

Township of Millburn  
Minutes of the Planning Board  
August 15, 2018

A regular meeting of the Township of Millburn Planning Board was held on **Wednesday, August 15, 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  
Roger Manshel  
Marc Matsil  
Miriam Salerno  
Beth Zall, Vice Chairwoman  
Kenneth Leiby, Chairman

Also present:

Ed Buzak, Board Attorney  
Paul Phillips, Township Planner  
Eileen Davitt, Zoning Officer/Board Secretary

**MEMORIALIZATIONS**

**Appl#18-010, Dolce Salon, 110 Essex Street, Millburn**

Upon a motion made by Roger Manshel, a second by Beth Zall, and with a roll-call vote as follows:

Elaine Becker – yes  
Dianne Eglow – yes  
Roger Manshel – yes  
Miriam Salerno – yes  
Beth Zall – yes  
Kenneth Leiby – yes

the following memorializing resolution was adopted.

**RESOLUTION  
PLANNING BOARD  
TOWNSHIP OF MILLBURN**

**In the Matter of:**

**Dolce Salon, LLC  
Minor Site Plan Application #18-010  
Block 702, Lot 16  
Minor Site Plan Approval  
Variances  
Waiver**

**WHEREAS**, Dolce Salon, LLC (“Applicant”) has made application to the Township of Millburn Planning Board for minor site plan approval, a variance for an inadequate number of parking spaces, a variance from the requirement to provide a loading space, and a waiver of the requirement that an Environmental Impact Statement be submitted, all as set forth in the application submitted and in more detail below, in connection with a change of use of portion of the basement storage area to retail services on premises commonly known as 110 Essex Street and formally known as Block 702, Lot 16 on the Official Tax Map of the Township of Millburn (“Property”); and

**WHEREAS**, the Applicant has submitted Plans entitled “Dolce Salon & Spa, Tenant Expansion, 110 Essex Street, Millburn, New Jersey 07041”, prepared by Buchholz Architect, 123 Columbia Turnpike, Suite 204A, Florham Park, N.J. 07932 consisting of Drawing A-O, and A-1, dated May 4, 2008 (“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 July 18, 2018; and

**WHEREAS**, the Applicant was represented by counsel and testimony was provided by a principal of the Applicant, Patricia Strada and by John Buchholz, Architect, and Paul Ricci, P.P., in support of the application; 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 located at 110 Essex Street, and is formally known as Block 702, Lot 16 on the Official Tax Map of the Township of Millburn. The Property is located in the B-4 Zone and consists of one building on the northwest corner of Essex Street and Lackawanna Place. The building consists of approximately 19,649 square feet, including basement areas. This application involves one of three units in the building on the Property.

2. The Applicant was granted minor site plan approval, together with variances and waiver relief from the Planning Board for a change of use and tenancy from a bridal shop to a salon services and retail use, via Planning Board Resolution for Application #16-007 which was adopted on December 21, 2016. Condition # 3 of that approval was that the Applicant shall not utilize the basement for any purposes other than incidental storage.

3. The Applicant seeks approval to utilize 2,878.5 square feet of the basement area for retail service use. Retail services are a use permitted within the B-4 Zone. There are no changes proposed for the upstairs space.

4. The Applicant further seeks a waiver from the requirement that an Environmental Impact Statement ("EIS") pursuant to Township Ordinance Section 509 be submitted. John Buchholz, the Applicant's, Architect, addressed the request to waive the EIS. He noted that the minor site plan application involved a fully developed site and there would be no environmental impacts related to the requested change of basement area from storage to retail services. Accordingly, he was of the view that the Board should waive the requirement of submitting an EIS. After consideration, the Board agreed that the EIS should in fact be waived so that the Applicant could go forward with the application.

5. Mr. Buchholz introduced Exhibits A- 1 (Drawing A-O) and Exhibit A-2 (this is a colorized Sheet A-1) which were marked and admitted into evidence. These are the plan sheets which were prepared by Mr. Buchholz and dated May 4, 2018 and are included within the Application package. Mr. Buchholz testified that Exhibit A-2 shows the proposed use of the basement area, which was "built out" by a previous owner. The total basement floor area is 7,591 square feet. The left area shows existing storage and electrical/mechanical area which will remain used for those purposes. One of the other rooms will be used as an employee lunch area. The other areas will be used by bridal/prom parties for preparation areas and for hair and makeup. There is an existing sprinkler system. There are four sinks existing downstairs from the previous owners use. 2,878.5 square feet is proposed for the retail services use.

6. At the hearing on July 18, 2018, a principal of the Applicant, Patricia Strada, testified that she currently operates the beauty salon at this location. Ms. Strada testified that the proposed use of the basement space is to accommodate bridal parties and prom groups, and the like and to allow those groups to remain together for the event hair and makeup preparations. In addition, utilizing the basement space as preparation area for those groups allow the upstairs space to remain for regular client services.

7. The Applicant testified that the hours of operation are 11:00 a.m. to 4:00 p.m., Sundays and Mondays; and 8:30 a.m. to 6:00 p.m., Tuesdays through Saturday, and there is no change in hours from the original site plan approval. There are 19 parking spaces existing on the premises which are not allocated to specific tenants of the building, which, as stated above, consists of three different uses, this location being the largest of the three.

8. Ms. Strada testified that additional makeup artists and stylists would be brought in as needed for the wedding/prom preparations, and generally Saturday is the busiest day for this type of event preparation. The bridal/prom groups are permitted to bring in food and drinks to consume during the hair and makeup preparations.

