

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

February 23, 2023

The Regular Meeting of the Board of Adjustment was called to order at 7:30 PM via Zoom virtual meeting service.

It was confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted on the Township website. The Agenda for the meeting, as well as instructions for public participation in the meeting, have also been posted on the Township website and sent to the newspaper of record. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

Roll Call:

Members present were Mr. Sullivan, Mr. Coviello, Mr. Delia, Mr. Ringwood, Mr. Sylvester, Mr. Sincaglia, and Ms. West-Augustin (7:35). Ms. Amanda Wolfe, Board Attorney, was also present.

Adoption of Minutes:

January 26, 2023 Regular Meeting

A motion was made by Mr. Ringwood, seconded by Mr. Sincaglia, and carried 6-0 to adopt the minutes of the January 5, 2023 Reorganization Meeting as presented.

Adoption of Resolution:

App#22-0019: Philip Maccarelli, 95 Oakland Street, Block 1715, Lot 34 (R-15 Zone)

Proposed construction of a new portico requiring relief from Section 6.1.1B. "Schedule of General Regulations" for encroachment into the required 50-ft. front-yard setback.

Ms. Wolfe reviewed the Resolution.

A motion was made by Mr. Delia, seconded by Mr. Coviello, to adopt the above Resolution. The roll call vote was 6-0 with Mr. Sullivan, Mr. Coviello, Mr. Delia, Mr. Ringwood, Mr. Sylvester, and Mr. Sincaglia, voting in favor.

Applications for Review:

APP 22-0020: Ilir & Loreta Bitici: 51 Mercier Pl., Block 3002, Lot 14 (R-20 Zone)

Proposed addition to the north side and rear of the house, new foyer and portico at the front entrance, reconfigured front walkway, new backyard patio, reconfigured and relocated driveway as well as interior renovations. Relief is needed from Section 6.1.1B. "Schedule of General Regulations" for insufficient rear-yard setback and for exceeding the maximum permitted "building," "other," and "total" lot coverage percentages. Existing nonconforming issues are lot area, lot depth, existing principal rear-yard setback, and existing "other" coverage.

Ms. Wolfe confirmed that the notice provided is sufficient.

Loreta and Ilir Bitici, applicants, were sworn. Mr. Bitici stated that they want to expand the size of their home to accommodate their growing family. They previously submitted an application that was approved in 2014 but they did not proceed with the renovations at that time.

In response to questions from the Board, Mr. Bitici stated that the plans are basically the same as previously approved. The existing garage will remain as detached, a second story will be added to the house and the existing gravel driveway may be changed to pavers or asphalt in the future. The existing impervious coverage is 22% and the proposed is 29.95% which includes the walkway, patio and driveway.

Open to Public

The hearing was opened to the public for questions and comments.

Richard Leister, Environmental Commission, asked about the cost of the proposed dry well and suggested that a rain garden be installed at a lower cost.

James Ramentol, architect, was sworn and accepted as an expert witness, and stated that the cost of the proposed detention system would be \$5-7,000.

Discussion took place regarding the suggested rain garden and the proposed location was indicated on the plans. Mr. Bitici stated that they would be willing to consider a rain garden and will discuss it with the professionals.

Anthony LaSalle, 62 Emerson Lane, stated that he is confident that the proposed improvements will blend in nicely with the rest of the neighborhood.

In response to further questions from the Board, Mr. Ramentol stated that the proposed patio outside of the bedroom is just intended to be a landing to avoid stepping out onto the lawn. The applicants may elect to have a chair and table on the small patio. Mr. Ramentol presented Exhibit A-1 – photographs of the site.

Open to Public

The hearing was opened to the public for questions and comments. There were no members of the public who had questions or comments.

Ms. Wolfe reviewed the application and conditions of approval.

A motion was made by Mr. Sylvester, seconded by Mr. Ringwood, with respect to App.#22-0020: Ilir & Loreta Bitici: 51 Mercier Pl., Block 3002, Lot 14 (R-20 Zone) to approve the application with requested variances, subject to the conditions discussed and subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The roll call vote was 7-0 with Mr. Sullivan, Mr. Coviello, Mr. Delia, Mr. Ringwood, Mr. Sylvester, Mr. Sincaglia and Ms. West-Augustin voting in favor and none opposed.

