

Township of Millburn  
Minutes of the Planning Board  
May 16, 2018

A regular meeting of the Township of Millburn Planning Board was held on **Wednesday, May 16, 2018** at 7:30 PM in Millburn Town Hall.

Vice Chairwoman Beth Zall opened the meeting by reading section 5 of the Open Public Meetings Act.

The following members were present:

Elaine Becker  
Cheryl Burstein  
Dianne Eglow  
Roger Manshel  
Miriam Salerno  
Beth Zall, Vice Chairwoman

Also present:

Edward Buzak, Board Attorney  
Philip Fishman, Court Reporter  
Martha Callahan, Township Engineer  
Eileen Davitt, Zoning Officer/Board Secretary

**APPROVAL OF MINUTES**

A motion to approve the minutes of April 18, 2018 was made by Dianne Eglow, seconded by Beth Zall, and carried with a unanimous voice vote.

**MEMORIALIZATIONS**

**Appl#18-003, NJAW, 167 JFK Parkway, Short Hills**

Upon a motion made by Elaine Becker, seconded by Roger Manshel, and with a roll-call vote as follows:

Elaine Becker – yes  
Roger Manshel – yes  
Beth Zall – yes

the following memorializing resolution was adopted:

**RESOLUTION  
PLANNING BOARD  
TOWNSHIP OF MILLBURN**

**In the Matter of:**

**New Jersey American Water, Inc.  
Application #18-003  
Block 5302, Lot 5  
Preliminary and Final Site Plan Approval  
Waiver**

**WHEREAS**, New Jersey American Water, Inc. ("Applicant") has made application to the Township of Millburn Planning Board for preliminary and final site plan approval, and for the following: (i) a waiver of the requirement that the Applicant submit an Environmental Impact Statement; and (ii) a design waiver to permit the installation of 3 LED wall luminaire lights on the proposed building as set forth in more detail below, in connection with property commonly known as 185 JFK Parkway and formally known as Block 5302, Lot 5 on the Official Tax Map of the Township of Millburn ("Property"); and

**WHEREAS**, the Applicant has submitted several plans and exhibits, including, without limitation, the following: "New Jersey American Water, Millburn Township, Essex County, New Jersey Canoe Brook WTP Storage Building, Planning Board Submittal", consisting of 6 sheets, prepared by Mott MacDonald, dated November 2017 ("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 4, 2018; and

**WHEREAS**, the Applicant was represented by Niall O'Brien, Esq. and testimony was provided by Michael Polito, Jr., P.E.; and

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

1. The Property is located at 185 JFK Parkway and is formally known as Block 5302, Lot 5 on the Official Tax Map of the Township of Millburn. The Property is located in the Conservation-Recreation Zone. Utility facilities related to the protection or distribution of regional water supplies is a permitted principal use in the Conservation-Recreation Zone. The Property consists of 558.42 acres and is located to the north of JFK Parkway.

2. The Property is developed with the Canoe Brook water treatment plant which produces and treats water from wells and surface waters from the Canoe Brook Reservoirs. The buildings and infrastructure associated with the water treatment plant are generally located in a cluster proximate to the JFK Parkway side of the Property. The remainder of the Property contains two reservoirs, wetlands and forested lands. Land use in the vicinity of the Property is comprised of the Canoe Brook Country Club and Golf Course, East Orange Golf Course, office campuses, the Hilton at Short Hills hotel, and the Short Hills Mall.

3. The Applicant proposes to construct a new storage building and pole barn on the site. The project is intended to provide additional storage for the on-site potable water treatment plant. The proposed storage building and pole barn would be located to the rear (north) of the main water treatment plant, to the west of Reservoir #1, and to the north of Canoe Brook. The applicant is a public utility regulated by the New Jersey Board of Public Utilities.