9. Ms. Strada addressed the two letters which were sent to the Salon from the Township Zoning Officer, dated October 6, 2017 and April 20, 2018, regarding use of the basement area for purposes other than storage. Ms. Strada testified that the basement area was previously used by the former bridal shop for hair and makeup prep and is built out with some rooms, and sinks, in addition to

the storage and utility areas. She testified that she has removed old storage items, and had the area cleaned up, painted, and carpet replaced, but conducted no client services in the basement area. She stated that some of the employees did use the basement for a lunch area. She stated that no zoning violation has been issued to the Salon.

10. Paul Ricci, P.P. testified on behalf of the Applicant. There are currently 18 unallocated parking spaces on-site. Given the existing and proposed uses of the premises, pursuant to Ordinance Section 607.2, the parking requirement for the proposed storage area (4,712.5 square feet) is 1 space, and for the proposed retail area (2,878.5 square feet) is 15 spaces. Therefore, 107 spaces for all three uses on site would be required. It was noted that there is a public parking lot in close proximity to these premises and the Township parking garage is located directly across Essex Street. Mr. Ricci stated that the use of centralized parking areas is consistent with the Master Plan to encourage centralized parking decks and lots so as not to suburbanize the downtown area. He testified that this promotes a higher quality of retail operations as it promotes customers walking through the town so as to patronize other businesses. Mr. Ricci stated that the Applicant satisfied the hardship criteria under N.J.S.A. 40:55D-70c(1), due to the location and size of the existing building, the size of the lot, and the availability of area to park. In order to increase the number of parking spaces on-site, part of the building would have to be demolished and, even were that the case, the deficiency of parking spaces could never be made up. Because adequate public parking existed in close proximity to the site, the Applicant's Planner was of the view that there was no substantial detriment to the public good by granting a variance of a similar magnitude that had been granted by previous boards in conjunction with similar applications for this site. In addition, there would be no substantial impairment of the Zoning Ordinance or Zoning Plan as the Applicant's Planner testified that the Master Plan discourages on-site parking in the B-4 Zone. It was noted by the Board that while the Township Committee has not adopted ordinances to implement this Master Plan recommendation, the Township Committee has left it to the appropriate Land Use Boards in the Township to address each application individually and to consider the unique and specific characteristics of the site in evaluating changes of uses in the B-4 Zone, among others.

11. Because of the significant deficiency in parking required versus parking furnished, the Applicant was amenable to purchasing additional business parking permits from the Township in order to ensure that at least some of their employees would have off-site parking available to them on a regular basis. The Applicant was required to purchase seven business parking permits in connection with the Salon's prior Application (16-007) and these will be in addition to those seven. After consideration and deliberation by the Board, this Board was of the view that two business parking permits should be purchased by the Applicant.

12. The Applicant also sought a variance from the requirement that there be a loading space since none exists on the site and none is proposed. Ms. Strada testified that there are no deliveries by trailer trucks and there is no space to create a well-designed loading space without eliminating significant portions of the limited on-site parking as currently exists. She noted that there has never been a loading space on this site and was of the view that it was more beneficial to have patron parking spaces on-site than to create a space dedicated to vehicle loading and unloading. The Applicant had testified that retail products were delivered by United Parcel Service or by Federal Express one or two times a week and it was really unnecessary for there to be a dedicated loading space on-site.

13. The Board reviewed the recommendations of the Township Fire Marshal, dated July 13, 2018 and will incorporate those requirements in their resolution of approval. The Township Engineer had no engineering issues with regard to the application since the application involves interior renovations only. The Township Forester had no comment on the Application. The Board discussed, but did not

require any street trees to be installed as a result of the Application as same would be Township trees, and defers to the Township if the Township desires to plant any additional trees in this area.

14. After considering the testimony and the advice of the Board's counsel and its professionals, the Board is of the view that minor site plan approval should be granted, to allow the change of use of the basement area as depicted on the Exhibit A-2 for salon services and retail use as set forth in the application, along with a parking variance for parking spaces; a variance for the lack of a loading space or loading zone; a waiver from the requirement that an EIS be prepared and submitted; all 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 taken on July 18, 2018 granting minor site plan approval to allow for a change in use for 2,878.5 square feet of basement area from storage to salon services and retail for premises located at 110 Essex Street; along with a parking variance for 16 parking spaces; a variance from the requirement that a loading space be provided; and a waiver of the submission of an EIS as outlined and discussed above, subject to the following conditions:

1. The Applicant shall comply with the requirements of the Fire Marshal as set forth in his Memorandum of July 13, 2018.

2. The Applicant shall annually purchase two (additional) business parking permits for use by employees of the Applicant to partially mitigate the impact of the parking variance sought by the Applicant and granted by the Board.

3. The Applicant shall adhere to the basement use as storage and as retail as shown on Sheet A-1 of the Plans submitted, which is entitled "Proposed Floor Plan", prepared by Buchholz Architects and dated May 4, 2018, and retail use shall not exceed 2,878.5 square feet as shown thereon.

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

5. 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.

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

7. The Applicant shall be bound to comply with all representations made before this Board by the Applicant on July 18, 2018 as related to the application for relief as if 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 July 18, 2018.

**BUSINESS**  
**Master Plan**

The Board discussed the status of the Master Plan update beginning with a draft copy of the goals and objectives.

Board members discussed proposed revisions to the goals and objectives.

Based on discussions, Paul Phillips indicated that he would prepare a draft copy of the Master Plan update to be distributed to Board members prior to the special meeting to be held on September 26, 2018.

**ADJOURNMENT**

A motion to adjourn was made by Elaine Becker, seconded by Dianne Eglow, and carried with a unanimous voice vote. (9:45 PM)

Eileen Davitt  
Board Secretary

Motion: RM  
Second: MS  
Date adopted: 9/26/18