

PLANNING BOARD
BOROUGH OF BERNARDSVILLE
Minutes – May 12, 2022
VIRTUAL ONLINE MEETING

1. **O.P.M.A. Statement:** A statement of adequate meeting notice and adherence to the state mandated emergency remote meetings protocols, as set forth on this meeting's web-posted agenda, was read by Chair Robert Graham at 7:36 pm.
2. **Roll Call:**
Present – Members Gardner, Graham, Horowitz, Kellogg, McQueen, and Thompson.
Absent – Members Macmillan, Paluck and Simoff.
Board Professionals Present: Attorney Steven Warner, Planner John Szabo and Engineer Robert Brightly.
3. **Minutes:** None.
4. **Communications:** The following correspondence was acknowledged by the Chair:
4/29/22 David Novak email re Green Acres Requirements for OSRP master plans.
5. **Business of Visitors unrelated to the agenda:** None.
6. **Old Business: Memorialize draft resolution #SP-237 Bistro 73 – Preliminary & Final Major Non-residential Site Plan w/ Variance & Design Waivers; 73 Morristown Road, B:77, L:8, Zone: D-C; Approved 4/14/22.**

Mr. Warner stated that the draft resolution before the Board incorporated comments expressed by Board members at the 4/28 meeting, those of Mr. Brightly and those of the applicant's attorney, Frederick Zelle. Ms. Thompson proposed that condition #5 be amended to include an additional reference to the downtown zoning code section, specifically 12:12-11 as that is the section on regulating noise from outdoor dining. Mr. Zelle, who was in attendance, stated that he had no objections to Ms. Thompson's requested amendment, nor any of the other modifications to the draft he had had the opportunity to review prior to this meeting. Ms. Gardner sought and received confirmation that condition #10 was correct in requiring a mason screening wall to be constructed on the south side of the new dumpster location that faces Mine Brook Road.

A motion to adopt the resolution as verbally amended this evening was made by Ms. Thompson and seconded by Ms. Gardner.

Roll call vote:

All in favor: Members Gardner, Graham, Horowitz and Thompson.

Those opposed: None. Those abstaining: None.

7. New Business:

A. Public Hearing re Preliminary Investigation of Area In Need of Redevelopment;
35 & 39 Olcott Square and 5 Morristown Road, Block 125, Lots 1, 2 and 3;
PI study presentation by Topology; Scheduled to be heard 5/12/22.

Together with the Chair, Mr. Warner acknowledged that the Zoom meeting room utilized by the Board had exceeded its 100 attendee limit. He advised the Board that proceeding with the hearing with members of the public unable to attend could be a potential appellate issue on due process grounds and cause the matter to have to be reheard. Although he confirmed that notice of the hearing had been provided as required by law, he advised that the hearing not proceed this evening. Mr. Warner opined that using the combined in-person/remote hybrid meeting format, currently being employed for Borough Council meetings, needs further review before being used for quasi-judicial proceedings such as those conducted by land use boards. He will make certain off line recommendations for increasing meeting capacity in order to conduct the public hearing at a future date. It was acknowledged that this hearing could not be verbally carried to a date certain, as a future meeting date cannot presently be confirmed. New public notices will be issued once a date, time, method and place have been determined. Topology's Chris Colley, who prepared the AINR study, confirmed that he will be prepared to appear at another date.

Ms. Gardner agreed that the hearing should not proceed and should be rescheduled. Ms. Thompson referenced certain Zoom chat messages suggesting that the future hearing be held at the high school performing arts center, but concurrently acknowledged it could be tricky coordinating scheduling with the high school. Mr. Warner announced that the hearing will be tabled to a future date; that the public should check the newspaper and Borough website for future notices and that the study that was to be presented this evening, remains available to the public via the Borough website.

B. Review of 5/12/22 Bills List w/ Invoices.

Upon review, a motion to pay the listed invoices in the amount of **\$2,250.00** was made by Ms. Thompson and seconded by Ms. Kellogg.

Roll call vote:

All members voted in the affirmative.

8. Upcoming Board Reviews/Public Hearings/Pending Applications The Board acknowledged the following applications and their current status:

A. Planning Board review of July 2021 Parks, Recreation & Open Space Master Plan for adoption into Borough master plan; Review procedure, public hearing & scheduling TBD.

Although lengthy, Chair Graham encouraged Board members to read the OSRP. Mr. Szabo suggested a two-step process for reviewing the document. First, a workshop with the recreation advisory committee and its planning consultant should be held. After which, the two required public hearings can be scheduled and noticed when the Board has gained an adequate comfort level with the document to do so. Mr. Szabo will check for inconsistencies with the master plan and be prepared to comment on the OSRP received by the Board. Mr. Mottola will check the availability of the planning consultant and schedule the recommended workshop accordingly.

B. Application #SP-238 Equinet Properties, LLC - Preliminary & Final Residential Site Plan w/ Variance; 55 Claremont Road, B:71, L:6, Zone: D-CL; Received 2/8/22; Deemed incomplete 4/12/22 – pending Board action on waiver requests; Scheduled to be heard 6/16/22.

C. Application #SP-239 Team Welsh, LLC - Preliminary & Final Site Plan w/ Variances; 13 Old Quarry Road, B:100, L:2.29, Zone: I; Received 4/7/22; Pending completeness review.

- 9. **Business of Visitors, second opportunity:** None.
- 10. **Executive Session:** None.
- 11. **Adjournment:** Chair Graham adjourned the meeting at 8:04 pm.

Respectfully submitted,



Frank Mottola, Planning & Zoning Boards
Administrative Officer & Recording Secretary

Keywords: Bistro-73-OSRP-master-plan-AINR-Palmer-Olcott-Morristown-redevelopment-study.