4. The Applicant presented Exhibit A-1 depicting the proposed site plans. The proposed storage building would be located west of Plant 2, and would be atop an existing concrete platform and foundation. The storage building would be 28 feet by 30 feet (840 square feet), and be comprised of concrete modular units. The north façade will have an overhead roll up door, with access provided by a portable steel yard ramp measuring 10 feet in width by 40 feet in length. There will be a prefabricated metal stairway, landing and handrails in the northwestern corner of the storage building to provide access to the building entrance.

5. The Applicant will construct a pole barn proximate to the northwestern corner of Plant 2, generally in the location of an existing canopy which will be removed. The pole barn will be freestanding with wood supports and open on the southeast side. It will measure 18 feet by 32 feet and will be used to keep equipment out of the elements. The Applicant presented Exhibit A-2, which contains architectural drawings of the proposed pole barn. The applicant testified that the pole barn will not be heated and will contain no lighting.

6. A new canopy measuring 5 feet by 12 feet will be installed over the northwestern entrance to Plant 2.

7. The Board's Professional Planner, Paul A. Phillips requested plan clarifications in his January 31, 2018 review memorandum, and the Applicant has provided those clarifications, together with revised Plan sheets, to the satisfaction of the Board and its professionals, in the February 6, 2018 letter from Michael Polito, Jr. P.E. of Mott MacDonald.

8. Mr. Polito testified that the Applicant has requested a waiver from the requirements of Ordinance Section 512.1 of the Township Code, to allow the installation of three

LED building mounted lighting units. LED lights are not permitted pursuant to Section 512.1. The lighting is proposed on either side of the rollup garage door and at the doorway at the new building. No lighting is proposed for the pole barn. The lighting is downward facing, and there would be no discernible impact because of the heavy vegetation existing in the vicinity. The Applicant testified that the LED lighting is more modern and that the lighting location would be limited to the access ways to the building. The lighting would be on from dusk to dawn, and is intended to be a safety feature for the employees.

9. In support of the application for the waiver of the submission of an Environmental Impact Statement, it was noted that the construction is within the footprint of the existing concrete pads and previously developed area and that there should be no impact from the construction.

10. The Township Engineer issued a Memorandum dated January 25, 2018 setting out that soil erosion and sediment control measures must be in place prior to the start of any excavation.

11. The Fire Marshal issued a Memorandum dated January 23, 2018. It noted that the Applicant must maintain Fire Department access to the structure while undergoing construction; provide a copy of the Auto CAD final approved plans to the Fire Marshal; provide a key for the "Knox Box"; and meet all Building Code and New Jersey Uniform Fire Code requirements.

12. The Board is of the view that preliminary and final site plan approval should be granted; that the waiver from the requirement of Section 512.1 should be granted and that the waiver request for the submission of an Environmental Impact Statement should likewise be granted in accordance with the requirements as set forth in this Resolution, 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 taken on April 4, 2018 granting (i) preliminary and final site plan approval for the Property; (ii) a waiver of the requirement that Applicant submit an Environmental Impact Statement; and (iii) a design waiver to allow the installation of 3 LED building mounted lights as set forth in the Plans; subject to the following conditions:

1. The Applicant shall comply with all applicable 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 having jurisdiction over the development.

3. The Applicant shall remit all outstanding escrow fees as requested by the Township of Millburn.

4. The Applicant shall submit applications to, and obtain approval from, the Essex County Planning Board and the Hudson-Essex-Passaic Soil Conservation District, if applicable.

5. The Applicant shall comply with all the requirements of the Township Engineer's Memorandum dated January 25, 2018.

6. The Applicant shall comply with all the requirements of the Fire Marshal's Memorandum dated January 23, 2018.

7. The Applicant shall be bound to comply with all representations made before this Board by the Applicant, Applicant's counsel and Applicant's witnesses during the course of the public hearing on the application held on April 4, 2018 as related to the application for relief 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.

8. 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 4, 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 16th day of May, 2018.

