

TOWNSHIP OF BERNARDS **ZONING BOARD OF ADJUSTMENT**

REGULAR MEETING AGENDA

Warren Craft Meeting Room

February 9, 2022

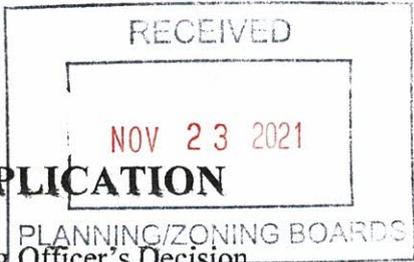
7:30 PM

This meeting will be held in person in the Warren Craft Meeting Room. In addition, the public will be able to view the meeting live on Optimum/Cablevision TV – Channel 15 and Verizon FIOS TV – Channel 35. For those interested in watching on their computers, the link will be available at 7:30 PM by clicking on the “Watch the Meeting Live” icon on the Bernards Township Zoning Board of Adjustment web page. Please note that all questions/comments must be made in person.

- 1. CALL TO ORDER**
- 2. FLAG SALUTE**
- 3. OPEN PUBLIC MEETING STATEMENT**
- 4. ROLL CALL**
- 5. APPROVAL OF MINUTES**
 - A.** January 5, 2022 – Reorganization and Regular Session
- 6. APPROVAL OF RESOLUTIONS**
 - A.** Baston 95 LLC; Block 704, Lot 1.01; 95 Morristown Road; ZB21-015 (denied)
 - B.** Porr, Michael & Wendy; Block 1611, Lot 48; 10 Prospect Avenue; ZB21-028 (approved)
 - C.** Wang, H./Chang, G.; Block 4301, Lot 25; 40 Ridgeview Drive; ZB21-032 (approved)
- 7. COMPLETENESS HEARING**
 - A.** Verizon Corporate Services Group Inc.; Block 803, Lots 2, 3, 5, 6, 23; 300 North Maple Avenue; Preliminary/Final Site Plan, Variances, Waivers; ZB22-002
- 8. COMPLETENESS AND PUBLIC HEARING**
 - A.** [Fetchko, Michael E. & Amy H.](#); Block 1204, Lot 11; 103 Washington Avenue; Bulk Variances; ZB21-035
 - B.** [Birkhold, A./Kostinas, L.](#); Block 3901, Lot 58; 33 Spring House Lane; Bulk Variance; ZB21-033
 - C.** [Heymann, F./Chiclana, M.](#); Block 2905, Lot 1; 24 Woodstone Road; Bulk Variance; ZB21-034
- 9. PUBLIC HEARING**
 - A.** [B3 Church Street LLC](#); Block 7501, Lot 15; 15 Church Street; Preliminary/Final Site Plan, “d(1)” Use Variance; ZB21-036
- 10. COMMENTS FROM MEMBERS**
- 11. COMMENTS FROM STAFF**
- 12. ADJOURN**

02/01/2022dssw

**TOWNSHIP OF BERNARDS
2021 ZONING BOARD OF ADJUSTMENT APPLICATION**



- | | |
|--|--|
| <input checked="" type="checkbox"/> Bulk or Dimensional ("c") Variance | <input type="checkbox"/> Appeal of Zoning Officer's Decision |
| <input type="checkbox"/> Use ("d") Variance | <input type="checkbox"/> Interpretation of Zoning Ordinance |
| <input type="checkbox"/> Conditional Use ("d") Variance | <input type="checkbox"/> Minor Subdivision |
| <input type="checkbox"/> Floor Area Ratio, Density, or Height ("d") Variance | <input type="checkbox"/> Major Subdivision - Preliminary / Final |
| <input type="checkbox"/> Site Plan - Preliminary / Final | <input type="checkbox"/> Other (specify): _____ |

