

MINUTES
BOROUGH OF MADISON ZONING BOARD OF ADJUSTMENT
Special (Virtual Zoom) Meeting, January 28, 2021 at 7:30 P.M.,
Hartley Dodge Memorial Building, 50 Kings Road, Madison, New Jersey.

1. CALL TO ORDER BY CHAIRPERSON

2. ANNOUNCEMENT OF NOTICE (STATEMENT OF COMPLIANCE)

Let the minutes reflect that adequate notice of this meeting has been provided in the following manner:

At the Reorganization Meeting of the Board held on January 14, 2021, the Board by Resolution adopted a schedule of meetings.

On January 15, 2021, a copy of the schedule of meetings was posted at the bulletin board at the main entrance of the Hartley Dodge Memorial Building, was sent to the Madison Eagle and the Daily Record and filed with the Borough Clerk, all in accordance with the *Open Public Meetings Act*.

Beginning in **April 2020**, in response to public safety considerations and legal authorization, the Board of Adjustment began conducting its monthly meetings on the previously noticed dates remotely using the Zoom platform, and subsequently separate notices have been published each month advising of this change and indicating that the procedures and requirements for monitoring such meetings and for making public comment, along with an explanation of the audio muting function of the electronic communications platform being utilized, is provided with detailed information on “How to Use Zoom and Participate” found on the Rosenet Webpage Communications / Virtual Meetings at [HTTP://www.rosenet.org/1273/Virtual-Meetings](http://www.rosenet.org/1273/Virtual-Meetings).

3. ROLL CALL

PRESENT: Mr. DiIonno, Mrs. Driscoll, Mr. Fitzsimmons, Dr. Paetzell, Ms. Salko, Mr. Santoro and Ms. Tiritilli

EXCUSED:

RECUSED: Mr. Foster and Ms. Kaar

ALSO PRESENT: Gary Hall, ZBA Attorney
Dennis Harrington, Board Engineer
Russell Stern, Board Planner
Frances Boardman, Board Secretary

4. PLEDGE OF ALLEGIANCE

5. MINUTES FOR APPROVAL –

6. RESOLUTIONS FOR MEMORIALIZATION –

7. SCHEDULING AND PROCEDURAL MATTERS – A special meeting for the application of 297 Main, LLC was scheduled for Thursday, February 25, 2021.

8. OLD BUSINESS –

9. NEW BUSINESS -

CASE NO. Z 20-018**Madison Movie Development, LLC****Block: 2702 Lot: 24****14 Lincoln Place**

A transcript of this evening's meeting was prepared by Diane Di Tizii from Quick Court Reporting, LLC.

Applicant is seeking Preliminary and Final Site Plan Approval, for the construction of a Multi-Story Mixed-Use Building requiring Use Variance and Bulk Variance Approval on property located at 14 Lincoln Place, Block: 2702, Lot: 24 in the Central Business District Zone (CBD-1).

Mr. Peter Wolfson, Esq. was introduced as the attorney for the applicant along with his colleague Mr. Luke Pontier.

Mr. Robert Simon, Esq. representing Save Madison Theater, Inc. began to discuss jurisdiction notice issues; however, it had become known that Mr. Simon had represented a group of Madison residents more than 10 years ago that included Mrs. Driscoll on a matter that concerned Cougar Field.

Mr. Hall asked Mrs. Driscoll if she felt this issue would impair her integrity or ability to be objective. Mrs. Driscoll stated that she did not feel any such concern over this issue. Mr. Wolfson had no objection to Mrs. Driscoll remaining on the Board for this proceeding.

Mr. Simon read into the record the members of the Board of Trustees of Save Madison Theater, Inc. The members listed will be precluded from asking questions of various witnesses, by way of cross-examination.

