

Township of Millburn
Minutes of the Planning Board
May 2, 2018

A regular meeting of the Township of Millburn Planning Board was held on **Wednesday, May 2, 2018** at 7:30 PM in Millburn Town Hall.

Chairman Kenneth Leiby opened the meeting by reading section 5 of the Open Public Meetings Act.

The following members were present:

Marilyn Atlas-Berney
Daniel Baer
Elaine Becker
Cheryl Burstein
Dianne Eglow
Miriam Salerno
Joseph Steinberg
Beth Zall, Vice Chairwoman
Kenneth Leiby, Chairman

Also present:

Edward Buzak, Board Attorney
Eric Fishman, Court Reporter
Eileen Davitt, Zoning Officer/Board Secretary

APPROVAL OF MINUTES

A motion to approve the minutes of April 4, 2018 was made by Joseph Steinberg, seconded by Cheryl Burstein, and carried with a unanimous voice vote.

MEMORIALIZATIONS

Appl#18-006, Short Hills Associates, LLC, 1200 Morris Turnpike

Upon a motion made by Joseph Steinberg, seconded by Beth Zall, and with the following roll-call vote:

Marilyn Atlas-Berney – yes
Daniel Baer – yes
Elaine Becker – yes
Dianne Eglow – yes

Joseph Steinberg – yes
Beth Zall – yes
Kenneth Leiby – yes

the following memorializing resolution was adopted:

**RESOLUTION
PLANNING BOARD
TOWNSHIP OF MILLBURN**

In the Matter of:

**Short Hills Associates, LLC
Minor Site Plan #18-006
Block 5303, Lot 1
Minor Site Plan approval
Waiver**

WHEREAS, Short Hills Associates, LLC ("Applicant") has made application to the Township of Millburn Planning Board for minor site plan approval, along with associated application waivers and design waivers as set forth in more detail below, in connection with property commonly known as The Mall at Short Hills, and formally known as Block 5303, Lot 1 on the Official Tax Map of the Township of Millburn ("Property"); and

WHEREAS, the Applicant has submitted the following plans and designs: Plans entitled (i) "Alta/ACSM Land Title Survey for The Mall at Short Hills, Tax Block 5303, Tax Lot 1, Township of Millburn, Essex County, New Jersey", prepared by Keller & Kirkpatrick, Inc., Morris Plains, New Jersey, dated September 2015, revised 01/19/2018, consisting of 9 sheets ("Survey"); (ii) "Light Pole Base Existing Conditions, The Mall at Short Hills, Light Pole Location Map, Short Hills, Morris County, New Jersey", prepared by Keller & Kirkpatrick, Inc., Morris Plains, New Jersey, dated 1/12/18, consisting of 5 sheets ("Light Pole Location Plan"); and (iii) "Site Lighting Design, The Mall at Short Hills, 1200 Morris Turnpike, Short Hills, N.J. 07078", prepared by ILA Lighting & Controls, Morganville, N.J. 07751, dated 10/10/2017, consisting of 4 sheets ("Site Lighting Design Plans"); and

WHEREAS, the Applicant has provided the requisite notice to property owners and published public notice in accordance with the notice requirements of the Municipal Land Use Law and Section 424 of the Development Regulations and Zoning Ordinance of the Township of Millburn; and

WHEREAS, a public hearing was held on the application on April 18, 2018; and

WHEREAS, at the hearing the Applicant was represented by John P. Wyciskala, Esq., and testimony in support of the application was provided by John Powers (Powers Electrical Supply) and Gregory Ahart (Director of Facilities for The Mall at Short Hills); and

WHEREAS, the Board having considered the testimony and reviewed the Exhibits related thereto, together with the application and Plans, hereby makes the following findings of fact:

1. The Property is commonly known as The Mall at Short Hills. It is located at 1200 Morris Turnpike and formally known as Block 5303, Lot 1 on the Official Tax Map of the Township of Millburn. The Property is located within the B-1 Regional Business Zone and is developed with a regional shopping mall. The Property consists of approximately 46.48 acres and in addition to the retail and other structures, contains associated surface and structured parking areas. The Property is located to the south and east of JFK Parkway and to the north and west of Route 24 and Canoe Brook Road. The Hilton Short Hills is located on the opposite side of JFK Parkway to the north and a mixed use residential, hotel and office development is under construction to the east. The Canoe Brook Country Club is located to the south of the Property.