1. APPLICANT: MICHAEL & AMY FETCHKO

Address: 103 WASHINGTON AVE, RASKING RIDGE

Phone: (home) 908-766-5706 (work) 908-385-5604 (mobile) 908-385-5604

Email (will be used for official notifications): ahf2527@optonline.net

2. OWNER (if different from applicant): (SAME)

Address: _____

Phone: _____ Email (will be used for official notifications): _____

3. ATTORNEY: _____

Address: _____

Phone: _____ Email (will be used for official notifications): _____

4. OTHER PROFESSIONALS (Engineer, Architect, etc. Attach additional sheet if necessary):

Name: STEPHEN MAJEWSKI / MAJEWSKI ARCHITECTURE LLC Profession: ARCHITECT

Address: 20 VALLEY STREET, SOUTH ORANGE, NJ 07079

Phone: 973-762-7792 Email (will be used for official notifications): STW@MAJEWSKIARCHITECTURE.COM

5. PROPERTY INFORMATION: Block(s): 1204 Lot(s): 11 Zone: R-7

Street Address: 103 WASHINGTON AVE Total Area (square feet/acres): 27,500/0.631 AC.

6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY? No Yes (if yes, explain or attach Board resolution)

1) FRONT YARD VARIANCE - 2 STORY ADDITION/NORTH SIDE IN 1996 - RESOLUTION ATTACHED.
2) REAR GARAGE SHED GRANTED - UNKNOWN DATE.

7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY? No Yes (if yes, explain)

The current front yard setback is 24.4 ft. to the home whereas 40 ft min. is required
The current rear yard setback to the home is +/- 29.5 ft. whereas 40 ft. min. is required

8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?

No [] Yes (if yes, explain) _____

9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST:

The existing home is on an oversized lot for the zone, but the lot is unusually wide with a deficient depth. The allowed building envelope is only about 20 dft. In depth but with about 230 ft. wide, the existing house is in violation of the front and rear setbacks. The proposed dormers on the existing roof will be in the required front yard setback of 40 ft.

10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.):

The variance requested is for new dormers on the existing roof on the second floor level. The variance required is for deficient front yard at +/-29.8 ft. setback whereas a 40 ft. front yard is required. Violation is of Chapter 21 section 21:15.1 d. and table 501

11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION:

The variance request is due to the unusually wide lot with deficient depth. This lot has a very deficient building envelope of only about 20 deep and the majority of the existing home is in violation of front and rear yard setbacks. The dormers will enhance the home's architectural aesthetic and improve the interior design which lacks light and windows.

12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):

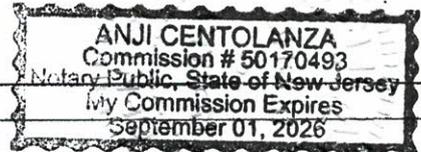
APPLICANT(S) SIGN HERE:

I/we, Michael Fetchko and Amy Fetchko hereby depose and say that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s): Michael Fetchko and Amy Fetchko

Sworn and subscribed before me, this 21 day of October, 2021.

Anji Centolanza
Notary



OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, _____ the owner(s) of the property described in this application,

hereby authorize _____ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): _____

Sworn and subscribed before me, this _____ day of _____, 20__.

Notary

TOWNSHIP OF BERNARDS
2019 ZONING BOARD OF ADJUSTMENT APPLICATION

RECEIVED
NOV - 1 2021
PLANNING/ZONING BOARDS

- | | |
|--|--|
| <input checked="" type="checkbox"/> Bulk or Dimensional ("c") Variance
<input type="checkbox"/> Use ("d") Variance
<input type="checkbox"/> Conditional Use ("d") Variance
<input type="checkbox"/> Floor Area Ratio, Density, or Height ("d") Variance
<input type="checkbox"/> Site Plan - Preliminary / Final | <input type="checkbox"/> Appeal of Zoning Officer's Decision
<input type="checkbox"/> Interpretation of Zoning Ordinance
<input type="checkbox"/> Minor Subdivision
<input type="checkbox"/> Major Subdivision - Preliminary / Final
<input type="checkbox"/> Other (specify): _____ |
|--|--|

1. APPLICANT: Adam Birkhold and Lauren Kostinas

Address: 33 Springhouse Lane, Basking Ridge, New Jersey 07920

Phone: (home) _____ (work) _____ (mobile) (609) 577-0838

Email (will be used for official notifications): abirkhold@adambirkholdlaw.com lauren.birkhold@gmail.com

