

**MINUTES OF THE ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
BOROUGH OF ORADELL
HELD IN THE TOWN HALL
JUNE 17, 2019**

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. Michelman, Mrs. McGrinder, Mr. McHale, Mr. Beslow, Mr. Barrows Mr. Degheri, Mr. Santaniello

Absent: Mrs. Cobb

Also Present: Mr. Regan, Esq.
Mr. Atkinson, Board Engineer
Ms. Tiberi, Substitute Board Engineer
Ms. Green, Substitute Board Planner
Mr. Depken, Zoning Administrator

Correspondence

5-15-2019 Letter from Eric V. Timsak, P.P., County of Bergen Dept. of Planning & Engineering to Oradell Board of Adjustment Re Application No. SP 8502, Bergen Catholic High School, Facilities Upgrade & Construction, Lot 1, Block 501, Borough of Oradell, Bergen County, N.J., Site Plan, Dwg. No. C02.2, dated 6/14/17, revised 2/28/19; Grading & Drainage Plan, Dwg. No. C04.0, dated 6/14/17, revised 2/29/19.*

5-21-2019 Letter from Eric V. Timsak, P.P., County of Bergen Dept. of Planning & Engineering to Oradell Board of Adjustment Re Application No. SP8570, Temple Beth El of Northern Valley, Block 807; Lot 3.*

6- 6-2019 Letter to Ms. May from Capizzi Law Office re 319 Grove St. Ballerini-Santaite, Block 1206, Lot 9 revised Architectural Plans dated 11/28/2018 and last revised May 24, 2019 consisting of (3) sheets.

6-12-2019 Planning Report from Maser Consulting/Darleen Green Re Application Cal# 840-19 – 505 Kinderkamack LLC., 505-515 Kinderkamack Rd. – Block 708, Lot 18 & 19.

Approval of Minutes – August 20, 2018 and May 20, 2019

Mr. Michelman stated that he had reviewed both of the minutes in advance of the meeting. He asked if any board members had any comments or edits to the minutes. Mr. Barrows stated that he was not present for the May 2019 meeting so his vote would only be for the August 2018 minutes.

Mrs. McGrinder made a motion to approve the minutes, and Mr. Michelman seconded the motion.

ROLL CALL:
All in Favor

Mr. Depken and Ms. Tiberi were previously sworn in by Mr. Regan.
Ms. Green was sworn in by Mr. Regan.

Applications

CAL. #840-19
Block 708, Lots 18 & 19

505 KINDERKAMACK LLC
505-515 Kinderkamack Rd.

CONTINUED

The attorney for the applicant, Mr. Kelly stated that he had thought they finished the redirect of the project engineer, Mr. Eichenlaub at the last meeting. He explained that he had received by email a copy of the board's planner report which is requesting some clarification and additional documentation on the plans. He stated that they would comply with most of the mechanical issues within the planner's report such as landscaping and lighting but they do not have this information for the board this evening. He explained that he will have to bring the project engineer back for further testimony. Mr. Michelman asked if their engineer was there tonight. Mr. Kelly stated no and asked if this matter can be carried to the next meeting so their project engineer could submit revised plans to satisfy the review letter from the board's planner. He explained that they had addressed all of Boswell Engineering's issues during the last meeting. He stated that there are a couple of mechanical issues they need guidance on from the board. He explained that the board planner had identified a parking variance needed pursuant to section 246. 6C which is a new ordinance in the Borough. He stated that the board planner believes there is a two-parking space deviation to this ordinance. He explained that they do not believe this is the case but they would advertise for this variance to be on the safe side. He stated that the ordinance calls for parking spaces for employees but as of now there is no tenant information for the business space. He explained that this project is being presented within the B2 zone which is office use. He stated that they have no perspective tenants because the project has not been built yet. He explained that this is a situation where he does not know if they can comply with this and the planner's report indicates that this matter is up to the board. Mr. Michelman detailed another case that was before the board were the applicant did not what the business tenant would be and they agreed that once the applicant had knowledge of who the tenant would be, they would come back before the board if they did require a variance for the parking. He stated that they differed the parking issue. He explained that once they knew what the perspective tenet would be then they would know if they would have sufficient parking. Mr. Regan stated that he has not seen an ordinance like this before and believes it puts the applicant at a real disadvantage. He explained that typically, parking requirements are based on square footage. He stated that the applicant does need a variance but he does not see how the board can hold up the applicant on this issue. He explained that they would need a variance but the question is the extent of the variance. Ms. Tiberi stated that they have a variance condition right now without knowing the employees. She explained that they are one parking space short. Mr. Kelly stated that they would advertise for this additional variance but beyond that it is really speculative. Mr. Regan explained that also there is no way the board could determine this because the applicant does not know the tenant information so it is conjecture. He stated that it could be 10 employees or 20 employees so you just do not know. Mr. Kelly explained that