CARRIED FROM DECEMBER 8, 2022 WITH NO FURTHER NOTICE

REQUIRED:

**App.#22-0016: Berkeley Heights 713 Realty, LLC, 713 Plainfield Ave.,
Bl. 3102, L. 33 (R-20 Zone)**

Proposed expansion of an existing service station use to allow expanded hours of operation, sale of diesel fuel, sale of ice, and installation of an ATM inside the existing building. The applicant is requesting a d(2) use variance to permit the expansion of a pre-existing, nonconforming use and the modification of previously imposed conditions of approval related to permitted hours and days of operation in the resolution adopted by the Board of Adjustment on May 28, 2020.

Mr. Sullivan recused himself from the hearing of the application and Mr. Coviello acted as Chairman.

Ms. Wolfe confirmed that the notice provided is sufficient.

Rob Simon, attorney for the applicant, stated that the applicant is seeking amended site plan approval and a use variance to permit expansion of the existing use of the premises. The applicant proposes to expand the operating hours to 6:00 am to 9:30 pm, include the sale of diesel fuel and ice and install an ATM in the existing building.

Vishal (Vinnie) Thakur was sworn and stated that he is the manager and property operator of the existing gas station which is owned by his father. They have improved the appeal of the station that used to be an eyesore and now want to provide more convenience to the customers and residents. He stated that the request for expanded hours is a result of complaints they have had about not being open early enough in the morning or late enough at night and they would like to operate with expanded hours 365 days a year including holidays. No additional employees will be required. Mr. Thakur further stated that the diesel fuel proposed to be provided will be low flow diesel used by pickup trucks and diesel cars and they will not be able to accommodate tractor trailers. They propose to sell ice, have an ATM and to install EV charging for the convenience of their customers.

Tyler Vanderwalk, Engineer, was sworn, provided his educational and professional background and was accepted as an expert witness. Mr. Vanderwalk stated that he prepared the plans and he is familiar with the property and the neighborhood. Mr. Vanderwalk presented Exhibit A-1 – amended site plan, and reviewed the proposed changes to the property including a proposed portable sign restricting large trucks, location of the EV charging stations, replacement of the existing chain link fence with a 5' wooden fence and landscaping.

Joe Staigar, Traffic Engineer, was sworn, provided his educational and professional background and was accepted as an expert witness. Mr. Staigar provided information regarding the expected traffic counts during the expanded hours and the anticipated number of vehicles visiting the station after addition of the diesel fuel. He stated his opinion that the site will continue to operate safely and efficiently and there will be no adverse impact due to the expansion.

Peter Steck, Planner, was sworn, provided his educational and professional background and was accepted as an expert witness. Mr. Steck presented Exhibit A-2 – photographs showing the condition of the property before and after the improvements made by the applicant in 2021, views from the station of the neighboring properties and the existing fencing. Mr. Steck reviewed the benefits of the proposed expansion of hours and use modifications and expressed his opinion that they will be a minimal change in land use but a significant change in public convenience. He further stated the opinion that this application can be approved without substantial detriment to the public good or to the zoning ordinance.

Keenan Hughes, Township Planner, stated that he would like to see details of the proposed sign.

Open to Public

The hearing was opened to the public for questions and comments.

Members of the public including Peggy House, Debra Varnerin, John Ninivaggi, Mike Harris, Anthony LaSalle, Milan Poporic, Chris House, Greg Fevola, Clarence Williams, Jagannadha Kandula, Mark Porzio, and Laura Chaticko were sworn and expressed their concerns and opposition to the expansion of the operating hours. Topics raised included the negative impact of expanded hours on the residential neighborhood, safety concerns, problems associated with the proximity to I-78, downtown location of other gas stations in town with expanded hours, potential advertising of the station on I-78, and traffic. Vincent Rapino was sworn and expressed support of the expanded hours because of the convenience.

The hearing of the application was carried to the meeting of the Board scheduled on May 25, 2023 at 7:30 pm. The hearing will be conducted in-person at the Township Municipal Building. Mr. Simon stated that the applicant will grant an extension of the time for the application to be heard through May 31, 2023.

Open to Public

The hearing was opened to the public for questions and comments. There were no members of the public who had questions or comments.

Adjournment:

A motion was made by Ms. West-Augustin, seconded by Mr. Sincaglia, to adjourn the meeting. The voice vote was unanimous, and the meeting was adjourned at 10:53 PM.

Regina Giardina, Secretary Pro Tem