

# **BERNARDS TOWNSHIP** **ZONING BOARD OF ADJUSTMENT**

**MINUTES** v2  
Special Meeting  
March 11, 2021

## **CALL TO ORDER**

Chairman Breslin called the meeting to order at 7:31 PM.

## **FLAG SALUTE**

**OPEN PUBLIC MEETINGS 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, Whippany, NJ, and the Courier News, Bridgewater, NJ, and was filed with the Township Clerk, all on January 7, 2021 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.

## **ROLL CALL:**

Members Present:       Baumann, Breslin, Cambria, Genirs, Kraus, Pavlosky, Pochtar, Tancredi  
Members Absent:        Agarwal  
Also Present:            Board Attorney, Steven K. Warner, Esq.; Board Attorney, Amanda Wolfe, Esq.;  
Township/Board Planner, David Schley, PP, AICP; Board Engineer, Thomas Quinn, PE, CME;  
Board Secretary, Cyndi Kiefer

Motion by Ms. Genirs, seconded by Mr. Tancredi, all eligible in favor and carried, that the absence of Mr. Agarwal be excused.

## **COMPLETENESS AND PUBLIC HEARING**

Burcat, Joseph & Adrienne; Block 2701, Lot 32; 153 Spencer Road; Bulk Variances; ZB21-005

Present:                Joseph & Adrienne Burcat, Applicants

Ms. Wolfe stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. The Applicants and Board Professionals were duly sworn.

Joseph Burcat, Applicant residing at 153 Spencer Road, explained that part of the proposed project, construction of a second story addition and carport, requires variance relief for minimum side yard setback (addition) and minimum front yard setback (both). Noting that the house was built prior to 1999 when the bulk requirements were revised, Mr. Burcat stated that under the old standards, both the addition and carport would have been conforming. The remainder of the project requires relief for the location of a proposed above-ground pool (not to the rear of adjacent dwellings). Mr. Burcat testified that because his house and the house on adjoining Lot 31 (161 Spencer Road) are angled towards each other (both face the outside curve of Spencer Road), the only conforming location for a pool would be much farther from his house and closer to the dwelling on Lot 31.

Mr. Burcat stipulated, as conditions of approval, to all applicable comments made in both Mr. Schley's memo dated 03/09/2021 and in Mr. Quinn's memo dated 03/10/2021. Comments made in the Environmental Commission's memo dated 02/24/2021 were also addressed to the Board's satisfaction.

Mr. Burcat testified that he had taken the photos submitted with the application shortly before submission and that they accurately represent the property as it currently exists. He also stated that he had not heard any concerns

about the proposed projects from surrounding neighbors. He noted that the pool would be built into the slope and that he planned to some evergreen bushes around the portion of the pool that would still be visible to the neighbors.

Chairman Breslin opened the hearing to the public either present or via telephone, for questions or comments. Hearing none, that portion of the hearing was closed.

After deliberating, the Board concluded that the Applicants had satisfied the positive and negative criteria required for both "c(1)" or "hardship" and "c(2)" or "benefits outweigh detriments" variance relief. Mr. Tancredi moved to deem the application complete and to direct the Board Attorney to draft a resolution memorializing the Board's decision to grant the application for variance relief requested by the Applicants subject to the conditions stipulated to by the Applicants and as stated during deliberations. Ms. Genirs seconded.

Roll call:	Aye:	Baumann, Breslin, Cambria, Genirs, Kraus, Pochtar, Tancredi
	Nay:	NONE
	Abstain:	Pavlosky (not eligible)

Motion carried.

\* \* \* The Open Session was recessed at 7:52 PM and reconvened at 7:56 PM. \* \* \*

**PUBLIC HEARING**

Verizon Corporate Services Group Inc.; Block 803, Lots 2, 3, 5, 6, 23; 300 North Maple Avenue; Preliminary/Final Site Plan, Conditional Use Variance (d-3), Bulk Variance; ZB21-001

Present:	Steven J. Tripp, Esq., Attorney for the Applicant
	Abhilasha B. Patel, Manager for the Applicant
	Kyle W. McKenna, PE, Engineer for the Applicant
	Keenan Hughes, AICP,PP, LEED AP, Planner for the Applicant

Chairman Breslin recused himself from hearing this application and left the building. Steven K. Warner, Esq. entered the meeting and advised the Board that Vice Chairwoman Genirs would preside.

Steven J. Tripp, Esq., attorney with the firm of *Wilentz, Goldman & Spitzer, PA*, Woodbridge, NJ, entered his appearance on behalf of the Applicant. Noting that the subject property had received multiple approvals from the Township's land use boards starting in 1986, he stated that the current project proposes to replace two (2) existing tennis courts (never used) with 50 additional parking spaces. He explained that when the conference center is in full use, there is a parking shortage even though the site exceeds the number of parking spaces required by ordinance. While there would be a slight increase in impervious coverage, the new parking area would utilize an area that is already developed which is significant since there are substantial environmental constraints throughout the property. He stated that in the past, the Planning Board considered the Route 287 right-of-way line to be a side property line, so a 50' side setback was applied. Only one application required relief for an approximately 33' side yard setback from Route 287. The current application proposes a 51' setback to Route 287 which, in the past, would have been conforming however because the Route 287 right-of-way line is now considered a front property line, a 150' setback is required. In addition, because of this new interpretation, a "d(3)" variance (deviation from a specification or standard pertaining solely to a conditional use) is now also required.

