

CALL TO ORDER: AT 7:05 P.M. by Chairman Ken Loury
OPEN PUBLIC MEETING LAW STATEMENT OF COMPLIANCE AND FLAG SALUTE

ROLL CALL: Chairman Ken Loury, Patrick O'Brien, Brian Bosworth, Christopher Fleischman, Ana Jones and Marc Harris arrived at 7:12p.m.

EXCUSED: Mayor Chegwidden, Councilwoman Wickenheisser, Charlotte Kelly, Peter Rathjens, Barbara Chiappa

OTHER BOARD PROFESSIONALS PRESENT: Alan Zakin, Board Attorney; Christopher Borinski, Board Engineer; Jessica Caldwell, Board Planner and Desi Ruffo, Board Secretary.

Motion by Christopher Fleischman and seconded by Patrick O'Brien to approve the bills as presented.

YEA – 5 NAY – 0 ABSENT – 6

Motion by Patrick O'Brien and seconded Christopher Fleischman to approve the minutes, with noted revisions to page 2: **The water department is requiring the following: two separate water meters and shut-off valves to create two separate water accounts. The one existing sanitary sewer service and account can remain.**

OLD BUSINESS:

Ashdyl Properties, LLC: Resolution of Approval

The board reviewed the resolution of approval. Discussions between the board members, board professionals and applicant's legal representative regarding revisions to the resolution occurred. Revisions to the following pages were determined: 4, and 7.

A motion made by Brian Bosworth and seconded by Ana Jones to approve the resolution with the changes as discussed.

YEA - 5 NAY - 0 ABSTAIN – 1 ABSENT - 5

NEW BUSINESS:

354 South Main/Suleiman: Application (Block: 2011 Lot: 14)

MARK GIMIGLIANO, DYKSTRA WALKER DESIGN GROUP (APPLICANT'S PROFESSIONAL ENGINEER): Showed preliminary and final site plans dated March 31, 2022 (Board Members received plans 08/04/2022). Mr. Gimigliano was sworn and qualified as an expert in engineering; he testified regarding site plan approval, use variance and bulk variances. The property currently has two buildings, the main front building contains 3 apartments and the second rear building is currently an accessory building which contains office space. The applicant seeks to move the office space in the rear building to the front building, as its more accessible and more visible to the public. The applicant has proposed for the front building to include: 717 sq. ft. of office space and (1) one bedroom apartment on the first floor; and (1) two-bedroom apartment on the second floor. The applicant has also proposed a second-floor addition to the rear building, which when completed, the rear building will include (2) apartments, each with one bedroom and one bathroom. The back portion of the property was originally a wooded area with a depression for storm water runoff. Plans were developed to regrade the area and add landscaping to mitigate the storm water runoff on the property and not discharge onto surrounding properties.

The proposed change includes an open area in the back with a 6-foot privacy fence and landscape screening from 24 ft. high arborvitae. The parking area will be upgraded, currently there are 8 parking spaces in the back and 5 on the side with 1 handicap, which is not in compliance with ADA requirements. Most of the back parking spaces are narrower than what is required by ordinance, the applicant proposes to expand the back parking area to allow for all 8 parking spaces to meet the 9 feet wide ordinance requirement. The applicant proposes to eliminate one parking space on the side and widen the area near the handicap space to allow for ADA compliance for proper width. There will be a total of 12 parking spaces, including one ADA compliant space; one more than the 11 required by Sec. 165-65B, the added benefit of removing the parking space and adding more striping will allow for more space between the secondary building and parking area. If the office space includes a restaurant, the formula will change; applicant will have to reapply if a restaurant makes parking non-conforming, as more than the currently planned 12 spaces are required.

