

**BOROUGH OF WATCHUNG  
BOARD OF ADJUSTMENT  
DANIEL CRONHEIM, CHAIRMAN**

Special Meeting [Virtual]  
March 31, 2022

**OFFICIAL MINUTES  
Adopted 5/12/22**

Vice Chairman Hunsinger called the Special Meeting to order at 7:30 p.m.

**ROLL CALL**

Mr. DJ Hunsinger	Dr. Richard Steinfeld
Mr. Richard Brown	Mr. Daniel Cronheim, Chairman (absent)
Mr. Hank Kita	David A. Stires, PE, PP, Board Engineer
Ms. Sondra Fetchner	Steven K. Warner, Esq., Board Attorney
Mr. PJ Panzarella (absent)	Amanda C. Wolfe, Esq., Board Attorney
Mr. Mitchell Taraschi	Theresa Snyder, Board Clerk
Mr. Wanye Hanlon	

Vice Chairman Hunsinger called the special meeting to order. He read the statement indicating the meeting was being conducted according to Open Public Meetings Act, the Municipal Land Use Law requirements, and the recording of the Minutes as required by law. In order to comply with the Executive Orders signed by the governor, and in an effort to follow best practices recommended by the CDC and DCA for emergency meeting protocol, the meeting was held virtually for all board members, board professionals, the applicant and interested parties and members of the public.

He then led the flag salute to the American flag, and the Board members identified themselves for the record.

**MINUTES**

The Board unanimously adopted the regular meeting minutes from March 10, 2022.

**TEMPORARY SIGN REQUEST**

The Board unanimously approved the temporary sign request for the PTO food truck sale fundraiser.

## APPLICATION

Case No.: BA 21-05; KRE Group

1375 Plainfield Ave.

Block: 7010 Lot: 9

Represented By: Jason R. Tuvel, Esq.

RR ZONE

Mr. Tuvel continuing his representation of the applicant, thanked the board for holding a special meeting. In response to board comments and recommendations at the March 10<sup>th</sup> meeting, the applicant submitted a revised sheet. SK-5 depicted several revisions 1) the location of the sidewalk for consideration of the Board of Education in connection with the installation of the bus stop, 2) The driveway lengths increased from 18' to 19', 3) the cartway to the homes increased from 20' to 22', 4) changes to the landscape and retaining walls, 5) the inclusion of the trench requested by board member Mr. Panzarella, and 6) attic spaces pre-wired for solar.

Mr. Chrismer, remaining under oath, displayed A-3- SK5- Site Revisions, dated 3/17/22. He testified the areas on the sheet represented by gray markings were the previously proposed improvements. The blue lines depicted on the sheet were the proposed revisions. He explained a sidewalk extending toward Plainfield Ave. for a future bus stop was achieved by shifting building #1 to the east providing a means to place the sidewalk between buildings #1 and #3. The shift of the building also allowed for the increase in the driveway lengths to 19' and the cartways between the buildings increasing to 22'. He showed the proposed placement of the trench drain at the base of Plainfield Ave. The additional surface space was taken from the back yards.

On question of Ms. Fetchner concerning the legal standard of parking being sufficient for the site, Mr. Chrismer reiterated the applicant exceeded the RSIS standards for parking requirements. The objectives of the standards were to reasonably meet the parking needs of both residents and guests. Further to her question, Mr. Chrismer testified that he did not know whether the charging stations would be high speed, but suggested the choice of charging stations would be the "latest and greatest."

Vice Chairman Hunsinger was satisfied with how the applicant addressed his concerns over the distance between the buildings.

On question of Mr. Stires as to the impervious coverage calculations, Mr. Tuvel stated the coverage increased from 64.3% to 65.9% with the additional 1,500 sq. ft. of surface area.

Mr. Warner confirmed with Mr. Tuvel that the request for impervious coverage would be 66%.

On question of Mr. Steinfeld as to the accommodation for parking during large parties on the site, Mr. Tuvel explained parking for visitors was included in the overall count. The requirements calculate parking at .5 spaces per units.

