

**BOROUGH OF MIDLAND PARK - ZONING BOARD OF ADJUSTMENT MINUTES**

**April 14, 2010**

PLEASE TAKE NOTE:

ON WEDNESDAY, MARCH 10, 2010, THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MIDLAND PARK HELD A REGULARLY SCHEDULED MEETING IN THE MIDLAND PARK COUNCIL CHAMBERS, 280 GODWIN AVE., MIDLAND PARK, NJ. THE FORMAL MEETING BEGAN AT 7:40 P.M.

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FORMAL MEETING

READING OF THE OPEN PUBLIC MEETINGS ACT

PLEDGE OF ALLEGIANCE

ROLL CALL:

|                      |         |                                |          |
|----------------------|---------|--------------------------------|----------|
| Ms. Linda Herlihy    | present | Mr. Glen Biswurm               | present* |
| Ms. Douglas Feick    | present | Mr. John Meeks                 | present  |
| Mr. Richard Kroitsch | present | Mr. Richard Formicola, Alt. #1 | absent   |
| Mr. Peter Braunius   | present | Mr. Matthew O Toole, Alt. #2   | present  |
| Mr. David Zuidema    | present |                                |          |

D. Siss, Esq., Planning Board Attorney, D. Doyle, Esq., Zoning Board Attorney, and R. Wostbrock, Board Engineer were also present on behalf of the Board.

\*Mr. Biswurm left the meeting at 8:20 pm due to a family emergency.  
Minutes of the 3/10/2010 meeting were approved.

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**PUBLIC HEARINGS:**

T-MOBILE/OMNIPOINT - Block 5 Lot 1- 44 Godwin Ave- Application carried to May 12, 2010 meeting with no further notice required. Atty. Doyle and Atty. Steven Tambalakian of Vogel, Chait, discussed the Board Planner s letter and carrying this application until after the application for Verizon/80 Godwin Ave. is heard. Board requested a letter granting the extension of time from Atty. Meese.

VERIZON- Block 6 Lots 7 & 17.01 -80 Godwin Ave- D. Doyle, Esq. and Atty. Steven Tambalakian of Vogel,Chait, discussed the current status of this application. Board Planner s letter recommends hearing this application first (prior to T-Mobile-44 Godwin Ave), however this application has not yet been deemed complete. Board assigned two dates for special meetings, Wednesday, May 19 and June 16, 2010 starting at 6:00 PM. Applicant will try to address the open items, get deemed complete and notice for the May 19<sup>th</sup> date.

RIGS DEVELOPMENT I LLC- Block 47 Lot 7 - 42 Central Ave- Atty. Siss stepped in for Atty. Doyle as he has a conflict with this application. Atty. Steve Kalebic representing applicant; continued from March 10, 2010 meeting. Mr. Feick and Mr. Zuidema have listened to the recordings of the previous hearing, have so certified, and are therefore eligible to vote. D. Siss entered two memo s into the record; Fire Department memo by Mark Berninger dated 4/8/2010, and Burgis Assoc. memo dated 4/14/2010. Kevin Kain, Planner, of Burgis Assoc, sworn in, described response memo and identified variances. Height for the mixed use building is a D-6 variance. Mr. Kain discussed the height of the townhouse buildings; in his opinion, the intent of the ordinance is that the height should be measured from the ground. The addition of one COAH unit is not included in the density calculation as they were not included in the original application.