2. OWNER (if different from applicant): (Same as applicant)

Address: _____

Phone: _____ Email (will be used for official notifications): _____

3. ATTORNEY: Frederick B. Zelle / Bisogno, Loeffler & Zelle, L.L.C.

Address: 88 South Finley Avenue, P.O. Box 408, Basking Ridge, New Jersey 07920

Phone: (908) 766-6666 Email (will be used for official notifications): fzelle@baskingridgelaw.com

4. OTHER PROFESSIONALS (*Engineer, Architect, etc. Attach additional sheet if necessary*):

Name: Dean A. Andricsak Profession: Architect

Address: D 2 Architecture, P.O. Box 578 Martinsville, New Jersey 08836

Phone: (908) 306-9900 Email (will be used for official notifications): dean@d2adesign.com

5. PROPERTY INFORMATION: Block(s): 3901 Lot(s): 58 Zone: RC-4

Street Address: 33 Springhouse Lane Total Area (*square feet/acres*): 29,868sf / .69ac

6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY? No Yes (*if yes, explain or attach Board resolution*) _____

7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY? No Yes (*if yes, explain*) _____

8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?

No Yes (if yes, explain and attach copy) _____

9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST: _____

Property hosts a single family residence with no accessory buildings. Proposal is to add a second story above the existing garage, with no change in the footprint of the home. This would increase the floor area from 3,268 sf to 4,033 sf where only 3,439 sf is permitted. The proposed addition would host two new bedrooms with full baths and a TV Lounge area with wet bar.

10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.):

Please see Addendum

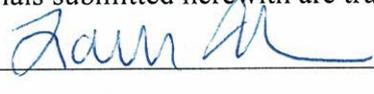
11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION: _____

Please see Addendum

12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):

APPLICANT(S) SIGN HERE:

I/we, Adam Birkhold and Lauren Kostinas hereby depose and say that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s):  and 

Sworn and subscribed before me, this 29th day of September, 2021.

Frederick B. Zellej, Attorney at Law of the State of New Jersey

OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, _____ the owner(s) of the property described in this application,

hereby authorize _____ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): _____

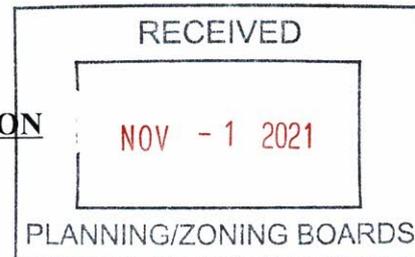
Sworn and subscribed before me, this _____ day of _____, 2019.

Notary

ADDENDUM TO BOARD OF ADJUSTMENT APPLICATION

Applicants: Adam Birkhold and Lauren Kostinas

Property: Tax Block 3901, Lot 58 – 33 Springhouse Lane, Basking Ridge



The following are responses to the respective Application Items noted “Please see Addendum”:

10. [Description of Requested Variances or Exceptions]

This is an application for a variance for excessive floor area in a single family residence. The operative section of the zoning ordinance is Section 21-32.3 (“Maximum Floor Area”). A variance from a maximum floor area ordinance is a “C” bulk variance, not a “D-4” use variance for excessive floor area *ratio*. See Rumson Est. v. Mayor Fair Haven, 177 N.J. 338 (2003), and Sections 35-1.2 and 35-2 of Cox.

With the exception of the aforementioned variance, the Applicant believes that no other variance, waiver or exception is required in order to grant the approval requested. However, if the Board directs that additional variance(s), waiver(s) or exception(s) is/are needed, the Applicant may seek the same in accordance with such direction.

11. [Arguments in Support of Application]

The subject property is part of the Prince Edward Pointe section of the Township, which was developed in the late 1980s. It is in the RC-4 Residential Cluster Zone. Most of the homes in the neighborhood, when initially constructed, were of similar size and structure. Various roof designs, exterior materials and other architectural features were implemented to achieve variety/diversity in curb appearance, but the basic design and size of the homes were similar. The lot sizes in the neighborhood, however, vary significantly, from just over a half acre to in excess of an acre. This disparity in lot sizes imposes a hardship upon the owners of the smaller lots, as they are unable to expand their homes in the same fashion as can their neighbors with larger lots, even though they have similar homes. At less than 0.7 acres, the subject property is among the smaller of the neighborhood’s lots.