Ms. Fetchner stated she was in favor of the EV charging stations.

Mr. Chrismer opined the project was a great reuse of the existing property especially with the inclusionary housing.

The meeting was opened to the public. There were no questions from the public.

Mr. Charles Heydt, having a business address of 1 Evertrust Plaza, Suite #901, Jersey City, was sworn in to give testimony. He gave his credentials as a professional planner and was accepted by the Board as a witness. Mr. Heydt testified he visited the site and reviewed the plans, the Borough's Master Plan and zone plan as well as the applicant's plans and exhibits. He testified the applicant was seeking a d(1) variance as multi-family housing is not a permitted use in the RR Zone. The applicant also required a d(6) variance for the building height of building number three in excess of 10% of the height requirement of 35 ft.

Mr. Heydt displayed four photos. He moved through the six figures on the sheets. Figure 1 depicted from Plainfield Ave. the existing driveway and office building. Figure 2 showed Drift Road with the express purpose of grasping the distance of the main facade from the roadway. He testified the distance from the road to the main structures would be maintained. Figure 3 presented the only adjacent use which was a cemetery. The last three figures Mr. Heydt shared were other multi-family properties in the area. Figure 4 was Berkeley Square. Figure 5 was Hampton Drive, and Figure 6 was Stone Gate.

Mr. Heydt testified the *Medici* case established the suitability test. The applicant was seeking a d(1) variance for a multi-family use not permitted in the zone. Mr. Heydt opined the site lent itself to the proposed use. He testified the minimum lot requirement in the zone was 60,000 sq. ft. for a single-family home. He opined a single-family home was not particularly suited for the property because of the isolation. The proposed units would be vertical construction, townhouse styled for the market rate units. The affordable units would be stacked flats. The proposed multi-family project would create a 12:1 density ratio and would be consistent with the existing land use patterns adjacent to the cemetery. He opined the project was consistent with total unit counts as to the scale of the project compared to surrounding multi-family home developments in the area. The applicant made amendments to the circulation of the site while providing 67 spaces, whereas, 64 were required. To address the visitor parking on site, the applicant exceeded the requirement of 14 spaces by providing 25. There would be 21 spaces dedicated in each garage and driveway. Eleven spaces would be EV charging stations. In an effort to provide more sustainable future use, each garage would be pre-wired for EV charging. The recent revisions to the circulation of the main drive isle along the cemetery and between the townhouses was increased as a result of Board discussion and recommendations. The site was suitable for circulation.

Mr. Heydt continued his testimony addressing the landscaping proposed. The site provided adequate screening by providing an increase to the vegetation planned on site. There would be five red maple trees planted along Plainfield Ave. along with 30 other shade and deciduous trees along the eastern property line in addition to forty-three evergreen trees which would be used to shade headlights. He opined the landscape plan met the test by placing the structures within

the appropriate landscape screen. The show trees would be at planting height. The trees would grow taller than what was depicted on the display. Mr. Heydt moved on to Sheet A-1.

Mr. Heydt used Sheet A-1-Architectural Rendering, to give the proofs for the applicant obtaining a d(6) variance. In an effort to regulate a single-family home on the site, the zone requirement for building height was 35 ft. Townhomes within the Borough have been permitted to be three stories. The townhomes on site would have a vertical element of brick with a variety of design elements added to the homes. Each building would be hand crafted to add variety in an effort to help mitigate the height. Building #3 would be the highest building at 40.8'. He testified the placement of building #3 mitigated the excessive height with very little impact on massing as it would be several hundred feet from the nearest home.

Mr. Heydt's testified every use variance application must provide proofs for the particular site. The applicant proposed a density of 12:1. As a means of comparison for the proposed density, he compared the multi-family development located at 708 Mountain Blvd. That was a site owned by three different property owners and consisted of four different parcels. A-4- Analysis-1375 Plainfield Ave. v. 708 Mountain Boulevard- showed two different settings. The Mountain Blvd. location was in an area that had both commercial and residential uses. Access to the site was dependent on the three existing homes abutting the development with easements on the property. The Mountain Blvd. site had a density of 10:1 with one acre being adjusted to 9:1. Mr. Hedyt opined this was consistent with the density request from the applicant at 1375 Plainfield Ave. He testified that the site was particularly suited to accommodate both the d(5) variance for density as well as the d(6) variance for building height.