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**Appl#18-004, 271 Millburn Avenue, LLC, 271 Millburn Avenue, Millburn**

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

Elaine Becker – yes  
Dianne Eglow – yes  
Beth Zall – yes

the following memorializing resolution was adopted:

**RESOLUTION  
PLANNING BOARD  
TOWNSHIP OF MILLBURN**

**In the Matter of:**

**271 Millburn Avenue, LLC  
Site Plan #18-004  
Block 704, Lot 5  
Conditional Use Approval  
Preliminary and Final Major Site Plan Approval  
Variances  
Waivers**

**WHEREAS**, 271 Millburn Avenue, LLC ("Applicant") has made application to the Township of Millburn Planning Board for conditional use approval, preliminary and final major site plan approval, along with associated bulk variances and waivers as set forth in more detail below, in connection with property commonly known as 271 Millburn Avenue and formally known as Block 704, Lot 5 on the Official Tax Map of the Township of Millburn ("Property"); and

**WHEREAS**, the Applicant has submitted plans entitled "Preliminary & Final Major Site Plan, #271 Millburn Avenue (C.R. 577), Block 704, Lot 5, Township of Millburn, Essex County, New Jersey", prepared by Dykstra Walker Design Group, P.A., Lake Hopatcong, New Jersey, consisting of 8 Sheets, dated 11/17/17, latest revision 12/6/17 ("Plans"); and Architectural Plans entitled "New Mixed Use Building, Planning Board, 271 Millburn Avenue, Millburn, N.J. 07041", prepared by Buchholz Architects, Florham Park, New Jersey, consisting of two sheets, dated December 5, 2017 and an Exhibit sheet, dated March 19, 2018 (collectively "Architectural 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 Richard Schkolnick, Esq. and testimony in support of the application was provided by John Buchholz, AIA; and by J. Michael Petry, P.P., Architect and Civil Engineer; and

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

1. The Property is located at 271 Millburn Avenue and is formally known as Block 704, Lot 5 on the Official Tax Map of the Township of Millburn. The Property is located within the B-4 Zone District and is currently developed with a one floor International House of Pancakes ("IHOP") building with a steeply sloped roof, giving the appearance of a two-story

structure. Presently, the building is vacant. After the IHOP use ceased, the premises were used for other eating establishments, including a Chinese food restaurant. The Property does contain associated surface parking to the east and north of the location of the vacant IHOP building and the anticipated location of the new building.

2. The Applicant requests a waiver from various checklist requirements related to certain plan details as set forth in the application and the requirement to submit an Environmental Impact Statement ("EIS"). Based in part upon the recommendation of the Township Engineer, the Board is satisfied that the requested waivers should be granted and to the extent that other components of the Plans have not been submitted, they also should be waived because the Plans submitted provide adequate information for the Board to understand and consider the application. Therefore, the Board will waive these requirements, including the requirement for the submission of an EIS.

3. The Applicant seeks conditional use approval, preliminary and final major site plan approval with associated bulk variances and design waivers in connection with the demolition of the existing building and the construction of a new two-story building. The ground floor approximately 2,924 square feet is intended to be utilized for a 72 seat restaurant, the type and details thereof yet to be determined. The second story will consist of four residential apartments (two one-bedroom units and two two-bedroom units). The footprint of the original building will be expanded in order to construct an access entry foyer and elevator to reach the second floor for four residential apartment units. This access entry foyer will be at the ground level approximately at the middle of the new building (and will rise to and through the second story).

4. The site measures 13,805 square feet and is located to the east of Holmes Street between Essex Street to the north and Millburn Avenue to the south. The site is long and narrow with the currently vacant building located in the southwestern portion of the lot closer to Millburn Avenue. There are 22 existing parking spaces on the site and a one-way driveway from Millburn Avenue onto the Property east of the proposed building, accessing eight parking spaces and then continuing onto a two-way driveway that has ingress and egress from Essex Street at the other "end" of the Property.