Sandra Kolakowski, President

David Hanna, Secretary

Ellwood Kerkeslager

Catherine Coultas, Trustee

Deborah Fennelly, Trustee

Robert Platt, Vice-President

Michael Mernin, Treasurer

Andrew Breckman, Trustee

Joseph Falco, Trustee

James Gilbert, Trustee

Mr. Simon then began to list his objections to noticing insufficiencies. Mr. Wolfson rejected all reasons listed by Mr. Simon to prolong this meeting. Mr. Santoro asked Mr. Simon what his client's end game was in this application hearing. Mr. Simon stated that his clients have concerns with the application. Mr. Santoro requested a vote from the Board regarding the objections presented by Mr. Simon and the consensus by voice vote was to proceed with the hearing this evening.

Mr. Wolfson began his testimony providing a summary of the application to the Board. The original application was submitted in September 2020. To address comments received by Borough Professionals revised plans were re-submitted in November 2020. The applicant is proposing a mixed-use building to include retail and residential. This project will invigorate the downtown district and fit in with its surroundings. The proposed building will incorporate modern conveniences, and honor its place in the historic district. This is a transit-oriented development, which is directly adjacent to the train station and bus service. The site will include 24 upscale residential units with below grade parking, as well as 1788 square feet of retail space. Four units will be restricted for affordable housing.

The Borough memorandums and reports issued for this application, along with the dates of issuance were read into the record.

A meeting took place in October 2020 with Chief Lou DeRosa of the Madison Fire Department and the applicant's Professionals and satisfied any concerns that the Fire Department had with the application.

Mr. Wolfson introduced his witnesses for this evening's proceedings:

Mr. Eric Keller – Civil Engineer

Mr. Paul Phillips – Planner

Mr. Jeff Gertler – Architect

Sworn in to testify this evening was Mr. Eric Keller, Bowman Consulting, 54 Horsehill Road, Cedar Knolls, NJ.

Mr. Keller provided his credentials and was accepted as an expert witness. Mr. Simon asked Mr. Keller if he would be providing Engineering and Planning Testimony this evening; Mr. Keller stated that he would only be providing Engineering testimony. Mr. Simon asked when the last time Mr. Keller when his firm had last provided consulting Engineering services to the Borough of Madison. Mr. Keller replied it had probably been five years.

Mr. Keller provided testimony describing the existing conditions of the site and proceeded to describe the proposed project. The site plans used for Mr. Keller's testimony consisted of nine sheets and were dated, September 2020, last revised November 18, 2020.

Mr. Keller provided an extensive review of the application before the Board. He explained that the site has 82 feet of frontage on Lincoln Place and the lot varies in depth between 130 and 149 feet. Building coverage today is almost 81%, and the impervious lot coverage is 98%. The property slopes from Lincoln Place to the rear. Currently a paved 15-foot driveway extends between the existing building on Lot 24 and Lot 23. The current height of the building is 47 ½ feet. The surrounding parcels include the Madison Post Office, and other Commercial/ Residential Properties.

The current building will be demolished and the proposed site will include a 3 story mixed-use building which will include 24 residential units and 1788 square feet of retail space. The retail space will front Lincoln Place and be accessed from the front façade. The driveway will be widened to 20 feet and a new 4-foot sidewalk will be added along the east side of the building. The residential use will be accessed along a sidewalk on the west side of the building. There will be a lower level-parking garage with 24 parking spaces. Each unit will be provided one parking space. Access to the garage will be in the northeast corner of the building through an 18-foot garage door. Improvements in the parking lots on Lots 22 and 23 are also being proposed. The perimeter of Lot 12 will have the asphalt removed and a lawn area will be provided. Turning movements into and out of the proposed garage were discussed. The design waivers being sought on this application were discussed. Maintenance and snow removal was discussed and will be provided by the applicant.

Landscaping for the project was discussed and be guaranteed for two years. There will be a planter area by the residential entrance as well as a new lawn area which will be landscaped and include a Shade Tree. There are two retaining wall proposed.