The variance requested can be classified as a “C-1” variance, based upon the hardship created by the smaller size of the Applicants’ lot compared with other lots in neighborhood with similar homes.

The variance can also be classified as a “C-2” “flexible C” variance, in that the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*, would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment. The proposed modification of the Applicants’ home would assist in conserving

property values in the neighborhood as whole, which remains a purpose of land use regulation even though that goal is not expressly stated in N.J.S.A. 40:55D-2. Home Builders League of S. Jersey, Inc. v. Township of Berlin, 81 N.J. 127, 144-45 (1979). The proposed addition is also designed to preserve light, air and open space by not enlarging the footprint of the home and only modestly increasing its height, in satisfaction of purpose “c” of the MLUL. The addition is further designed to promote a desirable visual environment through creative development techniques and good civic design and arrangement, which satisfies purpose “i” of the MLUL.

The Negative Criteria are also satisfied, as the variance can be granted without substantial detriment to the public good and without substantial impairment of the intent and the purpose of the zone plan and zoning ordinance. Numerous homes in the Applicants’ neighborhood have been expanded without converting them into “monster homes”, which maximum floor area ordinances are designed to prevent. See Rumson Est., supra. The Applicants’ proposed expansion will not enlarge the home’s footprint and therefore will not increase impervious coverage. The expansion will also not cause significantly increased massing, particularly from the most important street perspective, as it is being accomplished by simply raising the existing roofline of the garage portion of the home. Moreover, the proposed inclusion of windows on the gable end directly facing the street, and windowed dormer features on the less visible side facade, would soften any massing effect.

Respectfully Submitted,

BISOGNO, LOEFFLER & ZELLEY, LLC



By: Frederick B. Zelle, Esq.
Attorneys for the Applicants
Adam Birkhold and Lauren Kostinas

Dated: October 28, 2021

**TOWNSHIP OF BERNARDS
2021 ZONING BOARD OF ADJUSTMENT APPLICATION**

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PLANNING/ZONING BOARDS

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| <input checked="" type="checkbox"/> Bulk or Dimensional ("c") Variance | <input type="checkbox"/> Appeal of Zoning Officer's Decision |
| <input type="checkbox"/> Use ("d") Variance | <input type="checkbox"/> Interpretation of Zoning Ordinance |
| <input type="checkbox"/> Conditional Use ("d") Variance | <input type="checkbox"/> Minor Subdivision |
| <input type="checkbox"/> Floor Area Ratio, Density, or Height ("d") Variance | <input type="checkbox"/> Major Subdivision - Preliminary / Final |
| <input type="checkbox"/> Site Plan - Preliminary / Final | <input type="checkbox"/> Other (specify): _____ |

1. APPLICANT: Frederick Heymann and Maria Chiclana
Address: 24 Woodstone Road

Phone: (home) _____ (work) 917-608-7653 (mobile) 917-608-7653
732-261-3152

Email (will be used for official notifications): fredskip@gmail.com
mchiclana@comcast.net

2. OWNER (if different from applicant): _____
Address: _____

Phone: _____ Email (will be used for official notifications): _____

3. ATTORNEY: Self
Address: _____

Phone: _____ Email (will be used for official notifications): _____

4. OTHER PROFESSIONALS (Engineer, Architect, etc. Attach additional sheet if necessary):
Name: _____ Profession: _____

Address: _____

Phone: _____ Email (will be used for official notifications): _____

5. PROPERTY INFORMATION: Block(s): 2905 Lot(s): 1 Zone: R-6
Street Address: 24 Woodstone Road Total Area (square feet/acres): 0.39 acres

6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY? No Yes (if yes, explain or attach Board resolution) _____

7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY? No Yes (if yes, explain) _____

8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?
02/06/19 Bernards Township Zoning Board of Adjustment Page 1 of 2

No [] Yes (if yes, explain) _____

9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST: _____
See, Rider A attached for detailed description.

10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.):
21-15.1(d)1 + Table 501 See Rider A for detailed description
of overhang variance and
impervious coverage variance

11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION: _____
See Rider A for detailed response, attached.