5. Land use in the vicinity is largely one to two-story commercial and mixed use buildings with retail sales or services on the ground floor and residential and/or professional offices above. There are single family residences along Millburn Avenue proximate to Parkview Drive to the southeast.

6. The Architectural Plans depict a proposed undesignated and unidentified restaurant with a 72 seat dining area, hostess station, bathroom facilities, kitchen and storage facilities, as well as a mechanical room and other storage areas. Although the specific type of restaurant has not been established, the testimony indicated that there would be approximately five to seven workers in a restaurant of that size. A new apartment lobby is also contained on the first floor segregated from the restaurant portion of the building which will provide both stair access and elevator access to the second floor residential area. The second floor would consist of

four residential units, two one-bedroom units and two two-bedroom units. The one-bedroom units are between 581 and 681 square feet and the two-bedroom units are between 928 and 969 square feet.

7. There is a concrete walk from Millburn Avenue approximately half-way along the length of the proposed building, immediately adjacent to the westerly side of the proposed new building and likewise immediately adjacent to the existing "Footnotes" building to the west. There will be a decorative gate installed to control access to that concrete walkway from Millburn Avenue. In addition, a proposed egress door will be constructed on the west side of the new building that will spill out onto that concrete walkway.

8. A dumpster pad with a privacy fence and gate is provided at the rear of the building in the parking lot. The proposed dumpster will be utilized by both the residential and non-residential portions of the mixed use building. A new retaining wall is proposed between this Lot 5 and Lot 4, immediately to the west which will, among other things, serve as a curb and channel water from this site's parking lot along the Property line of Lot 5 and preventing its disbursement onto Lot 4. Curbing will also be provided to channel the water in that fashion.

9. Twenty angled and standard parking spaces, inclusive of two ADA accessible spaces are proposed. Four of the spaces will be assigned and dedicated to the residential units (one for each unit) and one space will be dedicated to the manager of the restaurant, leaving 15 additional spaces for patrons. The Township Engineer expressed concern that vehicle movement into and out of the first angled parking stall on the southern side of the Property might create a traffic conflict that could spill out onto the driveway on the Property and onto Millburn Avenue. It was proposed that said first place be reserved for the restaurant manager which will minimize movement for large time blocks of the day. The Applicant accepted this proposal.

10. Two pole-mounted light fixtures, 15' in height, will be provided in the rear (northern) portion of the parking area and one building-mounted fixture approximately 15' high would be provided over the residential building entrance on the east side of the building along the parking area for the restaurant and residences.

11. The building will be clad largely with brick and aluminum panels. Aluminum and glass door front style windows would be provided in the area for the restaurant and several thin stone horizontal access bands would be provided. An aluminum sun screen would be provided on the south (Millburn Avenue) façade. Decorative metal railings would be provided at the second floor apartment windows facing the parking lot and up/down lighting fixtures would be provided at the second floor level on the north (Essex Street), south (Millburn Avenue) and east facades. A stucco cornice would be provided along the roof line.

12. One building-mounted sign would be provided along the Millburn Avenue frontage which would be approximately 53 square feet and two building-mounted signs would be provided on the east façade (parking lot), consisting of a 2' x 7'- 3 ¼" length sign to be mounted above the restaurant entrance and a 2' x 6'- 4" sign to be mounted above the apartment entrance. Finally, a monument sign is proposed along Essex Street to be set back 1.4' from the property

line, with the signage area measuring approximately 12 square feet. The sign is proposed to be comprised of a stucco background with back-lit aluminum raised lettering. The overall monument sign would measure 8' in length, 4' in height, and 1'- 4" in width and would be comprised of brick to match the building with a thin stone base and cap to match the building cornice.