Mr. Heydt testified the applicant was seeking a setback variance for the signage. The monument sign would be placed 12 ft. from the property line, whereas, the requirement was 50 ft. The property did have an additional 30-40 ft. along Drift Rd. to help mitigate the difference. The placement of the sign would not impact the site triangles nor impair safe vehicle traveling. The homes would look 40-50 ft. away from the road. The monument sign would provide the appropriate visual identity with no obstructions to site lines. Taking the lead from other townhome developments in the area, the sign would be 20 sq. ft. in size, and would be designed in connection with the overall project design.

Mr. Heydt addressed the lot coverage on the site. The maximum building coverage in the RR Zone was 15%. The type of development such as townhomes or cluster developments which have the appropriate surface parking courts and drive isles add to the increase in lot coverage. The new townhomes on the site would decrease the coverage from 70% with the existing office building to 66% with the improvements.

Mr. Heydt opined the application advanced the MLUL particularly in the following areas 1) N.J.S.A. 40:55D-2(a) the project aimed at identifying an appropriate location for an appropriate use. 2) N.J.S.A. 40:55D-2(c)- the project provided for adequate light and air. It maintained safe distance setbacks from the curb line which reduced the impact of massing from the main road and cemetery. 3) N.J.S.A. 40:55D-2(e)- the proposed development established an appropriate population density. 4) N.J.S.A. 40:55D-2(i)- the project would create a desirable visual

environment with the mix and arrangement of materials. Continuing the proofs for the positive criteria, Mr. Heydt testified the project would provide the Borough with the benefit of affordable housing units in excess of 20%. The stormwater management would improve. The traffic impacts would be reduced as compared to if the existing office building was functional. The EV charging stations would be more sustainable reducing demands for fossil fuel.

Mr. Heydt in testifying to the negative criteria opined there would be no substantial detriment to the general welfare. The applicant would mitigate traffic by providing parking off street. The trips generated would be a maximum of 14 trips in the pm peak hours and 11 trips generated during the am peak hours. The overall esthetic of the property would improve with the addition of landscaping. The project would promote the general welfare by providing housing that was more affordable than single-family homes. The location would be optimal for those seeking to afford living in Watchung and empty nesters, while meeting affordable housing requirements. There would be no substantial impairment to the zone plan or Borough master plan as residential uses are generally low intensity. The use category is compatible. The project promoted the master plan by improving the coverage in a residential district, and the inclusion of a bio-retention basin follows state stormwater rules. The project addressed the need of younger people who are looking for an affordable place to live, while allowing older people to downsize. The site itself did not have steep slopes, flood plains, or wet lands. Mr. Heydt opined the particular property met the suitability test. The site could meet the height deviations. There would be no negative impact on stormwater or traffic. The application exceeded the standards for parking, and had no negative impacts on the adjacent area.

Mr. Heydt testified there were no substantial impairments to the zone plan. The benefits of the c variance outweighed the determinants. He opined the flexible test was appropriate for the project, and the c variance would be subsumed in the use variance. The repurposing of the site added benefit to the community. The activation of the property would add to the tax base and housing index.

Mr. Hunsinger put on the record reports submitted by the fire official and the environmental commission.

Mr. Tuvell stated the applicant would stipulate to the fire official's memo.

Also, stated for the record board member Steinfeld had completed viewing the meeting video from the last meeting and was eligible to vote.

On question of Mr. Steinfeld concerning the entering and exiting the site onto Plainfield Ave., Mr. Heydt explained there would be a two way drive isle from Plainfield Ave. and an emergency vehicle access from Drift Road. Mr. Heydt also suggested the traffic signal located close to the site would assist in regulating the traffic flow. The existing conditions of the office building had functioned with those traffic conditions.

