

## MINUTES

### PLANNING BOARD

#### TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Virtual Online Public Meeting

August 19, 2020

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

Mr. Einbinder 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. Einbinder, Mr. Johnson, Mr. Hall, Ms. Schwarz, Ms. Poage, Ms. Greenwald and Mr. Cunningham. Mr. Warner, Conflict Board Attorney, Mr. Robertson, Board Attorney, Mr. Solfaro, Township Engineer, and Mr. Hughes, Township Planner, were also present.

#### **Adoption of Minutes:**

July 15, 2020 Regular Meeting

A motion was made by Mr. Einbinder, seconded by Mr. Johnson, to adopt the Minutes of the Regular Meeting of July 15, 2020 as presented. The voice vote was unanimous.

#### **Adoption of Resolution:**

#### **App.#M-1-20: Elite Properties at Berkeley Heights, LLC, 182 Plainfield Ave., Block 614, Lot 3 (DH-12 Zone)**

Proposed public park (10,450 sq. ft.) and a 10-unit multifamily residential building with 15% (2 units) affordable housing set aside. Upon completion of the project, the property will be subdivided into two lots: Lot 3.01 for the Mondelli Park, dedicated to the Township in fee simple title, and Lot 3.02 for the Berkeley Crossing II residential development.

Mr. Warner reviewed the Resolution.

A motion was made by Mr. Einbinder, seconded by Mr. Johnson, to adopt the above Resolution. The roll call vote was 5-0 with Mr. Einbinder, Mr. Johnson, Ms. Poage, Ms. Greenwald and Mr. Cunningham voting in favor. There were none opposed.

Mr. Warner left the meeting.

**Application for Review:**

**CARRIED FROM JULY 9, 2020, WITH NO FURTHER NOTICE REQUIRED:**  
**App. SP-4-20 : 528 Springfield Ave, LLC, 528 Springfield Ave., Bl. 612, L. 4 (DD-Zone)**

Applicant is seeking preliminary and final site plan approval and variances for a two-story building to be used as an allergy friendly bakery business. The bakery would be on the first floor with storage on the second floor. The plans have been revised to eliminate the residential units. The existing structure will remain and be renovated, and there will be no basement.

August Santore, attorney for the applicant, stated that the application has been revised in response to comments from the Board at the previous hearing.

William Kaufman, architect, was sworn, gave his educational and professional background and was accepted as an expert witness. Mr. Kaufman reviewed the changes made to the application and presented Exhibit A-4 - rendering of the proposed building, Exhibit A-5 – exterior elevations, and Exhibit A-6 – photograph of a brick building with a faded painted sign showing the effect the applicant is attempting to provide for the building. Mr. Kaufman stated that the building has been redesigned to eliminate the third floor and all residential units. The basement has also been eliminated and what was proposed to be put in the basement will now be on the second floor. The building will remain with the roof to be removed and the second floor added. Mr. Kaufman also reviewed the proposed signage, awnings, service door for deliveries and windows.

Mr. Kaufman further stated that the building does not meet the 30' minimum height requirements of the ordinance and if the Board feels strongly that it does not want to grant a design waiver for the 27' height the applicant will raise the building.

In response to questions from the Board, Mr. Kaufman stated that the footprint of the building will not be changed, indicated the location of the split between the first floor and the second floor and reviewed the design waivers and variances required. The equipment on the roof areas will be concealed from public view, there will be access to the roof from inside the building and there has not been any consideration of a satellite dish on the roof.

Discussion took place regarding the minimum height requirement and Mr. Hughes and Mr. Solfaro stated that the 27' height is sufficient.

With respect to the report of the Downtown Beautification Committee, Mr. Kaufman stated that the applicant will comply with all the comments except with respect to the clapboard siding.

Mr. Hughes stated that the signage would be considered to be two separate signs for which a variance will be required.

### **Open to the Public**

The hearing was opened to the public for questions regarding Mr. Kaufman's testimony. There were no members of the public who had questions.

Christian Kastrud, engineer, previously sworn, reviewed the changes in parking and stated that the proposed parking is in compliance with the ordinance for this use. County approval will be required for widening of the entrance. With respect to the landscaping, Mr. Kastrud stated that it has been cleaned up and the applicant is willing to supplement it and add buffers along Springfield and Plainfield Avenues. He reviewed the drainage and stated that the project will have no impact on the run-off.

In response to questions from the Board, Mr. Kastrud stated that the project will include brick pavers and streetlights conforming to the downtown standards. The applicant will work with the Board professionals with respect to the landscaping. The applicant will comply with the recommendations in Mr. Solfaro's report, in Mr. Hughes' report, and with the letters from the County and the Environmental Commission.

Mr. Santore stated that the applicant will submit samples of the exterior materials proposed to be used.

### **Open to the Public**

The hearing was opened to the public for questions regarding Mr. Kastrud's testimony. There were no members of the public who had questions.

Michael Pessalano, Planner, was sworn, gave his educational and professional background and was accepted as an expert witness. Mr. Pessalano stated that he has

reviewed the application and the ordinance of Berkeley Heights. He presented Exhibit A-7 – maps, documents and photos of the property.

Mr. Pessalano reviewed the variances and design waivers being requested and discussed how the project will benefit the community. He stated that in his opinion there will be no negative impact on the other property owners or on the zoning ordinance.

### **Open to the Public**

The hearing was opened to the public for questions regarding Mr. Pessalano’s testimony. There were no members of the public who had questions.

Discussion took place regarding the proposed roll up door for the delivery area. The applicant will explore alternative options.

### **Open to Public**

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

The Board members expressed their opinions with regard to the application and the consensus was in favor of approval.

Mr. Hall left the meeting (9:30 p.m.)

Mr. Robertson reviewed the application and the conditions of approval.

A motion was made by Mr. Einbinder, seconded by Mr. Cunningham, to approve App. #SP-4-20: 528 Springfield Ave, LLC, 528 Springfield Ave., Bl. 612, L. 4 (DD-Zone) for preliminary and final site plan approval subject to the conditions discussed and further subject to the requirements, restrictions and limitations that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting.

The Motion was carried 6-0 with Mr. Einbinder, Mr. Johnson, Ms. Schwarz, Ms. Poage, Ms. Greenwald and Mr. Cunningham voting in favor. There were none opposed.

Mr. Johnson left the meeting (9:45 p.m.).

**Executive Session:**

Chemtrade v. Planning Board of Berkeley Heights, et al. - Litigation

A motion was made by Ms. Greenwald, seconded by Ms. Poage, to enter into Executive Session for the purpose of discussing litigation. The motion was carried 5-0 by unanimous voice vote and the Board entered into Executive Session at 9:45 p.m.

The Board returned to Public Session at 10:28 on the Motion of Ms. Poage, seconded by Ms. Schwarz and carried 5-0 by unanimous voice vote.

Mr. Robertson reviewed the consensus of the Board reached during Executive Session in favor of approving the conditional settlement agreement in the litigation. He read a proposed Resolution authorizing the Board to enter into the settlement agreement.

A motion was made by Mr. Einbinder, seconded by Mr. Cunningham to approve the entrance by the Board into the settlement agreement and to adopt the Resolution memorializing the approval. The motion was carried 5-0 by roll call vote with Mr. Einbinder, Ms. Schwarz, Ms. Poage, Ms. Greenwald and Mr. Cunningham voting in favor. There were none opposed.

**Adjournment:**

A motion was made by Mr. Einbinder, seconded by Ms. Greenwald, to adjourn the meeting. The voice vote was unanimous and the meeting adjourned at 10:35 p.m.

Regina Giardina, Secretary Pro-Tem