The lighting plan was discussed next. Lighting will include building mounted lights along the street frontage, driveway, rear of the building and along the sidewalks. The proposed lights, are wall sconce lighting fixtures, and will not produce any glare. The lighting fixtures will provide aesthetics and safety to the building and its occupants.

The recycling and trash collection enclosure area was discussed. Mr. Keller stated that the trash container will be wheeled to the truck and the truck will then leave the premises, similar to what takes place today. There will be a gate on the proposed enclosure and a chain link fence will encompass it. A design waiver is being sought for the setback on the trash enclosure.

Storm-water Management was the next topic of discussion. Mr. Keller stated that State storm-water regulations do not apply to the redevelopment of this site and are not required to provide water quality or ground water recharge. Two seepage pits are being proposed at the northwest corner of the property for storage proposes to collect the roof drains. A floor drainage system in the parking garage area would also connect to the seepage pits.

Mr. Keller concluded his testimony. Mr. Wolfson asked Mr. Keller to discuss the Borough of Madison's Planner memorandum prepared by Mr. Russell Stern dated January 24, 2021.

Items in the memorandum that were discussed included the waiver for the submission of an Environmental Impact Assessment, Mr. Keller stated that there is no adverse effects to natural areas or any other impacts to the environment with this application. The applicant agrees to the installation of underground utilities. Garbage and refuse along the rear of the Theater was discussed. Mr. Wolfson stated that the refuse and garbage cans would be removed. Cars and vans have been observed parking behind the Theater, which could obstruct access to the future trash, and recycling enclosure. In his memorandum Mr. Stern suggested that a trash enclosure be incorporated on Lots: 22 & 23. Mr. Wolfson stated that the owner of the lot did not want one on the property for fear of losing one to two parking spaces.

Next discussion was on the Hamel Associates, Inc. memorandum dated January 26, 2021. How snow removal is to be performed was discussed. It was stated that the applicants would have a contractor through their active management site, who would come in and remove the snow. Depending on the snow fall amounts the snow would either be plowed into an area out of the way or the snow would be removed from the site.

The memorandum dated January 26, 2021 from Mr. Dennis Harrington was discussed next. The comment in the memorandum regarding a grease inceptor was discussed. Mr. Keller stated that a grease inceptor was typical if a restaurant was identified in the proposed retail space. Mr. Wolfson stated that there has not been a tenant identified for this space, however; if a restaurant is proposed for the retail space than, the applicant will have no objection to a grease inceptor being installed.

Madison Environmental memorandum, dated January 11, 2021 was discussed. Mr. Wolfson asked Mr. Keller to address the storm-water management measures during construction. Mr. Keller stated that a pre-construction meeting with the Borough Officials would address this issue.

Mr. Keller had no further testimony at this point. Mr. Santoro asked the Borough Professionals to go over their memorandums with Mr. Keller and ask Mr. Keller any questions or refer to any items that were not addressed during testimony.

Mr. Harrington referred back to his memorandum and asked if the Borough Electric and Water Departments had confirmed the location of gas and water meters for the site. Mr. Keller stated he would defer this question to Mr. Gertler. The fire hydrants and fire protection were discussed and it was determined that the Madison Fire Department was satisfied with the fire protection of this site. It was stated, that the Fire Department had asked for two fire zones along both sides of the driveway but not one in the rear of the building. Mr. Santoro asked for documentation from the Fire Department regarding the satisfaction of all details relating to fire. Mr. Wolfson stated that he would reach out to the Fire Department and provide the documentation necessary.

Mr. Harrington voiced his concerns over the 18 feet garage door opening, stating that he would like to see the opening made a little wider. Mr. Keller stated the proposed garage is small and the width of 18 feet is adequate for two cars with sufficient turning radius. Mr. Harrington stressed the fact that the height of the garage opening should be able to accommodate oversized vehicles as well as a handicap accessible van. Mr. Keller deferred this item to Mr. Gertler.

