

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES

Regular Meeting
September 5, 2018

CALL TO ORDER

Chairman Breslin called the meeting to order at 7:35 PM.

OPEN MEETING STATEMENT

Chairman Breslin read the following statement:

"In accordance with the requirements of the Open Public Meetings Law, notice of this meeting of the Board of Adjustment of the Township of Bernards was posted on the bulletin board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge, New Jersey, was sent to the Bernardsville News, Bernardsville, NJ, and the Courier News, Bridgewater, NJ, and was filed with the Township Clerk all on January 11, 2017 and was electronically mailed to all those people who have requested individual notice."

"The following procedure has been adopted by the Bernards Township Board of Adjustment. There will be no new cases heard after 10:00 PM and no new witnesses or testimony heard after 10:30 PM."

OATH OF OFFICE

The Oath of Office was administered by Mr. Warner to Barbara Kleinert, Regular Member, fulfilling the unexpired 4 year term of Heather Bellows, expiring 12/31/2021.

ROLL CALL:

Members Present: Breslin, Genirs, Kleinert, Korn, Lane, Mastrangelo, Pozner, Tancredi, Zaidel
Members Late: NONE
Members Absent: NONE
Also Present: Board Attorney, Steven K. Warner, Esq.; Township/Board Planner, David Schley, PP, AICP;
Board Engineer, Thomas Quinn, PE, CME; Board Secretary, Cyndi Kiefer

APPROVAL OF MINUTES

[August 8, 2018 Regular Session](#)- Ms. Mastrangelo moved approval of the minutes as drafted. Mr. Lane seconded.

Roll Call: Aye: Breslin, Korn, Lane, Mastrangelo, Tancredi, Zaidel
Nay: NONE
Ineligible: Genirs, Kleinert, Pozner

Motion carried.

COMPLETENESS AND PUBLIC HEARING

[195 Morristown Road LLC; #ZB14-027A](#); Block 801, Lot 4.01; 195 Morristown Road; Modification of Conditions of Approval, D-1 Use Variance.

Present: Lawrence A. Calli, Esq., Attorney for the Applicant
Michael J. Tobia, PP, Planner for the Applicant
Priscilla Vincent, Owner, Priscilla's Pantry

Lawrence A. Calli, Esq., attorney with *Calli Law LLC*, Kinnelon, NJ, stated that he was present on behalf of the applicant. He explained that the Silverman Group Corporate Headquarters, the subject of the original 2014 Zoning Board application (#ZB14-027) is open and functional. As part of that application, a pre-existing building known as the Sandra John building, had received approval for a high-end butchery, however, the owner of the butchery had decided to forego his opportunity at the site. Resolution conditions #2, #3 and #4 stated that any changes in hours

or usage would require Board approval. The applicant sought to amend those conditions so that the building could be used as a coffee shop and café named Priscilla's Pantry, and because those conditions related to a previously granted "d(1)" use variance for the butchery, this application also rose to the level of a "d(1)" variance. Mr. Calli confirmed that this would be a second location for Priscilla's Pantry, the original being at 534 Lyons Road.

Exhibit A-1, a paper copy of a 15-slide power point presentation, was entered into evidence by Mr. Calli.

Mr. Warner confirmed that the applicant's notice of the meeting was sufficient and that the Board had jurisdiction.

Mr. Schley, Mr. Quinn and Mr. Tobia were duly sworn by Mr. Warner.

Michael Tobia, PP, planner with offices in Morristown, NJ, was accepted by the Board as an expert in professional planning. Using the power point presentation, he reviewed the site including the Sandra John building which was currently under renovation noting that there were no site plan modifications being made with this application. The only change would be the use which he opined would have less impact than the previously approved butchery.

Mr. Tobia testified that the proposed use was similar to the butchery in that there would be primarily "grab and go" sales. Although there would be a few tables available for convenience seating, it was not a restaurant. There would be no table service or servers. The menu, operations and layout in the proposed new site would be the same as in the original Lyons Road site.

Mr. Tobia explained that the hours for both the cafe and the butchery were similar in duration however the cafe would open and close earlier. In addition, the cafe would have fewer total employees.

Mr. Tobia opined that this was a perfect location for the cafe because of the easy access to major roads including Interstate 287. The internal circulation of the parking lot lent itself to good traffic flow on and off the surrounding roads. Adequate parking was available with overflow parking readily accessible in the Silverman Group's main lot if needed. He added that there were no residences nearby and that the cafe would not be lit at night.

Mr. Tobia stated that the applicant would stipulate that any future changes in use for this building would require Board approval and that there would be no table service or food delivery service.

Priscilla Vincent, owner of Priscilla's Pantry, Basking Ridge, NJ, was duly sworn by Mr. Warner. She gave a brief overview of the operations in the existing location along with those proposed in the new location.

Noting that the testimony had indicated that there was to be no change in the footprint of the building, Mr. Quinn observed that on the plans there appeared to be a new porch or stoop in the back that would require variance relief. Mr. Tobia responded that there was no such structure and that the plans would be revised to correct the error and then sent to Township Engineering Department for review.

Finally, Mr. Tobia stated that the applicant would stipulate to all the comments in Mr. Schley's memo dated August 17, 2018 and in Mr. Quinn's memo dated September 4, 2018.

Mr. Calli asked that two conditions associated with the butchery (Conditions #5 & #6) be eliminated.

Chairman Breslin opened the meeting to the public for questions or comments. Hearing none, he closed that portion of the meeting.

