

BRIELLE PLANNING BOARD
TUESDAY, May 12, 2020

The Regular Meeting of the Brielle Planning Board was held on Tuesday, May 12th, 2020 at 7:30 p.m. virtually.

Roll call was taken:

Present – Mayor Thomas Nicol, Thomas Condon, James Maclearie, James Stenson, Corinne Trainor, Glenn Miller and Christian Siano.

Absent – Councilman Frank Garruzzo, James Langenberger, and Madeline Ferraro

Also present were David Clark, Board Attorney, Al Hilla, Board Engineer, Karen Brisben, Board Secretary and Carol Baran, Recording Secretary. There were no people in the audience.

A motion was made to approve the Minutes of March 10, 2020, this done by Jim Maclearie seconded by Glenn Miller and approved by unanimous roll call vote, all aye.

CORRESPONDENCES:

Accept, with regret, the resignation of Board Member Francis Pierciey.

January/February 2020 issue of the NJ Planner.

OLD BUSINESS:

Resolution of approval for Block 77.01, Lot 3, 421 Higgins Avenue, owned by Midlantic Equity Partners (applicant – Dr. Ilan Gamburg), to allow change of use to dental office with variance relief.

RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF DR. ILAN GAMBURG SEEKING SITE PLAN APPROVAL AND VARIANCE RELIEF TO CHANGE THE USE OF THE PROPERTY LOCATED AT 421 HIGGINS AVENUE AND IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 77.01, LOT 3 FROM AN ENGINEERING OFFICE TO A MEDICAL/DENTAL OFFICE

WHEREAS, Dr. Ilan Gamburg (the “**Applicant**”) has filed an application with the Planning Board of the Borough of Brielle (the “**Board**”) seeking site plan approval and variance relief to convert the use of the structure on the property located at 421 Higgins Avenue and identified on the tax map of the Borough of Brielle as Block 77.01, Lot 3 (the “**Property**”) from an engineering office to a medical/dental office and certain variance relief; and

WHEREAS, the Property is located within the Borough's Commercial Zone 1 (the "C-1 Zone"); and

WHEREAS, the existing and proposed uses are confirming to the zone, but the existing lot, the parking lots, and the existing principal structure are all non-conforming to the zone; and

WHEREAS, the Property was the subject of a prior site plan approval with variance relief by the Planning Board in 2017 to allow the structure on the Property to be used as an engineering office; and

WHEREAS, the prior approval for the use of the Property for an engineering office included a requirement that the gravel parking lot at the rear of the building on the Property would be used for employee parking only and would not be used for public parking; and

WHEREAS, the Applicant is now seeking permission to remove that requirement and to obtain authorization to use the rear parking lot for both public parking and employee parking; and

WHEREAS, the Applicant is also seeking variance relief to allow it to have 14 off-street parking spaces where 27 are required, and to use stacked parking in the rear parking lot; and

WHEREAS, prior to the hearing on this application, Planning Board member Glenn Miller recused himself due to a potential conflict of interest; and

WHEREAS, the Planning Board held a hearing on this application on March 10, 2020 and considered the following documents presented at the hearing in connection with this application:

- a. Exhibit A-1 title sheet;
- b. Exhibit A-2 existing conditions site plan; and

WHEREAS, this application was presented by the Applicant's attorney, C. Keith Henderson, Esq. and

WHEREAS, the Board considered the following testimony presented at the hearing in connection with this application:

This application seeks a variance as 14 parking spaces are proposed and 26 are required for a medical office and a variance for a change in the condition of a previous approval for the use of the rear gravel parking lot. The Applicant's attorney, Keith Henderson, Esq., stated that the Applicant had received the denial letter from the Zoning Department, the correct fees were paid, taxes are paid to date and the property owners within 200 feet and the newspaper were notified, a copy of the notice with the affidavit had been turned into the Planning Board secretary. The Applicant indicated that it had two witnesses for the application--Dr. Ilan Gamburg and William Parkhill, Engineer--both of whom were sworn in at the commencement of the hearing on the application.

Mr. Gamburg stated that he has been a practicing dentist since 2015 with an office in Brielle since 2018. His office currently has five employees, four full-time and one part-time. His office sees three patients at a time and has office hours on Monday, Tuesday and Thursday 9 am until 7 pm and Friday 9 am until 6 pm. Mr. Gamburg continued with details of his current office not having enough space and his desire to move to the building located on Higgins Avenue. Mr. Henderson asked Mr. Gamburg if he explored the parking issues at the prospective site with experts and he indicated that he had done so and that he believes that the parking can meet his needs. Mr. Henderson asked if there was parking in the front of the building and Mr. Gamburg responded yes. Mr. Gamburg suggested the parking spaces in the rear parking lot could be stacked. The employees would park exclusively in the back leaving four spaces in the back lot for overflow.