13. The initial determination that must be made by the Board is whether the proposed use meets the conditions for a conditional use in the B-4 Zone. Specifically, fast food restaurants, retail food establishments and eating and drinking establishments are conditional uses in the B-4 Zone, provided that the closest part of the structure, exclusive of parking and loading areas, is not less than 125' from the nearest lot line of a single family dwelling in a residential district. No drive-up windows are permitted in restaurants in the B-4 Zone. The Applicant's Architect testified that the structure is located approximately 131' from the nearest single family dwelling in a residential zone and that since no drive-up window is proposed in the restaurant, the Board has determined that the proposed mixed use meets the conditional use requirements as set forth in the Ordinance. While there is some debate as to whether this proposed use consists of apartments over stores, as permitted in the B-4 Zone (because the apartments are over a restaurant use as opposed to a "store"), the Board is satisfied that the proposed application meets the conditional use criteria and therefore that the proposed mixed use building is a conditional use in the B-4 Zone.

14. Several variances are required. First, a loading space is required under Section 607.1 of the Ordinance, but no loading space currently exists on the site nor is one proposed. Testimony was provided that indicates that deliveries for the restaurant could be off-loaded within the parking lot area off-street and that there is no need to have a separate loading area. It was further indicated that both the IHOP and the subsequent restaurant uses on the site functioned adequately without a loading space, which would either require the reduction in the footprint of the building to accommodate it or the elimination of other parking spaces of which there are an insufficient number of parking spaces already. The Board was satisfied that a loading space was unnecessary, provided that all deliveries would be provided "on-site" and off-street as represented by the Applicant's professionals.

15. Section 607.4 of the Ordinance provides that in the B-4 Zone, there is no requirement to provide off-street parking for any use that would not result in any increased off-street parking requirements based upon the current use. To the extent that the existing use is changed in such a way as to increase the minimum parking requirements in accordance with Section 607.2, the Applicant is required to purchase municipal parking permits for such increased number of required off-street parking.

16. The testimony provided and the Plans submitted indicate that there are currently 20 parking spaces on the site. Section 607.2p requires one parking space for every three seats producing a need for 24 parking spaces to accommodate the non-residential use. In addition, Residential Site Improvement Standards ("RSIS") demand eight residential parking spaces for a total need of 32 parking spaces as calculated under the appropriate Ordinances of the Township of Millburn and the RSIS.

17. Because there is no current use on the Property and the prior IHOP restaurant use had been terminated many years ago in favor of a Chinese restaurant and other restaurant operations, the Applicant could not provide information regarding the parking demand of the previous uses. Nevertheless, the Applicant's Architect testified that between five to seven workers would be needed for a typical restaurant with 72 seats. The Applicant proposed to purchase seven business parking permits to be utilized by the employees of the restaurant once the restaurant use was actually established. The Board was satisfied that the condition for the Applicant to purchase those permits would adequately fulfill the requirements of the Ordinance. Thus, the Board determined that the parking requirements for the prior uses of this site was 25, necessitating the purchase of seven business parking permits to meet the 32 parking space requirement as determined by the Board.

18. The maximum building height in the B-4 Zone is 28' and two stories. The Applicant proposes a two story, 29.55' high building. The height appears to be related to the decorative cornice feature to be located above the apartment entrance on the east side of the building. The Applicant's Planner testified that because of the configuration of the Property, the location of the parking lot on the east side of the building where the entrance-way to both the restaurant and apartments would be located presented a physical feature which uniquely affect this specific Property and that the minimal height deviation would not create a substantial detriment to the public good nor to the surrounding areas. Further, there would be no substantial impairment of the intent and purpose of the Zone Plan and Zoning Ordinance as a result of the granting of this variance.