Mr. Calli gave a brief summary of the application.

After deliberating, the board members felt that the applicant had satisfied both the positive and negative criteria for a "d(1)" or "use" variance. Finally, they felt that the applicant had demonstrated an entitlement to the requested modifications to Conditions #2, #3 and #4 and the excision of Conditions #5 and #6.

Mr. Lane moved to deem the application complete and to instruct the Board Attorney to draft a Resolution memorializing the Board's decision to grant the modification/excision of conditions and variance relief requested by

the applicant subject to conditions stipulated to by the applicant and as stated during deliberations. Ms. Genirs seconded.

Roll Call: Aye: Breslin, Genirs, Kleinert, Lane, Mastrangelo, Pozner, Zaidel
Nay: NONE
Ineligible: Korn, Tancredi

Motion carried.

Ms. Pozner recused herself from the following matter regarding The Pingry Corporation and left the room.

PUBLIC HEARING

The Pingry Corporation; #ZB18-017; Block 11601, Lot 3.01; 131 Martinsville Road; Preliminary/Final Site Plan, D-3 Conditional Use Variances, Bulk Variance

Present: Roger Mehner, Esq., Attorney for the Applicant
David Fahey, Assoc. Director, Pingry
James Catella, PE, Engineer for the Applicant
Justin Auciello, PP, AICP, Planner for the Applicant

Roger Mehner, Esq., attorney with *Lindabury, McCormick, Estabrook, Cooper PC*, Summit, NJ, stated that he was present on behalf of the applicant. He gave a brief overview of the variance relief required for the proposed replacement of an existing grass field with a synthetic turf field and the installation of 10 foot high protective fencing. The proposed field required several conditional use variances for location, parking and screening whereas the fence required a "c(2)" variance for height. He noted that the field could not be relocated any farther away from the property line because of environmental constraints and that the fence height was required for safety. There would be no change in lighting.

Mr. Schley, Mr. Quinn, Mr. Fahey, Mr. Catella and Mr. Auciello were duly sworn by Mr. Warner.

David Fahey, Associate Director of Operations, Safety and Strategic Initiatives at Pingry, Basking Ridge, NJ, noted that he was also involved in coaching at the school. He testified that there were numerous teams at Pingry that utilized the grass fields which at times were closed due to wet weather. Because the varsity teams have first priority for the use of those fields, the other teams suffer because of the lack of available practice areas. The synthetic turf would be less affected by the weather thereby providing a greater opportunity for teams to practice and would be strictly for Pingry's use.

Chairman Breslin opened the meeting to the public for questions. Hearing none, he closed that portion of the meeting.

James Catella, PE, engineer with offices in Delhi, NY, was accepted by the Board as an expert in the field of civil engineering. **Exhibit A-1**, a paper copy of an 8-slide power point presentation, was entered into evidence. He testified that the proposed turf field appears slightly larger than the existing grass field because the turf surface includes the out-of-bounds area, in order to accommodate play outside of the stripes for throw-ins, etc. The 10 foot high safety net/fencing at either end of the field would be barely visible because it is made with black netting. He described the construction details of the field, noting that the grading would closely match the existing grading. He testified that the proposed field had to be moved closer to the property line and could not be repositioned because it would then be located in protected environmental areas.

Mr. Catella and Mr. Mehner stipulated to all applicable comments in Mr. Schley's memo dated August 16, 2018.

Chairman Breslin opened the meeting to the public for questions. Hearing none, he closed that portion of the meeting.

Justin Auciello, PP, AICP, planner with *Cofone Consulting Group*, Red Bank, NJ, was accepted by the Board as an expert in the field of professional planning. He addressed the proofs required for the variance relief requested.

Chairman Breslin opened the hearing to the public for questions. Hearing none, he closed that portion of the hearing.

After deliberating, the board members felt that the applicant had satisfied both the positive and negative criteria for the variance relief requested.

Ms. Genirs moved to instruct the Board Attorney to draft a Resolution memorializing the Board's decision to grant the variance relief requested by the applicant subject to conditions stipulated to by the applicant and as stated during deliberations. Mr. Zaidel seconded.

Roll Call:	Aye:	Breslin, Genirs, Kleinert, Lane, Mastrangelo, Tancredi, Zaidel
	Nay:	NONE
	Ineligible:	Korn

Motion carried.

Ms. Pozner returned to the room.

EXECUTIVE SESSION

Resolution authorizing a closed session for the purpose of: a land use liability seminar about the prevention of land use liability claims to be presented by Jolanta Maziarz, Esq., attorney with Ventura, Miesowicz, Keough & Warner, PC. Attorney-Client privileged legal advice would be given where confidentiality would be required for the attorney to exercise her ethical duties as a lawyer.

Ms. Kiefer left the meeting.

The Open Session of the September 5, 2018 meeting of the Zoning Board of Adjustment was recessed at 9:45 PM.

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The Open Session of the meeting was reconvened at 10:55 PM.

COMMENTS FROM MEMBERS OR STAFF

Members of the Landscaping and Lighting Committee (Chairman Breslin, Ms. Genirs and Mr. Lane) for Application #ZB14-027 (The Silverman Group) advised the Board that they had visited the site on August 16, 2018 and found it to be satisfactory.

Chairman Breslin cancelled the special meeting scheduled for September 13, 2018 since there was no business to conduct during that meeting.

ADJOURN

By unanimous Voice Vote, the meeting was adjourned at 11:00 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment

09/19/18v2 ds

Note: Portions of the minutes were generated from review of meeting video.