2. The Applicant requests a waiver from various checklist requirements related to plan details. There is no requirement to submit an Environmental Impact Statement ("EIS") for a minor site plan. Based upon the recommendations of the Township Engineer and the fact that the site is fully developed, the Board is satisfied that the application waivers requested should be, and are hereby granted to allow the application to proceed.

3. The Applicant seeks minor site plan approval with associated waivers for the replacement of lighting fixtures and poles across the site's parking area, including surface lots and the top levels of the parking structures. All existing pole mounted lighting on the site is proposed to be replaced. Although the application appeared to except from its scope of replacement 13 shorter poles (approximately 9' to 12' in height), located on portions of the top level of certain parking structures, the Applicant indicated that those lighting fixtures would be replaced as well with those of similar size.

4. The lighting within the surface parking areas is proposed to consist of LED area light diodes mounted at approximately 30'. The majority of the new fixtures would be single-mounted, with 27 double-mounted and one triple-mounted fixture proposed. In addition, 8 new post-top fixtures would be constructed adjacent to Lot E on 15' poles which would be similar to the lighting fixtures shown on the original plans. The Applicant testified that a revised Plan was prepared that shows the details for the fixtures that would be installed on the parking structures. No other site improvements are proposed.

5. Currently there are metal halide lighting fixtures of approximately 1,000 watts, lighting the parking lots and the top level of the parking structures. The new lighting would be LED lighting which is not permitted under Section 512.1 of the Township's Design and Performance Standards. The LED lighting provides more precise control for brightness, intensity and activation. The entire outdoor lighting universe would be controlled through a

software computer program allowing precision controls and limitations. The Applicant represented that the Site Lighting Design Plans contain the maximum light output that would be provided, except as set forth below and that generally speaking, the lighting will not be as intense as shown on those Plans.

6. Because of the ability to surgically control each lighting fixture and the LED light diodes within the fixture, the Applicant will have greater flexibility in providing more lighting under certain circumstances, such as when snow plowing is taking place or when there is intensified use and activity in the parking lots during the holiday seasons. In those unusual situations the light intensity requirements of the Ordinance may be exceeded and to the extent that those exigent conditions exist at any given time and demand a higher light intensity, the Applicant seeks a waiver to allow that temporary increase in intensity to occur.

7. In general, the LED area lights will be mounted at a height of 30'. The lighting intensity at ground level, which should average between 0.5 to 1.0 foot candles over the entire area, with a maximum of 10 foot candles at any given point will be met although it is noted that there will be exceedances of the 0.5 to 1.0 foot candles in certain areas of the surface parking lots. To the extent that the intensity of the lighting in those areas exceeds the average light intensity requirements (between 0.5 and 1.0 foot candles), the Applicant seeks a waiver. As abovementioned, the Applicant confirmed that the row of 8 poles along the access ramp to the lower portion of Lot E, will in fact be replaced despite the inconsistent treatment of those lighting fixtures in the submitted Site Lighting Design Plans.

8. The application was reviewed by the various professionals of the Township. The Township Engineer noted that the Plan details did not originally indicate the height of the light poles which was clarified during the course of the Applicant's presentation. The Applicant further acknowledged that the light intensity average in foot candles for various of the parking area will exceed the maximum 0.5 to 1.0 foot candles as noted earlier, but that they would not exceed the maximum 10.0 foot candles at any given time. As abovementioned, to the extent that a waiver is required in order to allow that type of overall lighting in the parking areas, the Applicant has sought a waiver from this design standard and the Board is satisfied that the use of the proposed LED bulbs is appropriate in these circumstances.

9. The other Township professionals, including the Forester, Fire Marshal and the Police Department had no comments on the application.