12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):

APPLICANT(S) SIGN HERE:

I/we, Frederick Heymann and Maria Chiclana hereby depose and say that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s): Frederick Heymann and Maria Chiclana

Sworn and subscribed before me, this 14th day of OCTOBER, 2021.

CYNTHIA KIEFER
Notary Public - New Jersey
Commission #2442187
Expires 01/10/24

OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, _____ the owner(s) of the property described in this application, hereby authorize _____ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): _____

Sworn and subscribed before me, this _____ day of _____, 20__.

Notary

Rider A

Frederick Heymann and Maria Chiclana Application for variances

24 Woodstone Road, Basking Ridge

Responses to Bernards Township Zoning Board of Adjustment Application Questions 9, 10 and 11, below:

Question 9. Description of the Existing Property and the Proposal Request

In 2018, we moved to Basking Ridge and purchased a newly remodeled colonial home from the builder who was the Seller. The back of the house had a paved area, as per the listing brochure in 2018, [see attached](#).

We built a new (Board approved) detached two car garage in 2019. We took out the pavers simply to build the garage, assuming the pavers would be replaced, as a back door needs a paved area for emergency egress and ingress. We created a driveway from the garage which we assumed was approved and needed for easy car entry or exit but more importantly for safety and visibility, as there are many small children in the neighborhood.

We were informed by the zoning office **this year** that in replacing the pavers which were pre-existing and in having the driveway align with the garage, we are over the impervious coverage and request a variance to allow for the back door pavers and critical standard driveway to remain "as is".

In addition, now that we have a detached garage, we would like to create a minimalist overhang connecting the garage to the back door, to protect the back door area from the elements and increase safety on the back door steps. This is just an overhang and not an enclosed breezeway so we are trying to respect the setbacks as much as possible.

Question 10: Description of the Requested Variances or Exceptions

- 1.** We respectfully request an impervious coverage variance or exception to accommodate the pavers in the back door area, and any area that the driveway to the garage may contribute to the overall impervious coverage of what we believe is 4.4 percent.
- 2.** We respectfully request an approval to build an overhang connecting our detached garage to the house, as an exception/ variance to the continuing structure setback limitations.

Question 11: The Following Arguments are Made in Support of the Application:

As property owners, and new residents to Basking Ridge, we did not intend to violate any zoning or property regulations concerning impervious coverage.

- The pavers existed when we purchased the home from the builder, **per the attached listing page**. When we built the detached garage, we removed the pavers for construction and assumed we could replace the pavers not only because they were pre-existing but we believed that paved areas are required as the back door is an emergency ingress/egress door. This is common to have a paved area in the front and back of a house in practically every house built in today's age under building specifications.
- If the new driveway contributes to the impervious coverage overage, the driveway is needed for any garage, and in our corner lot property in a neighborhood with many small children, it provides for clear and distinct visibility. We assumed the driveway access was assumed when the garage was built. As we cannot have cars driving over mud, puddles or snow.

We are seeking permission to build an overhang that connects the detached garage to the house.

The overhang would be a minimalist structure that is common among homes with detached garages for protection of the elements. It is not an enclosed breezeway, so it does not impact the impervious coverage.

- The protection of the elements is very helpful for convenience and for Maria Chiclana, one of the owners, who had back surgery, it provides a greater sense of safety from the elements.

TOWNSHIP OF BERNARDS
2019 ZONING BOARD OF ADJUSTMENT APPLICATION

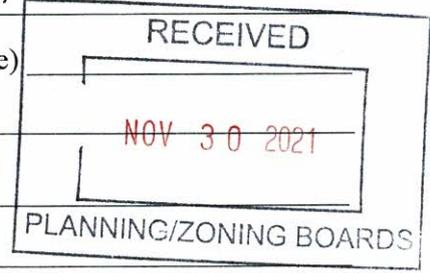
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| <input type="checkbox"/> Bulk or Dimensional ("c") Variance
<input checked="" type="checkbox"/> Use ("d") Variance
<input type="checkbox"/> Conditional Use ("d") Variance
<input type="checkbox"/> Floor Area Ratio, Density, or Height ("d") Variance
<input type="checkbox"/> Site Plan - Preliminary / Final | <input type="checkbox"/> Appeal of Zoning Officer's Decision
<input type="checkbox"/> Interpretation of Zoning Ordinance
<input type="checkbox"/> Minor Subdivision
<input type="checkbox"/> Major Subdivision - Preliminary / Final
<input type="checkbox"/> Other (specify): _____ |
|--|--|