19. The proposed ground graphics/signs also created a series of deviations from the zoning requirements requiring variances. First, Section 609.10c1 provides that ground graphics be set back from each property line and street line a minimum of 10'. The Applicant proposes a free-standing sign set back 1.4' from the Property line along Essex Street. The adjoining property owner expressed concern that the location of the proposed free-standing sign on this Property would block the viewing of its sign located to the west of the proposed sign. Testimony was provided that the location of the Applicant's sign along the Essex Street ingress and egress was the only logical location for the sign and that it would not obliterate the viewing of the sign on the adjacent property to the west. The Planner for the Applicant indicated that because of the curvature on Essex Street which is one-way in a westerly direction, locating the proposed free-standing sign in any other area would for all intents and purposes eliminate its effectiveness and it would not be able to be adequately viewed by vehicular traffic coming along Essex Street.

20. Section 609.10a, Table of Design Elements, allows a ground graphic area of 20 square feet in the B-4 Zone, but Section 609.10c1(c) only allows graphics of six square feet or more where is frontage of 100' or more. The Property's frontage along Essex Street is only 75', necessitating another variance. The Planner's testimony with regard to the location of this free-standing sign is equally applicable to this variance and the Board is satisfied that the same can be granted without any substantial detriment to the public good, nor substantial impairment to the Zoning Ordinance or Master Plan.

21. Another set of variances is needed due to the proposed signs on the side of the building adjacent to the proposed parking lot (east side). More specifically, wall graphics have been proposed on the east façade of the building adjacent to the off-street parking area which is less than 40' in width (37.7'). Those signs proposed are a 16 square foot sign (2' x 7'-3 1/4") above the restaurant entrance and a 13 square foot sign (2' in height x 6'-4" in length), to be mounted above the apartment entrance, as previously described. The testimony indicated that there was a need to distinguish the apartment entrance from the restaurant entrance which were in proximity to each other and that the minor distance deviation triggering the need for the variance (40' required and 37.7' provided) is negligible and would not detrimentally affect the public good or surrounding area and in fact, would facilitate the pedestrian flow, patron flow and residential flow into and out of the building. The Board further found that this minor deviation would not substantially impair the Zoning Ordinance or Zoning Plan.

22. The only sign that does not generate the need for a variance is the sign along the Millburn Avenue frontage (south side). The sign along Millburn Avenue would consist of approximately 53 square feet, 2' in height and would identify the restaurant itself. The Applicant acknowledges that the final signage details cannot be provided at this time (such as text and/or graphics) and agrees to seek and obtain the appropriate permits and provide signage that would conform to the requirements set forth in Section 609.10b to the extent that there is no variance granted by the Board.

23. A design waiver is required for the aisle width of the one-way parking aisle along the east façade of the building (along the side parking lot) which provides for a 13.3' aisle with 45 degree angled parking where the Ordinance requires an 18' wide aisle with 45 degree parking. Given the narrowness of the Property, the reservation of the first parking stall (closest to Millburn Avenue) for the restaurant manager, and the available area for the footprint of the building, the testimony reflected that the granting of this waiver is reasonable and within the general purposes and intent of the provisions of site plan and approval and the literal enforcement of the 18' wide aisle would be impractical and would exact an undue hardship on the Applicant because of peculiar conditions pertaining to the land in question, as set forth above.

24. The Applicant proposes to utilize LED lighting fixtures which are not permitted. The Board is satisfied that under the circumstances set forth herein, and the fact that LED lighting is rapidly becoming the standard lighting for both energy efficiency, intensity control and precision use, it is appropriate to grant a waiver from this prohibition.

25. The Board is of the view that this application complies with the conditional use requirements of the Ordinance and that preliminary and final major site plan approval, the associated variances set forth in detail above, and the design waivers enumerated 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 actions of the Planning Board of the Township of Millburn on April 18, 2018,