hypothetically, the business could be a data center with only one employee meanwhile the board is granting a use yet they are not granting the use because they are telling the applicant to come back when they rent the space to someone under these circumstances. He stated that there has to be some kind of degree of certainty as to the ordinance so they know what to apply for. Mr. Michelman asked if Mr. Regan would consult with the Borough attorney to see what their intent was with this ordinance. Mr. Kelly stated that his understanding is that there has not been any interpretation done for this new ordinance. He explained that he can understand the concept of this ordinance with a business use of retail but with an office use it could be misapplied. He stated that the board is the arbitrator of the Borough's code so it would be up to the board to make the determination. Mr. Michelman explained that the board would be seeking advice and would be looking into this matter. Mr. Kelly stated that the issue is how he would be advertising for this variance and that the notice would be without specifying the spaces. Mr. Regan suggested that they quote the ordinance in the advertisement. He stated that at this time the application has no indication of who the tenant would be so consequently it is impossible to make a determination as to the number of employees for the spaces. Mr. Depken explained that the space to be used is for business use only and not retail. Mr. Kelly stated that this is correct. Mr. Depken explained that the business office space parking requirement is within the code. Mr. Kelly stated that there is a difference by maybe one space but they would comply. Mr. Regan explained that there would be a variance needed but the question is to the extent of the deviation because it is a very unique ordinance. Mr. Michelman stated that this is a matter to remember for the board's annual report. He explained that the board would also need to research what they did on the prior application to which the business tenant was not known yet. Mr. Depken asked if the board recalls requiring that applicant to get parking permits for their employees. Mr. Regan stated that this was a condition on their approval. Mr. Kelly explained that the second issue they need to discuss with Ms. Green is COAH. He stated that they had given testimony the first night that they have to provide for COAH and the question was if they were going to provide it on this site or an offsite location at another property. He explained that Ms. Green had some concerns with this but in the interim time they could probably satisfy this matter. Mr. Michelman stated that his only concern is that he likes to see as much of this discussed in the public so that everyone can see what is going on. He explained that COAH is a very sensitive issue and would like the public to be fully informed. Mr. Kelly stated that the public would be fully informed on this matter. He explained that they should be able to speak with the board engineer and planner in order to satisfy the board's experts on where COAH would go. Mr. Kelly stated that they only received the board's planner report 48 hours ago so they are asking the board's permission to carry this hearing to the July meeting. He explained that he would be noticing the public and asked if the next meeting would be in the Senior Center again or the Borough Hall. Mr. Michelman stated that as of now, the next meeting should be a back at the Borough Hall. He explained that he had seen a for rent sign out on Kinderkamack Road for the property. Mr. Kelly stated that the building would be difficult to rent when it will be demolished soon. He explained that he would consult with his client on why there is a for rent sign out on Kinderkamack Road. He stated that it could possibly be done in order to drum up interest on the site. Mr. Michelman explained that the board will carry this matter until their July 15th meeting. Mr. Kelly stated that he will notice again for the new variance and also said that the members of the public would have the information again. He explained that he would grant the board as an extension of time for the application.

Mr. Regan stated that the board planner would not be present for this application until 9 PM because of the scheduling for the agenda with this being the second application for the evening. Mr. McHale and Mr. Degheri recused themselves from the application due to conflicts. Mr. Michelman stated that there are five members still present to hear the application. He explained that they have a quorum but the application is for a D variance so the board is not likely to bring this matter to a vote but this is up to the applicant to decide. He stated that generally for a D variance with only five board members, he leaves it up to the applicant to decide if they would like to have a vote. The attorney for the application, Mr. Capizzi asked for a moment to confer with his client because they may reserve on further testimony so they can present this to the full composition of the board. Mr. Michelman stated that if they carry the application then the matter would not be heard until the August meeting because of the scheduling conflict with the objecting party. Mr. Capizzi confirmed that they would not lose any time if he presents information tonight versus August. Mr. Michelman stated that this would only give them an opportunity to get information to the board and whoever member would be voting would watch the tape from tonight's proceedings. Mr. Capizzi explained that the plans are at such a state that he doesn't believe there is any opportunity for further revision. He stated that they had taken the opportunity since they were there in May to do a significant revision to the plans. He explained that the project as it stands today is at its most basic point in order to accomplish what they are looking to do. Mr. Regan asked who they were looking to present as witnesses tonight. Mr. Capizzi stated that they had to witnesses prepared to give testimony this evening who are the architect and the planner for the project. He asked to have a moment to confer with his clients. Mr. Depken stated that he had spoken with the board planner on a time to be here this evening because this was the second application being presented. Mr. Regan explained that the board planner had indicated that she would be present tonight at 9 PM. Mr. Capizzi stated that after conferring with his clients, they would be carrying this hearing until the August meeting. Mr. Michelman stated that in the event they would need an extension of time, do they have the applicant's extension until at least August 20th. Mr. Capizzi stated yes. Mr. Michelman explained that this matter would be carried to the August 19th meeting with no need for further notice.

Resolutions

CAL.#813-16
Block 327, Lot 10

PHU AND GILLIAN O
741 Ridgewood Rd.

RESOLUTION

Mrs. McGrinder made a motion to approve the resolution, and Mr. Beslow seconded the motion.

ROLL CALL:

Ayes: McGrinder, McHale, Beslow, Degheri, Santaniello, Michelman

RESOLUTION FOR CONTRACT OF EMPLOYMENT: Ms. Green from Maser Consulting as Substitute Board Planner

Mrs. McGrinder made a motion to approve the resolution, and Mr. Beslow seconded the motion.

ROLL CALL:

Ayes: McGrinder, McHale, Beslow, Degheri, Michelman

Old Business

Mr. Michelman asked Mr. Barrows if he had made arrangements to take the certification class yet. Mr. Barrows stated that he had taken the course and passed it. Mr. Michelman explained that for any Oradell residents watching the meeting, the Zoning Board is in need of a second alternate member. He stated that if anyone is interested to please submit an application and speak to the Mayor.

New Business

None

Mr. Michelman opened the meeting to the public for any matters, not seeing a show of hands, closed the meeting to the public.

The meeting was adjourned at 8:07 p.m.

Secretary