10. The Board is of the view that minor site plan approval with the associated waivers as set forth hereinafter, should be granted in accordance with the requirements as set forth in this Resolution and subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED that this Resolution shall serve to memorialize the action of the Planning Board of the Township of Millburn on April 18, 2018, granting (i) minor site plan approval; (ii) a waiver allowing the use of LED lighting on the site; (iii) a waiver to allow the average ground level lighting to exceed the 0.5 to 1.0 foot candle requirement as set forth in the Ordinance, provided that the Applicant does not exceed the

maximum of 10.0 foot candles at any point; and (iv) a waiver from said design standards to allow the lighting to operate beyond the intensities set forth in the Ordinance, under exigent circumstances for a temporary period of time to allow for snow plowing or emergency operations, or to provide added security during intense uses of the mall during the holiday seasons, among others, all as requested by the Applicant and as delineated above, subject to the following conditions:

1. The Applicant shall comply with all municipal ordinances and regulations, as well as all County, State and Federal Laws applicable to this development application.
2. The foregoing is subject to review of, approval by, and requirements imposed by such other Federal, State, County, and local bodies that shall have jurisdiction over the project.
3. The Applicant shall remit all outstanding escrow fees as requested by the Township of Millburn.
4. The Applicant shall be bound to comply with all representations made before this Board by the Applicant and Applicant's witnesses during the course of the public hearing on the application held on April 18, 2018 as related to the application and the same are incorporated herein and are representations upon which this Board has relied in granting the approvals set forth herein and shall be enforceable as if those representations were made conditions of this approval.
5. This Resolution is a memorializing Resolution as set forth pursuant to N.J.S.A.40:55D-10g (2), memorializing action taken by the Board at its meeting on April 18, 2018.

I, EILEEN DAVITT, Secretary/Clerk to the Planning Board of the Township of Millburn in the County of Essex, do hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by the said Planning Board on the 2nd day of May, 2018.

APPLICATIONS

APPL#18-005, WELLS FARGO BANK, 281 MILLBURN AVENUE, MILLBURN

Jennifer Knarich, Attorney for the applicant, stated her appearance. She indicated that the applicant is before the Board seeking minor site plan approval with a waiver from section 512 which does not permit LED lighting. A waiver is also required for exceeding the allowable foot candle.

Thomas Pugsley, Jr., P. E., appeared and was sworn. His credentials were presented and accepted by the Board.

Entered as A-1: aerial photo of subject area
Entered as A-2: boundary & topographic survey

Mr. Pugsley stated that the property in question is block 704, lot 2, 281 Millburn Avenue, located in the B-4 zone district at 281 Millburn Avenue.

Entered as A-3: colored sheet 3 of submitted plans dated 4/19/18

The proposed application is to convert the existing Chase Bank to a Wells Fargo Bank. There is a small addition proposed on the Millburn Avenue/Holmes Street corner of the building. Two ATM's are proposed to be added on the east side of the building. There are 20 parking spaces proposed, which is a 4 space increase over the currently existing condition. There is no change to the traffic and circulation plan. There is no trash enclosure proposed since the banking documentation is specially shredded and disposed of privately.

The proposal exceeds the allowable average foot candle and exceeds the maximum at any one point. In addition, LED is currently not a permitted type of lighting. The applicant is seeking waiver relief from those 3 requirements. 3000 K lights have been proposed in response to comments received from the Township Environmental Commission. In addition, the lighting plan has been revised in order to minimize the amount of spillage onto the right of way as requested in the Township Engineer's report.

Mr. Pugsley stated that the signage proposed meets the Township requirements and variance relief is not being sought.

Daniel Baer asked for clarification on the light spillage on the Holmes Street side of the property.

Entered as A-4: lighting plan sheet "A"

Mr. Pugsley stated that the light levels along the sidewalk in that area are .6 -- .9 foot candles. It drops off rapidly to .2 foot candles by the time you get approximately 7 feet out.

Vincent Wolk, Architect, appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief description of the proposal.

Entered as A-5: proposed floor plans

Mr. Wolk stated that the existing building has an area of 2,997 SF. They propose to add 48 SF to accommodate a vault area. They are also making the bathrooms ADA accessible.

Entered as A-6: exterior elevations

Mr. Wolk stated that there will be 8-9 employees on site at any one time.

Chairman Leiby asked if the lights on the signage along Holmes Street could be turned off at night. Ms. Knarich stated that the applicant would be agreeable to

Ms. Knarich summarized and respectfully asked for the Board's approval of the application.