granting (i) conditional use approval for a restaurant on the first floor of a two-story building and four residential units on the second floor; (ii) preliminary and final major site plan approval; (iii) a variance from the requirement of providing a loading space; (iv) a variance allowing a building height of 29.55' as set forth in the Architectural Plans; (v) a sign variance to allow for an approximately 12 square foot free-standing sign located 1.4' from the Property line along Essex Street; (v) a sign variance to allow a sign of 6 square feet or more on the less than 100' Essex Street frontage; (vi) a variance to allow two signs on the east side of the building, a distance of approximately 37.7' from the Property line, as opposed to 40' as required; (vii) a waiver to allow a parking aisle width along the east side of the proposed building of 13.3' with 45 degree angled parking spaces, as opposed to the required 18'; (viii) a waiver from the prohibition of LED lighting; and (ix) a determination that 32 parking spaces are required , 20 are provided, but that 25 parking spaces were needed by the prior use, producing a deficiency of seven parking spaces which will be accommodated by the Applicant purchasing seven business parking permits as set forth above and hereinafter, 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 development.
3. The Applicant shall remit all outstanding escrow fees as requested by the Township of Millburn.
4. The Applicant shall seek and obtain approval or waiver from the Hudson-Essex-Passaic Soil Conservation District prior to the commencement of construction.
5. The Applicant shall provide final signage details, including sign text and/or graphics prior to the issuance of any Certificate of Occupancy. Said signs and graphics shall comply with all requirements of the Ordinances of the Township of Millburn, except those for which variances have been granted herein.
6. The lighting plans shall be revised to depict proposed decorative building-mounted lighting fixtures and a fixture detail.
7. The Applicant shall comply with all light intensity levels as set forth in Section 512.1 of the Township Ordinances.
8. Fencing proposed adjacent to the western egress door along a portion of the existing concrete walkway shall be detailed on revised Plans and should also be provided on the site plans for consistency.

9. The Plans shall be revised to provide a decorative gate detail proposed to be located at the southern entrance to the western concrete walkway between this Lot 5 and adjacent Lot 4.

10. The brick pavers in the right-of-way on Millburn Avenue shall be reset, repaired and/or replaced.

11. The concrete aprons and curbing on both the Millburn Avenue and Essex Avenue driveways shall be replaced.

12. The Applicant shall comply with the requirements as set forth in the February 28, 2018 Memorandum from the Fire Marshal of the Township of Millburn on this application.

13. All loading and unloading and deliveries shall be done from an on-site location.

14. Four parking spaces shall be reserved for the residential units (one for each unit) with appropriate parking space markings and signage installed as approved by the Township Engineer. In addition, the first parking space of angled parking (closest to Millburn Avenue) shall be reserved for the restaurant manager also with appropriate parking space markings and signage installed as approved by the Township Engineer.

15. As a condition of the issuance of a Certificate of Occupancy for the restaurant, the Applicant or its tenant shall purchase seven business parking permits and shall continue to purchase said permits while the restaurant use continues.

16. 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.

17. 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 16th day of May, 2018.

## **APPLICATIONS**

\* Beth Zall recused and left the meeting room.

\*Roger Manshel served as Chairman for the purpose of Application #18-008.

### **APPL#18-008, CROSSFIT MILLBURN, LLC, 27 BLEEKER STREET, MILLBURN**

Amanda Curley, Attorney for the applicant, stated her appearance. The applicant, CrossFit Millburn, LLC, is seeking site plan approval for a change of use from storage to physical fitness facility. The applicant is proposing to lease a portion of the basement of the building. The property is located in the CMO zone and the use proposed is a permitted use in the zone. There are no variances associated with the application.

Board Attorney, Ed Buzak, spoke to the applicant's request for checklist waivers. A motion to approve the applicant's request for checklist waivers with the exception of signage was made by Elaine Becker, seconded by Cheryl Burstein, and carried with the following roll-call vote:

Elaine Becker – yes  
Cheryl Burstein – yes  
Dianne Eglow – yes  
Roger Manshel – yes  
Miriam Salerno – yes

Brett Prager, owner/operator of CrossFit, appeared and was sworn. He gave a brief description of the proposal. He stated that he offers 1-hour classes throughout the day. The proposed hours of operation are 5 AM – 7 PM, 7 days per week. There is ample parking on site for the facility. Members will be entering in the back of the building. There is also an entrance in the front of the building with stairs that lead directly to the basement.