Mr. Condon opened to the public for questions of this witness, hearing none he closed that portion and opened to the Board members for questions of this witness.

Jim Langenberger asked if Mr. Gamburg had considered paving the gravel parking lot in the back of the lot. Mr. Gamburg responded yes; they would consider it. Mr. Henderson added they could use pervious asphalt in the back lot. Mr. Langenberger asked if there was a backdoor so patients could come in from the lot and Mr. Henderson responded that there was a backdoor.

Mr. Stenson asked the Doctor how many patients they see. Mr. Gamburg responded three at one time.

Ms. Trainor voiced concern over the stacked parking with possibly six patients trying to park at a time. Mr. Gamburg responded they hoped to space the appointments far enough apart. Mr. Gamburg added they do not turn over patients at the same exact time, scheduling is also stacked.

Mr. Pierciey, Mr. Siano and Mayor Nicol had no questions.

Mr. Maclearie asked how many employees worked for him. Mr. Gamburg responded six including himself with one being part-time.

Mr. Condon asked how Mr. Gamburg intended to regulate the parking. Mr. Henderson stated plans were approved in 2017 by the Board and that the only change now was the use of the property was being converted from an engineering firm to medical office space. Mr. Henderson suggested that the applicant could enter into a Title 39 agreement with the Borough so the Police Department would be able to enforce the parking.

Mr. Parkhill then came forward to testify. Mr. Henderson asked if he had previously testified before this Board. Mr. Parkhill responded he has not. Mr. Parkhill stated he has a bachelor's in science and has been licensed in the State of New Jersey since 2009. Mr. Henderson asked if the Board was satisfied with his qualifications. Mr. Condon responded that the Board was satisfied and would accept Mr. Parkhill as an engineering expert. Mr. Henderson asked Mr. Parkhill to state what was already approved and what the applicant hopes to get approved. Mr. Clark asked to Mr. Parkhill to mark his exhibits as Exhibit A1 (Title sheet) and Exhibit A2 (existing conditions site plan). Mr. Parkhill explained these exhibits were the blow ups of the same plans submitted with the application to the Board.

Mr. Parkhill stated that the property has 10 gravel parking spaces in the rear and four paved parking spaces in the front on Higgins Avenue. He continued by saying the 2017 approval included a piping system for the drainage. Mr. Parkhill and Mr. Hilla's conversation earlier today concluded that if pervious asphalt was installed it would maintain the proper drainage for the lot. Mr. Henderson asked Mr. Parkhill to identify the variances need with this application. Mr. Parkhill responded that 14 parking spaces were proposed and that 26 parking spaces were required for medical/ dental use. Mr. Henderson asked if the parking lot is paved does that eliminate one variance. Mr. Parkhill responded yes; they would need just one new variance for the deficiency in the number of parking spaces. Mr. Henderson asked Mr. Parkhill if he could

address any other concerns from Mr. Hilla's letter. Mr. Parkhill responded Mr. Hilla did have a question of how trash is handled, and he added they currently have a trash enclosure and there are five cans in there. Mr. Parkhill continued by saying that Mr. Gamburg indicated his office had a low trash use and sharp medical objects are contained inside the building and are regularly picked up by a company. Mr. Parkhill stated that he felt having the Doctor move right in advances the good of the public with no negative impact to the Borough.

Mr. Condon asked if Mr. Hilla had any questions or concerns. Mr. Hilla stated that the parking spaces in the front of the lot are faded and need to be re-striped and that he thought that there should be some signage in the front for rear parking. Mr. Henderson suggested the doctor could include parking instructions to the patients when it sends out notice to the patients.

Mr. Condon opened the hearing to the public for questions to the applicant's engineer. None being heard, he closed that portion.

Mr. Condon asked the Board for questions. Mr. Langenberger asked if the doctor would put more than three working rooms in the office space. Mr. Henderson responded there would be a need for more than three rooms due to special procedures performed by the office and the need for rooms to house those procedures. Mr. Langenberger asked if the office got busy would they hire more employees. Mr. Henderson responded it is not in the best interest of the doctor to make it inconvenient for patients.

Mr. Siano asked about the current lighting in the back lot. Mr. Parkhill responded there is already lighting which lights up the lot with consideration for the neighbors.

Mr. Maclearie asked how many square feet currently and how many in the new space. Mr. Gamburg responded that the engineering office currently 1000 square feet and that the medical office is going to be 2600 square feet.

Mr. Condon asked if the public had any questions. Hearing none he closed that portion.

Mr. Condon asked the Board for comments. The Board members felt it was a good use of the building.