Off-street parking; RSIS standards supercede the local ordinances for residential purposes; it is acceptable for garage spaces to be counted as parking spaces. Atty. Siss reviewed additional variances for the mixed use building because of added COAH unit and larger square footage; Atty. Siss and Mr. Kain requested that applicant supply the requirements of the COAH units. Mr. Kain reviewed the housing plan; called for two rental and one sale unit but nothing prohibits the units from being all rental units; could help the Borough with their future housing obligations; rentals have bonus credits. Rentals are typically viewed as more favorable. Mr. Kain reviewed the breakdown of type of COAH units required; 30% 2-bedroom, 20% 3-bedroom, no more than 20% studio or 1 bedroom; formula intended for larger projects. COAH allows waivers for this type of application; no objection to the breakdown of units that the applicant has proposed. Michael Kauker, Planner, previously sworn, reviewed variances required for the mixed use building for footprint, height and front yard set back. Footprint was enlarged by 136 sf or 11% increase; necessary to accommodate a better quality COAH unit and the stairs for access to second and third floor. Third floor was added to accommodate a third COAH unit; positive impact to Master Plan and Housing element. Conditional use variance as building permitted to be 1200 sf; 1336 sf proposed; D-3 variance. Building set back on the corner of Central and Greenwood Ave s is maintained; width of sidewalks remain the same; along Greenwood Ave they are 14' and along Central Ave is 16.5'. Site remains appropriate to accommodate the added parking requirement; building fits on site, and is consistent with the land use pattern of development along the west side of Central Ave. Mr. Kauker reviewed site details of existing structures along Central Ave; proposed building comports with scale and size of the buildings and is consistent with the land use pattern established along that side of the street; no negative impacts as they are reasonably consistent with the surrounding land use pattern and the addition that it adds the ability to provide a third COAH unit. The earlier proposal to locate a COAH unit in the townhouse building has been eliminated; locating an apartment adjacent to a townhouse complex of this high quality nature is not a good design plan. An apartment associated with like uses along Central Ave is better planning and more consistent with the zone plan and existing conditions; believes the applicant meets the criteria for a D-3 variance. Applicant is attempting to obtain funding for the COAH units but they must meet certain minimum size requirements and therefore the building footprint is larger. Better quality low and moderate units will be provided; benefits the municipality. Administrative Code 5:43-2.4 are the eligibility requirements. Building height, D-6 variance, where permitted height is 25' and proposed is 34' to accommodate a third story. Height can be reasonably accommodated along the streetscape; there are other three story structures existing. Existing two story apartment building adjacent to the proposed project has fairly high floors and is at least 28', proposed building is on a corner lot with the street as relief on both sides of the building. No two family residences in proximity; no negative impacts. D-6 variance also requires a positive criteria; satisfied by the fact that they are proposing low and moderate housing units in this structure and viewed as inherently beneficial. Minimum front yard set back required is 15'; variance previously granted was for 5', proposed is 2.7'; is consistent with the existing set backs of all six properties along Central Ave. Atty. Siss questioned variance required for the set back of the parking lot for the commercial building. Mr. Kauker advised that the variance is reasonably necessary to accommodate the additional parking for the third COAH unit; C-1 variance; can provide landscaping in the strip between the sidewalk and the parking lot. Benefits outweigh any detriments. Board presented questions related to mixed use building re: surrounding building heights and set backs along Central Ave. Mr. Kain stated the proposed set back is consistent with surrounding structures and does not object to proposed set back, however it is a corner property and should ensure appropriate site distance is maintained. Bob Weissman, Engineer, previously sworn.

Exhibit A-2, Preliminary and Final Site Plan, sheet 3 of 5, rev. 12/4/09. Mr. Weissman reviewed site distance standards; building is set back approx. 15' from the curb line; no problem with sight distance. R. Wostbrock questioned the county standards for sight distance vs. borough ordinance; 15' behind the right of way line rather than from the curb line. Typical standards for intersections of county roads with local roads; speed limit is 25 mph; site distance requirement is 250 - 300', proposed design is double that; no impediment. R. Wostbrock does not have any objection to testimony; Borough Boards have accepted the county standards in the past. Atty. Siss questioned why the third COAH unit cannot be located in the townhouse building. Mr. Kauker advised that the townhouse unit would have to be at grade and handicapped accessible; the design is such that the first floor is elevated and not handicapped accessible; design regulations for COAH, 5:97-3.14. Design retrofit for townhouse unit would create an inconsistency in the nature of design for access to the townhouse concept. Do not want to erode the design or quality by creating an arbitrary deficiency in design just to accommodate the COAH regulations. The unit would have no garage and first floor would have to be at garage level. Atty. Siss questioned why the three rental units do not fall under the same criteria; not clear. Mr. Kauker advised that it would be an extreme practical difficulty in creating an arbitrary third unit in the townhouse building. Robert Rigoglioso, previously sworn, reviewed COAH guidelines for units; would require a variance for accessibility in a townhouse unit. COAH allows any structure above a commercial unit, less than four units, does not need an elevator and therefore does not have to be handicapped accessible or adaptable. Atty. Siss needs basis for this testimony; clarification necessary. Mr. Kain discussed the funding issue for COAH units and size requirements; size requirements are for the funding but not required by COAH. Atty. Kalebic advised that they need the funding to subsidize the construction of affordable units. Board questioned COAH requirements as to types of units; waivers already needed for the types proposed; can they provide smaller units to shrink footprint and still obtain waivers from COAH? Mr. Kain believes COAH will prefer what the applicant has proposed rather than smaller units, but that is not confirmed. Mr. Kauker advised that COAH recommends and adheres to a policy of unit sizes which meet minimum standards. The public is served in a better fashion with a better quality unit and not a less than optimum size unit. Mr. Kain believes that the proposed current distribution of unit types is more beneficial than smaller units. R. Wostbrock asked if the footprint of the third floor unit, which is larger than COAH and funding requirements, could be reduced to reduce the variance request and if the third floor could include mansard roof or dormered system to improve the architectural character of the building.