Mr. Warner confirmed that the only expert traffic testimony was from Mr. Staiger as to the ingress/egress and site circulation. Mr. Tuvel confirmed the applicant would be subject to both state and county regulations.

On question of Mr. Steinfeld concerning how many emergency vehicles can be accommodated on site at the same time, Mr. Tuvel responded the approval was conditioned on the fire official and other emergency services approval of the provisions for emergency vehicles. The applicant stipulated to the conditions outlined in the fire official's report dated 2/22/22. Further, Mr. Tuvel stated RSIS contemplated emergency service issues, and currently, the applicant complied.

On question of Ms. Fetchner concerning charging stations and the maintenance of sidewalks, Mr. Tuvel responded the approved site must stay compliant, and the applicant would stipulate to a condition that all pathways and sidewalks be maintained in the proper condition. Mr. Chrismer added the applicant would covenant in a developer's agreement as a class a maintenance project, and any approvals would run with the land.

In response to Ms. Fetchner's concern about the width of the driveway and people exiting while children waited at the bus stop, Mr. Heydt stated the drive isle would flared out to the curb which would be appropriate for a bus stop.

On question of Mr. Steinfeld as to the decision of whether the units would be for sale or rental, Mr. Chrismer stated the applicant has yet to make a decision. Most likely throughout the two year period of construction, it will be evident what would work best for the market.

In response to board member's concerns as to the safety of the signage and size, Mr. Chrismer stated the signage would be externally lit. Mr. Tuvel gave the sign's dimensions as a 3 ft. sign on a 1 ft. masonry base.

Mr. Warner questioned the applicant as to whether they would stipulate to a condition that the final architectural elements would be substantial to the rendering, to which the applicant responded yes.

Mr. Warner outlined the various approvals the applicant was seeking.

- d(1) use variance for multi-family housing
- d(5) density variance for approximately 12 dwelling units when calculated
- d(6) building height variance

The following bulk variances were tied to the single-family zone:

- side yard and front yard setbacks at 12 ft., whereas, 50 ft. was required
- building coverage of 24%, whereas 15% was maximum allowed
- impervious coverage of 66%, whereas 25% was allowed
- net habitable floor area
- number of stories
- sign setback
- size of sign

The applicant also requested several design waivers:

- drive isle width at 22 ft. not 24 ft.
- access driveway setback
- parking setback to building
- street trees
- buffer width
- vegetation within the buffer
- tree removal and replacement

Mr. Stires raised the concern that a homeowner's association would be formed instead of individual lots.

Mr. Warner confirmed with the applicant that they would stipulate to the condition that the homeowner's association would provide equal say for those occupying the affordable housing units, and the applicant would comply with all UHAC regulations as far as bedroom distributions and the phasing of the construction to complete affordable units prior to completing market rate units. Further, the deed restriction for the affordable units would be thirty years with a 13% set aside for very low income.

On question of Mr. Steinfeld concerning the lack of off-site parking for residents hosting large gatherings, Mr. Tuvel responded that was the reason there were RSIS standards was to address those concerns. He also raised the point that retail developments do not design a site for accommodating Black Friday shopping. Mr. Tuvel stated the applicant had done what they were supposed to do to which Mr. Warner confirmed from a legal perspective the applicant had met the parking requirements.

Mr. Stires evaluated the parking on the site and stated that although there could be the possibility of several residents hosting parties simultaneously, the applicant was in compliance with the RSIS requirements.

The meeting was opened to the public.

Phil Linder, 125 Hampton Drive, asked whether a cross walk from Hampton Drive to Horseshoe would be provided given there was no on street parking on Plainfield Ave. Mr. Tuvel stated the decision would be up to the county, and reminded Mr. Linder the applicant met the legal standards for parking.

Vice Chairman Hunsinger explained how members of the public could virtually "raise their hands" if they had a question.