Mr. Clark clarified that a motion to approve the application would include the conditions the Board had stated which were agreement to the paving of the rear lot with a pervious surface, restripe the front parking area, Title 39 agreement and parking instruction signage in the front and provided to the patients.

WHEREAS, the Board after carefully considering the evidence presented by the Applicant at the hearing and of the adjoining property owners and general public, if any, makes the following factual findings and conclusions of law:

- a. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified;

- b. The application seeks approval for a change in the use of the Property to a use permitted in the C-1 Zone (medical office use);
- c. The application is not proposing any new construction on the Property;
- d. The non-conformities existing at the Property (i.e. that the existing lot, the parking lots, and the existing principal structure do not conform to the requirements of the zone) are all pre-existing non-conformities;
- e. The Planning Board previously granted variance relief for these non-conformities when it approved the development and use of the Property as an engineering office in 2017;
- f. The Applicant has agreed to address the Planning Board's concerns regarding the potential use of the rear gravel lot by the public as additional parking by paving the rear lot with pervious paving materials and striping the rear lot;
- g. By reason of the size and shape of the Property, the required number of parking spaces cannot be provided on the Property;
- h. The parking spaces provided on the Property appear adequate to meet the needs of the Applicant's proposed business;
- i. The use of the Property with the Applicant's business and the avoidance of having this Property becoming unoccupied once the engineering firm vacates the premises are public purposes which advance the purposes of the Municipal Land Use Law, does not cause any substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, James Stenson moved to approve the application with the conditions as described herein; this motion was seconded by Corinne Trainor. At that time the application was approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Thomas Condon, James Langenberger, James Maclearie, Francis Pierciey, James Stenson, Corinne Trainor, Christian Siano

Noes: None

Did not participate: Glenn Miller

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that the Applicant's application is hereby approved and granted subject to the following conditions:

- a. The Applicant shall pay all taxes and other applicable assessments, costs and fees to date, as applicable;
- b. The Applicant shall (i) post a sign at the front of the Property indicating that the parking spaces at the front of the Property are for patient use only and that

there is additional parking in the rear of the property, and (ii) shall re-stripe the parking spaces at the front of the Property. The Applicant shall complete these required actions by no later than six (6) months from the date of final non-appealable approval of this application;

- c. The Applicant shall (i) post a sign at the rear of the property identifying the additional customer parking area, and (ii) pave and stripe the rear parking lot on the Property with pervious paving material. The Applicant shall complete these required actions by no later than six (6) months from the date of final non-appealable approval of this application;
- d. The Applicant shall notify its customers via e-mail and/or text and/or regular mail of the availability of additional public parking in the rear parking lot when it sends out written notification to those customers scheduling or confirming appointments and shall also include this notification on the Applicant's website;
- e. Within ten (10) days of final non-appealable approval of this application, the Applicant shall petition the Borough in good faith, to provide Title 39 jurisdiction for the parking spaces at the front and rear of the Property, and if the Borough agrees to accept such jurisdiction, the Applicant will enter into any agreements reasonably required by the Borough and consistent with the requirements of N.J.S.A. 39:5A-1 to implement such jurisdiction.
- f. The Applicant shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application;
- g. All representations made under oath by the Applicant or its agents shall be deemed conditions of this approval, and any misrepresentations or actions by the Applicant contrary to the representations made before the Board shall be deemed a violation of this approval.

A motion to approve the above resolution was made by Jim Stenson seconded Corinne Trainor and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Thomas Condon, James Maclearie, James Stenson, Corinne Trainor and Christian Siano.

Noes: None

Not Eligible to Vote: Glenn Miller

Absent: Councilman Frank Garruzzo, James Langenberger and Madeline Ferraro.

OTHER BUSINESS

Consideration of resolution to change Planning Board requirements to mandate that a digital copy of the application and plans be submitted, as well as paper copies, when making an application before the Board.

A motion to approve the resolution was made by Jim Maclearie seconded Jim Stenson and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Thomas Condon, James Maclearie, James Stenson, Glenn Miller, Corinne Trainor and Christian Siano.

Noes: None

Absent: Councilman Frank Garruzzo, James Langenberger and Madeline Ferraro.

David Clark announced, after discussion by the Board members, should the June meeting be a virtual meeting; the start time would be moved to 6:00 pm. The meeting time will be posted on the website and the Coast Star would be notified of this change. Tom Condon added if it is not a virtual meeting, the Planning Board meeting would be at its regular time, 7:30pm.

As there was no other business to come before the Board a motion to adjourn was made by Jim Stenson seconded by Jim Maclearie and unanimously approved by roll call, all aye. The meeting was adjourned at 7:38 p.m.

Carol Baran, Recording Secretary

Approved: June 9th, 2020