1. APPLICANT: B3 Church Street LLC

Address: c/o Boyle RE Group, 313 S. Ave., Ste. 202, Fanwood, NJ 07023

Phone: (home) _____ (work) (908) 464-6000 (mobile) _____

Email (will be used for official notifications): JB@Boylere.com



2. OWNER (if different from applicant): Same as Applicant

Address: _____

Phone: _____ Email (will be used for official notifications): _____

3. ATTORNEY: Frederick B. Zelle / Bisogno, Loeffler & Zelle, L.L.C.

Address: 88 South Finley Avenue, P.O. Box 408, Basking Ridge, NJ 07920

Phone: (908) 766-6666 Email (will be used for official notifications): fzelle@baskingridgelaw.com

4. OTHER PROFESSIONALS (*Engineer, Architect, etc. Attach additional sheet if necessary*):

Name: William G. Hollows / Murphy & Hollows Assoc. Profession: P.E.

Address: 192 Central Avenue, Stirling, NJ 07980

Phone: (908) 580-1255 Email (will be used for official notifications): murphyhollows@gmail.com

5. PROPERTY INFORMATION: Block(s): 7501 Lot(s): 15 Zone: B-4 L/C

Street Address: 15 Church Street Total Area (*square feet/acres*): 16,988 sf / .39 ac

6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY? No Yes (*if yes, explain or attach Board resolution*) _____

7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY? No Yes (*if yes, explain*) Excess Lot Coverage

8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?

No Yes (if yes, explain and attach copy) _____

9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST: The property was formerly the Liberty Corner Firehouse. Current use is commercial on both floors (retail on first level and most recently a pilates studio on second level). Applicant wishes to convert the second floor to two (2) 2-bedroom 1.5 bath residential apartments. Only one apartment is permitted in the zone. Applicant is therefore seeking a D-1 variance for the second apartment. No site work is proposed -- only interior changes to the building.

10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.):

Ordinance Section 21-10.8(a)(1)(c). Two (2) residential apartments proposed when only one is permitted.

11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION: _____

Please see Addendum.

12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):

APPLICANT(S) SIGN HERE:

I/we, B3 Church Street LLC and _____ hereby depose and say that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s): _____ and John P. Boyle, III, Managing Member

Sworn and subscribed before me, this 24th day of November, 2021.

Nicole Bonardel
 Notary **NICOLE BONARDEL**
 A NOTARY PUBLIC OF NEW JERSEY
 MY COMMISSION EXPIRES MAY 18, 2026

OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, _____ the owner(s) of the property described in this application, hereby authorize _____ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): _____

Sworn and subscribed before me, this _____ day of _____, 2019.

 Notary

ADDENDUM TO BOARD OF ADJUSTMENT APPLICATION

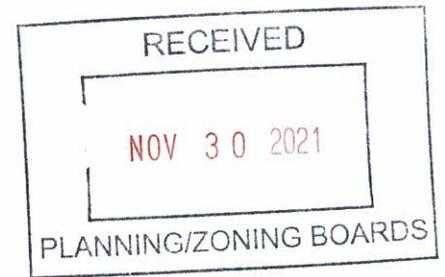
B3 CHURCH STREET LLC

Tax Block 7501, Lot 15 – 15 Church Street

The following are responses to the respective Application Items noted “Please see Addendum”:

4. [Additional Professionals]

Daniel W. Lincoln, R.A.
28 Olcott Avenue, Bernardsville, NJ 07924
(908) 204-0088
dwlincolnra@yahoo.com



11. [Arguments in Support of Application]

A variance application for a use not permitted by the zoning ordinance must satisfy the statutory “special reasons” standard. N.J.S.A. 40:55D-70(d). That standard has generally been defined in relation to the purposes of zoning that are set forth in N.J.S.A. 40:55D-2. General welfare is the zoning purpose that most clearly amplifies the meaning of special reasons. Medici v. BPR Co., 107 N.J. 1, 18 (1987). To fulfill that purpose, an applicant must demonstrate that the “the subject property [is] particularly suitable for the proposed use”. Medici, 107 N.J. at 24.