Danial Dubinett, Architect, appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief description of the proposed facility. The applicant is proposing to occupy 3,773 SF of the basement level.

Entered as A-1: proposed signage

Mr. Dubinett indicated that the ground graphic is proposed to be installed on the Bleeker Street frontage.

Eileen Davitt, Zoning Officer, stated that section 609.10c1a allows ground graphics provided the building is set back at least 35 feet from the street line. In this case, the building does not meet that setback, and therefore variance relief would be required to allow this sign.

Mr. Dubinett indicated that they will withdraw the proposed ground graphic from the application.

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

Elaine Becker – yes  
Cheryl Burstein – yes  
Dianne Eglow – yes  
Miriam Salerno – yes  
Roger Manshel – yes

Appl#18-008, CrossFit Millburn, LLC, 27 Bleeker Street, site plan approval was **GRANTED**.

\* Beth Zall returned to the meeting room and resumed the Chair.

**APPL#18-009, 233 CANOE BROOK ASSOCIATES, 150 JFK PARKWAY, SHORT HILLS**

Richard Hoff, Attorney for the applicant, stated his appearance. The applicant is seeking a revised site plan approval. The applicant received preliminary and final site plan approval in 2016 for a mixed use development of a 246-room hotel, 200 residential units, parking garage, and existing office building.

Christian Lessard, 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-1: sheet A.301 of submitted plans  
Entered as A-2: colorized site plan rendering

Mr. Lessard stated that the original building had 2 levels of parking for the residential building and 2 levels of parking for the hotel.

Joseph Fleming, P. E., appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief description of the existing and proposed conditions on site. He explained that the only change to the originally approved 2016 plan is the driveway/service entrance along the west side of the building. The property is located at 150 JFK Parkway in the OR-3 zone district.

Andrew Marshall, President of Roseland Residential Trust, appeared and was sworn. He stated that since the original approval, has received interest from several hotel operators.

Michael Pinkowske, Certified Transportation Planner, Wells & Associates, appeared and was sworn. He gave a brief summary of the shared parking analysis that was prepared for this application. The application proposes to eliminate underground structural parking spaces

devoted to hotel patrons and instead have only residential parking underground. The residential underground parking will be located under the residential structure as well as the hotel structure. However, hotel patrons and staff will not be able to utilize the underground parking under the hotel, as access will only be provided for the residential units. The elimination of the underground parking for the hotel also results in a reduced amount of soil needed to be removed off site during construction.

The application proposes shared parking between the hotel and office uses since these uses have reciprocal demands for parking. The bulk of the hotel parking will be in the evening and early morning hours while the bulk of the office parking will be during the day.

Entered as A-3: parking comparison

Overall, the Board felt that an amendment to the originally granted preliminary and final site plan approval could be granted, along with variances to allow for shared parking between the office use and hotel use.

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

Elaine Becker – yes  
Cheryl Burstein – yes  
Dianne Eglow – yes  
Roger Manshel – yes  
Miriam Salerno – yes  
Beth Zall – yes

Appl.#18-009, 233 Canoe Brook Associates, 150 JFK Parkway, amended preliminary and final site plan approval was **GRANTED** with the following conditions: 1) applicant shall obtain all necessary Federal, State, County and local approvals; 2) applicant shall obtain approval or waiver from Hudson-Essex-Passaic Soil Conservation District; 3) applicant shall require hotel owner/operator to provide valet parking service to hotel guests.

### **ADJOURNMENT**

A motion to adjourn was made by Cheryl Burstein, seconded by Roger Manshel, and carried with a unanimous voice vote. (9:20 PM)

Eileen Davitt  
Board Secretary

Motion: EB  
Second: DE  
Date adopted: 6/20/18