B. Weissman advised that the architect attempted to create the look of a small peak roof on two sides facing Greenwood and Central Aves., but heights have been kept to a minimum and a flat roof is used to minimize the height; as proposed on exhibit A-4. Mr. Rigoglioso advised that the extra square footage on the third floor, where the 2 bedroom unit is 1,047 sf, the extra space, approx. 12' x 14' is being used as a utility room for all three apartments. Architectural plans have not been introduced yet; no testimony given. Board questioned if a garage is required; Mr. Wostbrock stated that it is not required in this zone. R. Wostbrock questioned the architectural plans; the sf listed on the plans are the interior or usable space; the exterior footprint is what should be used in the parking calculation; the end answer of 40 spaces required does not change, however it should be corrected. R. Wostbrock noted that the utility room in the mixed use building may be located in other areas; other options. Board questioned parking space calculation; R. Wostbrock stated that this zone specifically refers to the RSIS improvement standards which supercedes the Midland Park ordinances; it allows the use of the garage and the space outside the garage as a parking space. Mr. Kain noted that the inherently beneficial reason does not apply to area and bulk type variances; Mr. Kauker agreed that it is not pivotal as it relates to a D-6 variance and corrects the record.

Mr. Kauker discussed the height variance required for the townhouse buildings; ordinance is interpreted to read that the height is measured from the ground. Permitted height is 38', variance is requested for a building height of 41' 8"; architectural drawings reflect a height of 44'; roof line has been lowered to decrease variance request. Ceiling heights are 9'. Maximum height is only at building ends where a third floor loft is offered; board requested revised architectural drawings. Variance is a C-1 variance; benefits generated by a better design outweigh any impact by the increase in height; produces a better looking building; more aesthetically pleasing and higher quality unit; building design is more consistent with the colonial appearance of the neighborhood. The minimum rear yard requirement is met; would mitigate impacts on the two family homes in the rear. Surrounding yards are 100' deep properties with homes close to the street; well spaced and screened from this property. Board questioned how the loft space can be prevented from being converted to a bedroom. Board requested that the applicant give a copy of the revised architectural drawings to the Fire Chief for his comments. Board questioned if commercial vehicles could be parked in this zone. Board questioned landscaping proposed along the residential line and reviewed landscape plan. Meeting opened to the public for questions re: Mr. Kauker testimony, with no comments, meeting closed to the public. Mr. Weissman, Engineer, exhibit A-5, Landscape Plan prepared by Langella Landscaping dated 10/2/09. Mr. Weissman did not prepare plan; reviewed proposed plantings on site. R. Wostbrock reviewed landscape plan; improvement over existing conditions, propose evergreen trees which are typical buffering trees. Forsythia are not as good a buffer in winter months; suggest where it is located lawn to lawn would not be suitable; possibly add fencing or some type of evergreen. Mr. Weissman stated that there is a fence proposed; 5' opaque, pvc fence along the entire rear line. Applicant would agree to meet with LAN engineer to agree on plantings. Mr. Weissman reviewed fire dept. memo dated 4/8/2010 by Mark Berninger and had the following comments: only the mixed use building has sprinklers; not required for the residential townhouse building. Smoke alarms will be supplied in the townhouses as required by code. Access to rear of building is 22' from rear property to rear of buildings; adequate pedestrian access but not enough room for fire apparatus. Reduction of ridge height will improve situation for ground ladders. Mr. Weissman believes there is adequate access to both the townhouse and mixed use buildings. There will be no on-street parking because of the proximity of the driveways; will have street access to townhouse units. Property is flat and will remain level; should not be an issue for access with ground ladders. Elevated decks and terraces provide access on three sides; actually improves access. Fire hydrant is being relocated on the corner of Central and Greenwood Ave s; no new hydrants are proposed. Knox box is being supplied for the commercial building. A transformer is shown between the two buildings; pedestrian access is provided. Board suggested that the engineer discuss these comments with Mark Berninger, Fire Chief. Board requested clarification of how a ladder from the ladder truck would get up to the peak. Meeting opened to the public for questions of Mr. Weissman, with no comments, meeting closed to the public. Meeting opened to the public for questions of the applicant, Mr. Rigoglioso, with no comments, meeting closed to the public. Atty. Kalebic discussed the outstanding items and questions for the Board; will return at the next meeting with the architect. Applicant will submit revised plans with the new townhouse building height. Motion by Mr. Feick to carry application to May 12, 2010, no further notice required, seconded by Mr. Braunius; all voted in favor. Applicant agrees to the extension of time.

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Adjourned at 9:50 PM  
Janet Giardino  
Board Secretary