“An application for a use variance based on the assertion that a property is particularly suitable for a project requires an evaluation of whether the use, otherwise not permitted in the zone, when authorized for the particular parcel, will promote the general welfare as defined by the MLUL”. Price Himeji, 214 N.J. 263, 287 (2013). “[P]articularly suitable means that ‘the general welfare is served because the use is peculiarly fitted to the particular location for which the variance is sought.’” Ibid., quoting Kohl v. Mayor and Council of Borough of Fair Lawn, 50 N.J. 268, 279 (1967). “[I]n the context of the specific parcel, it means that strict adherence to the established zoning requirements would be less beneficial to the general welfare. Ibid., citing Kramer v. Board of Adjustment, Sea Girt, 45 N.J. 268, 290–91 (1965).

“[D]emonstrating that a property is particularly suitable for a use does not require proof that there is no other potential location for the use nor does it demand evidence that the project ‘must’ be built in a particular location. Rather, it is an inquiry into whether the property is particularly suited for the proposed purpose, in the sense that it is especially well-suited for the use, in spite of the fact that the use is not permitted in the zone.” Price, 214 N.J. at 293 (emphasis added).

In the present Application, it should be recognized that the use in question (residential apartment

use) is expressly permitted in the B-4 Liberty Corner Business Zone. A “D-1” use variance is only required because the ordinance limits the use to “one dwelling unit within a building which also contains a business use”. The Applicant could construct one apartment in the building and use the entire rest of the building for business purposes without needing a variance. Given the square footage of each of the floors of this existing building, such a plan would presumably entail having business and residential uses on the same floor, as each floor is much larger than a typical suburban apartment. The Applicant believes that following the traditional layout of having business uses on the first floor and residential uses on the second floor constitutes better planning. As noted, though, given the size of the second floor of this existing building, converting the same into a single apartment would be a waste of space and would deny a reasonably priced housing alternative to a second deserving individual, couple or small family.

The Applicant respectfully submits that permitting two apartments on the subject property would satisfy the following purposes of zoning set forth in N.J.S.A. 40:55D-2, and would promote the general welfare of the citizens of Bernards Township:

a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;

The proposed use would satisfy this purpose by providing a reasonably priced affordable housing alternative to single family residences which would be attractive to singles, couples, young families and seniors, in a location having public transportation (rail and bus), retail and restaurants and medical services in close proximity.

e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;

The proposed use would satisfy this purpose by providing a reasonably priced housing alternative to single family residences which would be attractive to singles, couples, young families and seniors, in a location having public transportation (rail and bus), retail and restaurants and medical services in close proximity. The same would be particularly attractive to young commuters to New York City and other destinations served by NJ Transit rail and bus, whose use of public transportation would contribute to the preservation of the environment.

i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;

The proposed use would satisfy this purpose by providing two (2) residences in an aesthetically attractive and unimposing structure.

m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;

The Applicant's proposed construction of two (2) residential units in a single location, in a manner which would be aesthetically attractive and physically unimposing, would constitute an efficient use of the Applicant's property.

The Negative Criteria are also satisfied as the use variance can be granted without substantial detriment to the public good and without substantial impairment of the intent and the purpose of the zone plan and zoning ordinance. "In this respect the statutory focus is on the variance's effect on the surrounding properties. The board of adjustment must evaluate the impact of the proposed use variance upon the adjacent properties and determine whether or not it will cause such damage to the character of the neighborhood as to constitute 'substantial detriment to the public good.'" Medici, 107 N.J. at 23. It is respectfully submitted that having two apartments on this site, with ample onsite parking, would have no greater impact upon the adjacent properties or upon the character of the surrounding neighborhood, much of which is residential, than would having a single apartment (as is permitted in the zone).

Respectfully Submitted,

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