

**Minutes of the Bogota Planning & Zoning Board Meeting
September 28, 2021**

The Bogota Borough Planning and Zoning Board had a meeting on September 28, 2021.

The meeting commenced at 7:35 p.m.

Members present were T. Napolitano, Chairman C. Mancini, Councilwoman D. Fede, Ed Rieper, Sergeant Detective H. Lorian and J. Frias.

New Business:

The approval of the minutes of the meeting of September 14, 2021 were approved.

Motion was made by Napolitano, seconded by Rieper.

Hearing for 500-508 Palisade Avenue Minor Subdivision. Attorney for the applicant Gary Giannantonio provided an overview that this is a subdivision application for 500-508 Palisade Avenue LLC. This client recently purchased the property which includes lots 9 and 10. The lots face Palisade Avenue. There are two conforming lots. The applicant wishes to subdivide and rotate the frontage to Pine Street to construct conforming single family homes. The reasoning for facing Pine Street is to make it safer to exit the property.

The first witness was Mr. Joseph Donato, 14 Route 4 West, River Edge. Mr. Donato is a licensed architect in 1992. He is previously qualified as an expert. He testified that the property in the residential R-1 zone and that the two lots are 50 x 100. Each lot being 5000 square feet. The requirements are 40 x 100. The houses will face Pine Street and the driveways will be to the left of the house to keep them away from Palisade Avenue. The applicant will meet all setbacks, height restrictions and rear yard restrictions. It was recommended by D. Fede that the applicant agree to install one shade tree on each property of 2.5 inch caliber in accordance with a list to be provided by the Borough.

Second witness called was Hussein, Abadi, representative of the owner. Address 21 Lake Street, Upper Saddle River, New Jersey. His company is Sama Construction. Mr. Abadi agreed to place one shade tree per lot. The report of Costa Engineering dated September 28, 2021 requires that the site plan show all adjacent properties and the 200-foot property owner list on the plot. Also new conditions regarding the tax assessor to confirm the addresses and lots and blocks. The attorney agreed to conform to the requirements of the engineer.

Motion by Napolitano, seconded by Frias to open to public. Chair asked if any members of the public have comments for or against the application. No public comment. Motion by Frias, seconded by Napolitano to close to public comment. Motion made by Napolitano, seconded by Frias to authorize the preparation of an affirmative resolution subject to the requirements in the Costa letter and the shade tree requirement. Motion passed. This matter will be carried to October 26th to adopt the resolution. There was a general discussion on the subdivision deed and the applicant was told to work with Mr. Costa to prepare the subdivision deeds to perfect any subdivision.

Second matter of new business:

Continuation of August 24, 2021 meeting for the hearing of The Golden Adult Daycare Inc. (53-57 West Fort Lee Road) regarding a D variance amendment to prior approval. The applicant was represented by Anthony Suarez. He advises this is a Zoning Board use approval. 5 voting members were present. Mr. Suarez agreed to continue.

Mr. Kelly noted that he was a judge in Ridgefield where which Mr. Suarez was the Mayor and he is represented Ms. McElroy, a member of the public present in a different matter. He did not believe it was a conflict. There was no objection by either Mr. Suarez or Ms. McElroy. Three witnesses will be called. The administrator of the adult daycare center, an

architect and a planner/engineer. The Applicant seeks to amend the prior approval dated March 11, 2014 for a D variance. They are going to modify the building interior, convert office on the third floor to daycare use, eliminate the pharmacy and other offices and advise if they have an as of right license for 220 clients with 25 staff. They wish to remove internal walls. No new space will be added. On the second floor they wish to have an outdoor roof garden with a capacity of 40 people. Currently there is parking for 25 employees, 13 van spaces and one extra space for a doctor or beautician visit. The application is looking for a D-1 use variance.

First witness called was Elizabeth Hall, Administrator at The Golden Adult Daycare Center. She advised that there was an intention to rent the offices on the top floor but since it is a highly regulated industry, once it sought final approval from the State departments they were not allowed to have these offices and were not allowed to rent as it is a safety issue, so the top floor has been vacant since the adult daycare center opened. They wish to increase the space, not increase customers as the facility has been closed by the Department of Health for COVID. We are currently providing remote services and have up to 50 clients per day. They are operating in person in small groups and will continue to be remote through June 2022. She advises this more space would be easier for contact tracing. They are currently approved for 100 clients per shift and have two shifts per day. They propose 120 clients per shift. They wish to relocate bathrooms and increase the quiet room space.

T. Napolitano questioned how many people will be at the facility at a time and had concerns about parked cars and traffic. The administrator advised that they used multiple trips to pick up customers and there are no plans to increase the number of vans which are currently 13 and are currently not using all of the vans. Since all the pick ups are local within 20 minute radius, they can have multiple trips. T. Napolitano expressed the concerning regarding food

deliveries. The administrator testified that the service entrance on the side was used in the parking lot for deliveries. Napolitano had a concern that there is a drop off on Elm Avenue.