Chad Miller, 111 Hampton Drive, Berkeley Heights, asked whether Somerset County and Union County had been consulted. Mr. Stires responded that both counties saw the application. Mr. Tuvel added the applicant also had submitted plans to DOT, and the analysis done by Mr. Staiger was based on 2017 data which pre-dated covid.



Mr. Miller than questioned whether the variances were considered individually or as a whole. Mr. Warner responded that generally the project is looked at as a whole. He also added the d variances required 5 of the 7 board members to vote in the affirmative for approval of the application.

John Foster, 87 Hampton Drive, asked whether the traffic study considered motor vehicle accidents at Drift Road, to which Mr. Heydt responded that he did not know. Mr. Foster then asked whether the visitor spots would be used specifically to accommodate visitor parking or additional parking for additional household vehicles. Mr. Heydt responded that every townhome had 2 spaces and 25 surface spaces would allow for visitors to come and go. Mr. Foster also asked what would happen if a household had three cars. Mr. Heydt responded that typically if a homeowner has a number of vehicles, they may not want a townhome. Mr. Tuvel added the RSIS factors in different units having different number of vehicles.

Mr. Miller asked whether the property needed to be rezoned for multi-family use. Mr. Warner responded every zone has regulations. In this matter the applicant was seeking both d variances and bulk variances.

Rachel Funcheon, 54 Cedar Road, inquired as to the number of live trees being taken down and whether the applicant was complying with the tree ordinance. Mr. Tuvel responded the applicant was complying with the ordinance in full. There would be 56 trees removed and 95 trees replanted with the addition of 214 shrubs. Also, the applicant had stipulated to a landscape maintenance plan. Mr. Warner confirmed that Mr. Stires would oversee the landscape plan. In response to Ms. Funcheon's question to a list a trees, Mr. Tuvel stated the applicant submitted it as a checklist item.

The meeting was closed to the public. With there being no additional questions from board members, the meeting was opened to the public for comment.

Phil Linder, 125 Hampton Drive, Berkeley Heights, was sworn in to give testimony. He expressed his concerns with the project being very close to his home and the over development of the area. He desired to see less building coverage and more access for parking on site to avoid additional parking on Hampton Drive. He opined adding cars to traffic flows would happen. He stated presently there were zero trips from the site, and any left hand turns out of the site would be dangerous. He also expressed a concern for residents on the site holding New Year's Eve parties with little accommodation for parking. He understood the impact on the community. Horseshoe at 5:30 pm had nine cars lined up to make a turn. Hampton Drive and the surrounding area did not have sidewalks. There were over 20 children in the area. This project would add cars to the neighborhood. He suggested the inclusion of speed bumps, traffic lights, cross walks, and stop signs.

John Foster, 87 Hampton Drive, was sworn in to give testimony. He was a police officer for 28 years. In his concern for the children of the neighborhood, he urged the board they had the power to either make this happened or go away. He opined that if this project moved forward, it would cause problems and make things very difficult.



The meeting was closed to the public.

Mr. Tuvel gave his summation.

The Board members offered their comments.

Vice Chairman Hunsinger commented by not allowing left turns from the property there could be a significant negative impact on the surrounding neighborhood.

Mr. Taraschi commented he was overall very impressed with the applicant's willingness to take the last meeting's recommendations. The applicant was willing to make costly improvements to the plan. He took into account the Berkeley Heights residents consideration with traffic. The abandoned building was allowed to be abandoned, but may not be in the future. The reoccupation of the office building could cause additional traffic. It was not prudent to keep the building abandoned. Mr. Taraschi asked whether the board members should consider the impact of the application from the perspective of a single-family home or as an occupied office building. Mr. Warner advised board members their obligation legally was to consider the reality of the site and how it could function as an office building. Mr. Taraschi stated the owner could occupy the building, and the reality is the proposed project would be less intrusive. An abandoned building is not the highest and best use of the property.