- **Chairman Loury:** Asked about the concerns of the Zoning official and Engineer with regards to the backyard. Asked about proposed structural changes.
- **Christopher Borinski, Board Engineer:** The current site plan shows all work at the property as required.
- **Marc Harris:** The scope will include the finished landscaping that will improve the property overall? What type of business is planned for the front building?
- **Mark Gimigliano:** The first step planned is to clean and regrade the back yard and add the landscaping. The parking lot has sufficient parking for office and residential use, there is no designated loading space all deliveries would arrive at the side or front parking spaces. In addition to the proposed use variance, there is also a proposed bulk variance as the rear building will now be a second principal building, which has a requirement of 15 ft. from the side yard, and is currently 2.6 ft. from the side yard. The footprint and setback will remain the same with the proposed addition to the back building and the height will be in compliance. There are 2 full bathrooms proposed in the back building.
 - **Mahmoud Suleiman (Applicant):** The applicant was sworn in and testified that the property was purchased by him on March 9, 2021. The office moving to the front building will allow for more public visibility. The residential property will create more privacy. The property will be occupied by the applicant. About 200 yards of soil was brought in to the property to level the area. Once the Zoning Official and Engineer expressed concerns, all work stopped. The plan is to gain approval to continue the work. Applicant will go to Zoning for approval of business use in the front building, applicant is interested in potential restaurant/eatery establishment. Existing lighting in the parking lot will not be changed and is believed to be compliant. Proposed in the front building is the 1st floor apartment to be converted to a business use and the bathroom is proposed to remain. No changes are proposed on the second floor of the front building. Applicant believes the configuration with the office closer to the street will allow for a more successful business. The applicant plans on residing in the back building.
- **Christopher Fleischman:** asked about the conditions of the previous approval.
- **Brian Bosworth:** asked about other variance requirements for density and coverage.
- **Jessica Caldwell, Board Planner:** advised to add as a condition of approval, a sign-off by Board Engineer of the parking lot lighting, to which the applicant agreed. The property has a preexisting nonconforming front yard of 12.9 feet and the side yard setback requires a variance. The coverage is conforming and a parking variance is not required. Requested for the arborvitae to be larger 4 feet to 5 feet.
- **Christopher Borinski, Board Engineer:** Reminded the applicant of the ordinance for parking screening and requested additional landscaping to be added, to which the applicant agreed. Mentioned the area in the sidewalk that is broken, reminded it is the property owners' responsibility to replace/repair damaged sidewalk, the applicant agreed on repairing the damaged sidewalk as a condition of the approval.

OPENED TO THE PUBLIC

Resident Susan Davis, 39 Ford Avenue, Wharton NJ 07885

Asked about the remediation plan for the run off from the property and the original application which was noted that the front building would be used as an office.

- **M. Gimigliano:** The property will be regraded; the yard will be bowl shaped so that the water will sit and slowly drain back into property.
- **J. Caldwell, Board Planner:** The applicant can apply for zoning approval for a restaurant use as it is an allowed business, the applicant would need to comply with parking requirements for a restaurant.
- **A. Zakin, Board Attorney:** The potential of a proposed restaurant should have been mentioned in the public notice, it would be a risk to the applicant because it was not mentioned. Mentioned adding as a condition of approval the applicant will ameliorate the storm water run-off as approved by the Board Engineer.
- **Chairman Loury:** Reminded the applicant of the risk of not mentioning the potential restaurant use in the public notice.

CLOSED TO THE PUBLIC

- **A. Zakin, Board Attorney:** This application is for a D-1 use variance for the multi-family dwellings in a B-1 neighborhood and a C-1 variance for the side yard setback, because the back building is proposed to be used a second principal structure and the pre-existing setback is nonconforming. Parking is compliant. The applicant has agreed to the following conditions: 1) lighting will be compliant as approved by the Board Engineer, 2) additional screening, the arborvitaes to be 4 to 5 feet tall, 3) the sidewalk will be repaired as approved by the Board Engineer, 4) Applicant will ameliorate any runoff and have an appropriate method to capture the storm water as approved by the Board Engineer, and 5) all prior conditions would apply as appropriate from the prior resolutions of this property.
- Discussion between board members and board professionals occurred, they reminded the applicant to confirm and receive all necessary approvals from zoning and construction departments prior to starting any work.
- **C. Borinski, Board Engineer:** mentioned a condition of the previous resolution in which the applicant agreed to Title 39; however, the driveway width does not comply. Will confirm with the Police Department if Title 39 can be enacted and make it subject to their approval.

Motion by Marc Harris and seconded by Ana Jones to approve the application with the conditions as presented.

YEA – 6 NAY – 0 ABSENT – 5

ADJOURNMENT AT 8:24 P.M.

Respectfully submitted,



Desi Ruffo
Planning Board Secretary