Motion by Frias, seconded by Napolitano for public comment. Mary McElroy, 45 West Fort Lee Road, Bogota has a business across the street. She is concerned with traffic. She advised it is hard to find a parking spot on the street. The employees of the adult daycare center all park on the street and there is no room in the lot. The lot is full capacity. Her question is what the facility is doing about the parking. The Administrator testified that they would need to increase the staff by 6 to get to the 220 customers per shift if allowed. The Administrator agreed to assign spots to staff to address the on street parking concern.

The Town Planner, Ms. Trahan Spach prepared a spreadsheet that concluded extra spaces were needed and possibly 3 more vans. The Administrator testified there is one 24 passenger van remaining of 14 passenger vans. The Planner advised that there is no parking standard for this type of use and there is no comparable use in the code. There was a discussion as to whether they could stipulate to agree to keep only 13 passenger vans in the lot and to encourage employees to have designated spots. The Administrator advised that the vans leave during the day for medical appointments, therapy appointments and shopping. Mr. Tuval, the Engineer Planner for the Applicant advised that the original plan had 14 spaces for the office use. The Administrator testified that the pharmacy never opened and the podiatrist comes once a month. There is a provision in the State approval that bus drivers can count as staff when they are chaperoning clients, not when they are driving, i.e. involved in supervising activities. The Administrator testified that 18 to 19 employees work at any given shift and 110 to 120 customers maximum per shift. There is a half and hour overlap on each shift. The Zen garden on the second floor rooftop will require Department of Health and DCA approval.

The next witness was Brittany Klimn, Architect of Mistery Design. She was sworn in. Her address is 350 Cart Drive, Bud Lake, New Jersey. She has her Bachelor of Science and a Masters in Architect. She has been licensed since 2012. She has testified at many municipalities. Counsel qualified her as an expert. Exhibit A-2 plans dated 2/17/21 were entered into the record. There were 3 sheets A2.00 basement plan, A2.01 first floor plan, A2.02 second floor and third floor plan. The plan is to enlarge activity space through the pharmacy space and relocate certain walls on the first floor. On the third floor, they will convert the offices to daycare center use. They will use the roof space for meditation and outdoor space. There will be an increase in the interior use space. The garden will be used for reading, meditation and new decking. There are walls and buildings around and there is elevator and stair access. There was a question regarding the lighting. The Planner testified that the garden will not be visible from the outside and the lighting will meet code but will be minimal. The roof is on the first floor roof and little capacity will be considered.

Motion by Napolitano, seconded by Rieper to open to the public. No questions by the public. Motion to close by Napolitano, seconded by Rieper.

Planning Engineer Harry Tuval was sworn in. His address is 629 Ridge Court, Ridgefield, New Jersey. He served as the Borough's Engineer and the Bogota Board Engineer. He is qualified as an expert. He testified that the offices will be eliminated as well as the pharmacy. There are currently 39 parking spaces. There is room for 25 employees and 13 van spaces plus one additional space. He testified in the special reasons to grant the D-1 use variance which was previously approved and this is an amendment to expand that approval. The principles of the positive criteria were state regulated facilities with a continuation of an approved use. This is now a pure inherently beneficial use and will promote the general welfare,

suitable in size and configuration. The negative criteria is there is no detriment to the public good and there is no impairment to the use of the zoning plan in the prior approval met these criteria. The Town Planner requested information on the Sica Test criteria. The prior approval was deemed not inherently but beneficial use. The expert testified that item 50 of the prior approval said there will be not more than 130 applicants and the resolution has less capacity than the license allows. The Planner questioned that the application meets the MLUL purposes of general welfare and the Engineer testified that the building was vacant and does meet the general welfare criteria. Our Planner asked about the negative criteria. There are 51 spaces possibly need if 13 drivers and 25 non-driving staff plus one visitor at any given time.

The Administrator testified that the drivers are acting as aides and they could be both and that at most times there is 9 drivers and 13 staff. The requirements are one staff member to 9 customers. They have never had 130 customers per shift and they can stipulate to less customers. They can also look into parking the vans off site. The Administrator said she will look at parking spaces off site and consider that as a condition to the approval. Currently there is no off site parking. There was a discussion that if they exceed the 130 customers than they may need to show off-site parking. Attorney Kelly asked that they provide some ideas and explore this option for the next meeting. T. Napolitano asked if the Planner witness was the Board Engineer at the time of the prior approval and he indicated he was.

Motion to open to comment by Napolitano, seconded by Rieper, Martin McElroy asked whether there were two handicapped spaces. The Administrator advised that there were and that the vans are deemed handicapped vehicles. Motion to close to public comment by Napolitano, seconded by Rieper.

Kevin Kelly advised that this hearing would be continued to October 26t at 7:30 and this was the notice of the hearing and there would be continuation, there is no further publication.

The Applicant at that time will address the parking concerns and any police or fire reports.

Motion by Napolitano, seconded by Frias to adjourn.

Meeting adjourned 9:36 p.m.