. Tripsas of 327 Maple Avenue was sworn in by Mr. Regan. Mr. Tripsas discussed the historical aspects of the property. He referred to photos that he had of the property throughout the years which he used to emphasize that a restaurant is an over development of a property that has only accommodated houses in the past. Mr. Tripsas added that a more compatible use for the property would be a store front. Mr. Tripsas submitted the photos and Mr. Regan marked them Objector Exhibit 4. Mr. Tripsas concluded by stating that he has lived in town for 34 years with a quiet downtown which is now changing.

Mr. Michelman stated that it is 8:49 P.M. and called for a break in the hearing.
Mr. Michelman reconvened the hearing at 9:00 P.M.

Mr. Mayland began his closing statement on behalf of the objector. Mr. Mayland emphasized the objector's main concerns of pedestrian safety and lack of parking. He stated that the development is oversized on an undersized lot. Mr. Mayland noted that there have been many iterations of the applicant's plan over the course of the meetings but the final proposal still requires significant variance relief. He referenced the requested variances and mentioned again that restaurants being a permitted use remain a recommendation of the Master Plan since the governing body has not adopted it. Mr. Mayland concluded by urging the Board to deny the application.

Mr. Barrett began his closing statement on behalf of the applicant. He stated that the application originally came before the Board in the fall. Mr. Barrett outlined the changes made to the applicant's proposal over the course of the meetings. He emphasized the fact that the changes were made in consideration of Board comments, public comments, and safety in general. Mr. Barrett concluded by stating an approval from the Board would only serve to enhance the public good.

The Borough's professionals provided their closing comments. Ms. Reiter elaborated on the relief being requested by the applicant and the associated case law. Mr. Atkinson stated that stormwater runoff is not an issue but he recommended that soil testing be incorporated as a condition of approval. He also recommended that a parking management plan be considered. Mr. Depken recommended that accessibility for handicapped patrons be addressed. Mr. Regan stated that these

provisions can be incorporated into the resolution if the application is approved. Next, Mr. Michelman asked the Board members to provide their final thoughts.

Ms. Odynski stated that the applicant and the objector provided strong cases. She concluded by recognizing the benefit of an additional restaurant in the community while also emphasizing her concern for pedestrian safety.

Mr. Santaniello began by stating that the application has changed over the course of the meetings and he recognized the accommodations that have been made by the applicant. He added that parking is a concern but this is the case all over Bergen County. Mr. Santaniello stated that he believes there is enough parking but his main concern is the garbage collection. He advocated for a condition being incorporated that the truck drive in nose first and then leave nose first.

Mr. Bartlett stated that his major concern is pedestrian safety. He emphasized that the applicant is willing to install the flashing cross walk sign and recognized their willingness to make accommodations.

Mr. Barrows stated that the application has gotten better over the course of the meetings and offered his opinion that restaurants are beneficial to the community.

Ms. Cobb echoed the sentiments of her colleagues. She stated that the applicant has worked to improve safety throughout the revisions to the plans. Ms. Cobb referenced previous testimony and recommended that a condition be incorporated stipulating that the smallest truck possible be utilized for pick up.

Mr. Degheri commended the architect for the multiple revisions throughout the meeting process. He added that people in Oradell are forced to go to neighboring municipalities to find restaurants.

Mr. Michelman recognized the fact that resistance to change will always be a problem for the Board to face. He stated that a restaurant is beneficial for the Borough and he looks favorably upon the application as whole.

Mr. Degheri moved to adopt CAL #864-22 and was seconded by Mr. Barrows

ROLL CALL:

AYES: Mr. Bartlett, Mr. Degheri, Ms. Odynski, Mr. Santaniello, Ms. Cobb, Mr. Barrows, Mr. Michelman application is APPROVED

CAL. # 868-23

RW Oradell, LLC

Block 905, Lot(s) 1 & 2 700-800 Kinderkamack Road

Mr. Barrows and Mr. Santaniello recused themselves. The counsel for the applicant, Mr. Klein, stated that this is the second appearance before the Board in connection with bulk variances for signage at 700 and 800 Kinderkamack Road. Mr. Klein stated that the plan has been revised to 4 signs and the only signage being requested include a compliant address sign on each building, one ground sign with dimensions that are identical to the existing ground sign, and one directory sign with dimensions that are identical to the existing directory sign. Mr. Regan marked the revised plans as Exhibit A-2 and Mr. Shelly of Shore Point Engineering began his testimony. Mr. Shelly indicated that the number of proposed signs has been reduced from 13 to 4. He went on to explain that replacements are being proposed but they will be the same size as the existing signage. Mr. Michelman stated that he appreciates that the applicant has made an effort to be in compliance. Mr. Depken asked how the signs will be lit and Mr. Shelly stated that there is existing lighting coming from the ground. Mr. Klein called his second witness, Mr. Dougherty, who was sworn in by Mr. Regan. Mr. Dougherty stated that he is providing testimony on behalf of Graviano & Gillis

Architects & Planners, LLC. Mr. Regan confirmed that Mr. Dougherty is a licensed professional planner in New Jersey, and that he has been qualified before other land use boards in the past. Mr. Dougherty was deemed an expert witness. Mr. Klein asked Mr. Dougherty to describe the property and the proposed signage. Mr. Dougherty described the 2 buildings and stated some of the various uses within the buildings. He moved on to describe the signage noting that the ground signage will be a like for like replacement and that the relief sought for the directory sign is comparable for the buildings which accommodate 70 tenants. Mr. Dougherty stated that the topography of the site is an interesting feature being that Kinderkamack Road is higher than the site which makes it difficult for drivers to see the signs. He concluded by stating that in his professional opinion the proposed signage upgrades will not be a detriment to the zone or zone plan. Ms. Reiter emphasized the challenges that the office market is having and asked Mr. Dougherty if improved signage will allow patrons to circulate and locate the site easier. Mr. Dougherty acknowledge the current issues with the office market and stated that better signage could promote more patrons to come to the site. Mr. Klein concluded by stating that he is hoping the proposed signage will help the tenants by encouraging patrons to frequent their offices.

Ms. Cobb moved to adopt CAL #868-23 and was seconded by Mr. Degheri

ROLL CALL:

AYES: Mr. Bartlett, Mr. Degheri, Ms. Odynski, Ms. Cobb, Mr. Michelman application is APPROVED

Old Business

None

New Business

Mr. Michelman stated that the Board needs a new Board member and two alternate members as Mr. Degheri is leaving Oradell. Mr. Degheri expressed his sadness and thanked his fellow Board members. Mr. Michelman added that his knowledge as an architect has been a great help to the Board over the years.

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. Degheri, all in favor.

The meeting was adjourned at 10:16 P.M.