Mr. Harrington questioned the storm-water management plan and that it only identified Lot 24. Mr. Keller stated that was correct. Mr. Harrington requested a revised storm-water management plan that incorporates all areas of disturbance. Mr. Harrington suggested addition storm-water management steps, which would preclude water discharge onto the pavement. Mr. Keller stated that this could be looked into. The trash enclosure fencing was discussed and Mr. Harrington suggested that the enclosure be constructed with building material as opposed to a chain link fence. The lighting of Lots 22 & 23 was discussed and it was advised that the parking lots be included in the lighting plan. Mr. Wolfson commented that this item would be looked into.

A five-minute break was taken at 9:48pm. The meeting resumed at 10:00pm with all members and professionals present.

Mr. Gary Hall swore in Mr. Harrington, Mr. Maltz and Mr. Stern regarding their testimony this evening.

Mr. Santoro asked Mr. Harrington to reach out to the Madison Fire and Police Department as well as the Madison Water and Electric Department regarding this site plan.

Mr. Stern began his questioning of Mr. Keller. Mr. Stern inquired about the street furniture proposed for Lincoln Place specifically the bike rack. Mr. Stern suggested that the bike rack should be consistent with DDC standards. Mr. Keller stated that the applicant had committed to a bike rack, a bench and several trashcans. One issue discussed regarding the bike rack was the pedestrian impediment along the sidewalk. Construction phasing and staging for this project were also discussed. Mr. Wolfson stated that the applicant would return with that information.

Parking questions from Mr. Harold Maltz's report dated January 26, 2021 were discussed. Included in the discussion was the site distance for the property. Mr. Keller stated that the proposed driveway widening enhances the pedestrian crossings and site distance issues. Mr. Maltz agreed with Mr. Harrington, Assistant Borough Engineer on the width of the proposed garage door. The 24 parking spaces provided in the garage for the apartments was discussed at length. It was determined that if the Board acts favorably upon this application that a Condition of Approval require that one (1) garage parking space shall be provided for each tenant and identified as such in the lease agreement.

It was determined that Mr. Keller would provide traffic testimony for this application later and Mr. Stern reminded him that he will need to justify the variance for parking quantity.

Mr. Keller finished his engineering testimony and Mr. Santoro opened the meeting to questions from the Board members.

Mrs. Driscoll asked about the lighting plan and the Borough Lighting Ordinance. Mr. Keller responded that the applicant is seeking a design waiver for lighting.

Mr. Fitzsimmons questioned the gate being provided for lots 23 and 23. Mr. Keller stated that it is a mechanical gate and that sheet 8 of the plans provides the details. This gate is being installed at the request of the property owner of those lots in order to limit access into that parking area. Mr. Hall asked how far the gate was from the curb line. Mr. Keller responded that the gate is approximately six or seven feet from the curb line.

Visitor parking was questioned and Mr. Keller responded that visitor parking is not allowed on the surrounding lots and that they would need to park on the street or in the nearby Municipal lots.

Dr. Paetzall inquired on the maintenance of the landscaping being proposed. Mr. Keller stated that the property owners of Lots 22 & 23 would be responsible.

At this time, Mr. Santoro opened the meeting for questions from Mr. Simon to Mr. Keller. Mr. Simon stated that many of his questions were the same as the Board had and since Mr. Keller was going to come back with revisions to the site plan, it might be best to wait until that time for his questions.

Due to the late hour, it was decided that Mr. Simon would wait to cross-examine Mr. Keller.

This application was then carried to the regular Zoning Board meeting scheduled for February 11, 2021 without further notice.

Mr. Simon requested that with any resubmissions on this application be sent to him directly. Mr. Wolfson had no objection to this request.

10. OTHER BUSINESS –

11. ADJOURNMENT – The meeting was adjourned at 10:54 pm with a motion made by Mrs. Driscoll and seconded by Dr. Paetzell

Respectfully submitted,

Frances Boardman
Board Secretary