Vice Chairman Hunsinger commented that he was never a fan of this type of development, but he recognized the world was changing. This type of development was attractive to people. The proposed use was less intense than the office building, and the traffic on the site should not exasperate current traffic patterns. The project on Mountain Blvd. was different. This site provided a main entrance from Plainfield Ave. as well as a secondary access for emergency vehicles from Drift Rd. He considered it important to repurpose the site.

Mr. Brown commented that the prior impervious coverage was presented at 64%. The buffering adds quality to the overall project, but he held the density was too great. The property needed more space, and desired the applicant work with a density more acceptable.

Mr. Kita traveled Plainfield Avenue quite a bit. He agreed with Mr. Brown on the density. He commented that the applicant had met the proofs. He opined the proposed development was a much better use of the property than the office building. The office building would generate 60 trips. He was inclined to vote favorably on the application.

Ms. Fetchner commented that she desired to see the property less dense, while recognizing the need for more living opportunities. This would serve residents who do not want an acre of land. It could be a place for families who do not want the maintenance of a large property. Her recollection of Watchung was open space, but she understood that things were changing. She commented every time there is a development, there will be additional traffic. Although she did not view this project an ideal, she recognized the development would serve 27 families that desired to live in Watchung.

Wayne Hanlon commented the applicant did a great job in their presentation. The project was aesthetically pleasing. He was concerned with density and maneuverability of vehicles. He suggested fewer units, but overall thought the vision for the site was good.

Mr. Steinfeld commented he was in agreement with the comments other board members raised concerning density. He referenced board member speaking about families occupying the units without any provision for play areas for children of those families to play safely. He suggested a reduction in the number of buildings could provide an area for play and would be a better use of the property.

Mr. Warner outlined the variances the applicant was seeking.

Prior to board deliberations, Mr. Tuvel requested a recess to consult with his client.

After the recess, all board members were present.

Mr. Tuvel stated the applicant considered the comments of the board members concerning the density of the project. The applicant in an effort to satisfy the board members concerns for density were willing to remove building four to allow for more space. This revision would reduce the variances required. He did stated the project would need to remain financially viable for the applicant.

Mr. Chrismer expressed the desire of the applicant to move forward with the application while making revisions to the plan. He asked the board to take action, and explained the applicant would be willing to move forward with slight changes even if that meant only receiving preliminary approval. He presented the applicants as long-term owners who wanted to do business well.

Mr. Tuvel stated the applicant agreed to eliminate building #4. He asked the board to vote on the variance relief based on the 24 units with preliminary site plan approval. The applicant would come back before the board for final approval, and the applicant remained committed to work with board professionals.

Mr. Warner advised the board needed some certainty as to what they would be voting on. He inquired where the additional affordable unit would be located. Mr. Chrismer stated they would find a place for the unit.

Mr. Warner advised the board they had three options for moving forward on the application 1) the applicant could come back with revised plans at a later date. 2) The applicant could amend their plan to bi-furcate the application and seek the d variance relief that night. 3) He did not know how viable granting preliminary relief and the applicant returning for final approval would be. He advised the board of the options, and stated the viability of the options were in the order in which he presented them.

Mr. Tuvel requested the application be bi-furcated with the board voting on the d variances that night.

Mr. Warner advised the applicant had the legal authority to ask for the bi-furcation.

Vice Chairman Hunsinger informed the board they would be voting on the three d variances only.

On motion by Mr. Taraschi, seconded by Mr. Brown, the Board granted d(1) variance relief for multi-family use, d(5) variance relief for density, and d(6) variance relief for building height in excess of 10% based on the following roll call vote:

Roll Call:

Roll Call:

Ayes: Mr. Hunsinger, Mr. Brown, Mr. Kita, Ms. Fetchner,  
Mr. Panzarella, Mr. Taraschi, Mr. Hanlon, and  
Dr. Steinfeld

Nays:

Not Eligible:

Abstain:

Absent:

There were no other comments from the public.

ADJOURN

The Board unanimously voted to adjourn the meeting at 11:22 pm.

Respectfully Submitted,



Theresa Snyder  
Board Clerk