Upon a motion made by Cheryl Burstein, seconded by Dianne Eglow, and with a roll-call vote as follows:

Marilyn Atlas-Berney – yes
Daniel Baer – yes
Elaine Becker – yes
Cheryl Burstein – yes
Dianne Eglow – yes
Miriam Salerno – yes
Joseph Steinberg – yes
Beth Zall – yes
Kenneth Leiby – yes

Appl#18-005, Wells Fargo Bank, 281 Millburn Avenue, site plan approval was **GRANTED** with the following conditions: 1) All parking lot lighting and building lighting shall be turned off one hour after closing, except as needed to comply with regulatory requirements for the ATM machine. In addition, the lighted building sign facing Holmes Street will be extinguished at the same time that the parking lot lights are extinguished; 2) applicant shall work with Township Engineer to provide landscaping, as needed.

APPL#18-007, KAREN WOLF INTERIORS, 36 CHATHAM ROAD, SHORT HILLS

Anthony Cerciello, Attorney for the applicant, stated his appearance. The applicant is seeking preliminary and final site plan approval for a change of use from retail service to office for a full-service design studio office. A parking variance is also being requested.

Chairman Leiby spoke to the applicant's request for checklist waiver requirements. A motion to approve the applicant's request, with the exception of an EIS submission, was made by Cheryl Burstein, seconded by Dianne Eglow, and carried with the following roll-call vote:

Marilyn Atlas-Berney – yes
Daniel Baer – yes
Elaine Becker – yes
Cheryl Burstein – yes
Dianne Eglow – yes

Miriam Salerno – yes
Joseph Steinberg – yes
Beth Zall – yes
Kenneth Leiby – yes

John Buchholz, Architect, appeared and was sworn. His credentials were presented and accepted by the Board.

Entered as A-1: sheet A-0 of the submitted plans

Mr. Buchholz gave a brief description of the site. He stated that the subject property is located in the B-3 zone district.

Entered as A-2: sheet A-1 of the submitted plans

Mr. Buchholz stated that the basement area will be used for the storage of fabrics and other samples. The ground floor will contain a waiting area, design area, workstations and kitchenette area.

Karen Wolf, owner, appeared and was sworn. She stated that she conducts an interior design business. This proposed location is in close proximity to many of her clients. There are 3 other employees, in addition to her. The proposed hours of operation are Monday-Friday, from 9 AM-5:30 PM. There will be weekend hours by appointment.

Richard Keller, P. E., P. P., appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief description of the proposal. He stated that he has visited the site many times. He also reviewed the architectural plans and the Township Master Plan

Entered as A-3: photoboard of 4 photos

Mr. Keller stated that the proposed use is a permitted use in the zone. It will provide a small scale commercial activity to service the needs of those in the surrounding area. This is a fully developed site and the applicant is seeking a waiver from the requirement to submit an EIS. The applicant is also seeking parking variance relief. There is no parking on site. Based on the ordinance requirement of 1 space/250 SF, 5 spaces are required. This requirement is less than the previously required 7 spaces for the retail service. The applicant is agreeable to the purchase of 4 business parking permits for the office employees.

Upon a motion made by Cheryl Burstein, seconded by Joseph Steinberg, and with a roll-call vote as follows:

Marilyn Atlas-Berney – yes
Daniel Baer – yes
Elaine Becker – yes
Cheryl Burstein – yes

Dianne Eglow – yes
Miriam Salerno – yes
Joseph Steinberg – yes
Beth Zall – yes
Kenneth Leiby – yes

Appl#18-007, Karen Wolf Interiors, 36 Chatham Road, site plan approval/waiver of EIS submission was **GRANTED** with the condition that the applicant shall purchase 4 business parking permits.

BUSINESS

Ordinance #2500-18

Amending section 411 of the Millburn Development Regulations & Zoning Ordinance “Guarantees and Inspections”

Chairman Kenneth Leiby stated that the Board’s responsibility is to determine if the ordinance is consistent with the Master Plan. There were no comments or recommendations by Board members.

A motion to approve Ordinance #2500-18 as not inconsistent with the Master Plan was made by Beth Zall, seconded by Cheryl Burstein, and carried with the following roll-call vote:

Marilyn Atlas-Berney – yes
Daniel Baer – yes
Elaine Becker – yes
Cheryl Burstein – yes
Dianne Eglow – yes
Miriam Salerno – yes
Beth Zall – yes
Kenneth Leiby – yes

ADJOURNMENT

A motion to adjourn was made by Cheryl Burstein, seconded by Dianne Eglow, and carried with a unanimous voice vote. (9:00 PM)

Eileen Davitt
Board Secretary

Motion: DB
Second: CB
Date adopted: 6/6/18