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. The Board's professionals and the Applicant's professionals were duly sworn.

Abhilasha Bhalani Patel, Manager of Infrastructure Engineering and Construction for the Applicant, testified that once the current Covid-19 restrictions are lifted, there would not be enough on-site parking for employees and guests during those periods when the convention center is fully booked. She also confirmed that the tennis courts were never used.

Vice Chairwoman Genirs opened the hearing to the public, either present or via telephone, for questions of the witness. Hearing none, that portion was closed.

Kyle W. McKenna, PE, engineer with the firm of *Bohler Engineering NJ, LLC*, Warren, NJ, was accepted by the Board as an expert in the field of civil engineering. **Exhibit A-1**, an aerial photo of the subject property with the area of redevelopment outlined in blue dashed lines, labeled "Aerial Exhibit", dated 03/11/2021 and prepared by Bohler Engineering NJ, LLC, was entered into evidence. Mr. McKenna noted that most of the undeveloped portions of the site are constrained by environmental issues. He further testified that a Letter of Interpretation from the New Jersey Department of Environmental Protection (NJDEP) is pending however the Applicant had been given verbal affirmation that the existing delineation is correct. Based on the anticipated approval from the NJDEP, he opined that there would be an almost net zero change in the amount of area subject to conservation restrictions, however he confirmed that all existing conservation easements would be adjusted to reflect the revisions.

**Exhibit A-2**, colorized version of Sheet C302 of the Preliminary & Final Site Plans, labeled "Site Layout Plan", dated 03/11/2021 and prepared Bohler Engineering NJ, LLC, was entered into evidence. It showed the proposed additional 50 space parking area and an access road with sidewalks to provide pedestrian access to the building. Mr. McKenna noted that all the proposed spaces are in compliance. He emphasized that that area was chosen for the parking expansion because it is already developed (2 tennis courts) and in doing so, the Applicant is preserving existing natural resources.

Addressing the design exceptions requested, Mr. McKenna opined that the proposed circulation design, with its combined entrance/exit access road, meets the safety requirements of cars and pedestrians and that a conforming design with a separate entrance and exit would create more impervious coverage and disturbance. Proposed plantings will mitigate any headlight spillage to surrounding properties and lighting on the pole mounted fixtures adjacent to residential zones will have shielding. He further testified that granting an exception for maximum pole height would reduce the number of light poles required and he opined that fewer but higher poles would have less of an impact on adjacent properties while still providing safe vehicular circulation. He noted that the Applicant is also asking for an exception for exceeding the maximum lighting intensity in the sidewalk areas to promote safer pedestrian circulation. Finally, Mr. McKenna stipulated, as conditions of approval, to all applicable comments in Mr. Quinn's memo dated 03/08/2021.

A discussion ensued about the efficacy of the existing and proposed vegetative buffering in the parking areas. As a condition of approval, Mr. McKenna stipulated to supplementing the existing wooded areas to the south subject to Mr. Schley's approval.

Ms. Patel stipulated, as a condition of approval, that the lights in the proposed parking area would be turned down to "security level" between the hours of 1:00 AM and 4:30 AM, Monday through Sunday.

Mr. McKenna stipulated, as conditions of approval, to the applicable comments in Mr. Schley's memo dated 03/09/2021.

The comments in the Environmental Commission's memo dated 02/24/2021 and the Fire Official's memo dated 02/23/2021 were addressed to the satisfaction of the Board.

Vice Chairwoman Genirs opened the hearing to the public, either present or via telephone, for questions of the witness. Hearing none, that portion of the hearing was closed.

Keenan Hughes, AICP, PP, LEED AP, principal with the firm of *Phillips, Preiss, Grygiel, Leheny, Hughes LLC*, Hoboken, NJ, was accepted by the Board as an expert in the field of planning. He gave a brief history of the approvals that had been granted and provided testimony to satisfy the criteria for the "d(3)" variance request as well as for the bulk variance and design exceptions.

Mr. Tripp advised that he had no further witnesses.

Vice Chairwoman Genirs opened the hearing to the public, either present or via telephone, for questions of the witness. Hearing none, that portion of the hearing was closed. She opened the meeting for comments. Hearing none, that portion of the meeting was closed.

Mr. Tripp gave a brief summation.

After the Board's deliberations, Mr. Tancredi moved to direct the Board Attorney to draft a resolution memorializing the Board's decision to grant Preliminary/Final Site Plan approval, exceptions and variance relief as requested by the Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Ms. Pochtar seconded.

Roll call:                   Aye:                   Baumann, Cambria, Genirs, Kraus, Pavlosky, Pochtar, Tancredi  
                                  Nay:                   NONE

Motion carried.

**COMMENTS FROM MEMBERS OR STAFF**

Some of the members indicated that they had not received the link for the mandatory on-line "Harassment Training" class. Ms. Kiefer advised that she would contact Human Resources to report the issue.

**ADJOURN**

Moved by Mr. Cambria and seconded by Mr. Kraus, all eligible in favor and carried, the meeting was adjourned at 9:48 AM.

Respectfully submitted,

Cyndi Kiefer, Secretary  
Zoning Board of Adjustment

*Adopted as drafted 04/07/2021*

03/18/2021 v2 dssw