

**PLANNING BOARD**  
**BOROUGH OF BERNARDSVILLE**  
**Minutes – April 30, 2020**  
**VIRTUAL ONLINE PUBLIC MEETING 7:30 PM**

1. **Statement of Adequate Meeting Notice:** Read by Chairman Graham at 7:40 pm.

2. **Roll Call:**

Present – Members Gardner, Graham, Horowitz, Kellogg, Macmillan, McQueen, Simoff and Thompson.

Absent – Ms. Paluck.

Board Professionals present: Mr. Warner (until 8:06 pm), Ms. Wolfe and Mr. Szabo.

Other participants present: Zoning Officer Geoffrey Price and Downtown Redevelopment Subcommittee members Bonnie Sellers & Sam Maddaluna.

3. **Minutes:** Review minutes of 3/12/20 meeting:

Upon review, a motion to approve the minutes, with the correction of one typographic error, was made by Mr. Horowitz and seconded by Ms. Gardner.

Voice vote:

All eligible members voted in the affirmative.

4. **Communications:** The following were distributed, acknowledged and/or discussed by the Board:

A. 4/25/20 F. Zelle, Esq. & 4/27/20 F. Mottola emails re request for virtual/remote hearing of PB application #655 Stidworthy (*see #8*).

B. 4/28/20 J. Horowitz revised draft downtown signage ordinance (*see #6A*).

C. 4/29/20 C. McQueen email request for addition of emergent agenda matter (*see #9*).

D. J. Horowitz comparative use, parking and density spread sheets (*for reference only*).

5. **Business of Visitors not related to agenda:** None.

6. **Old Business:**

A. Continued review of draft Sign Ordinance.

The Board continued its review of draft ordinance, *12-23.15 Signs*, facilitated by Mr. Horowitz. Substantive comments by the Board, its professionals and other participants, not including wordsmithing, included the following:

The fourth WHEREAS on page 1 should be removed. The Board attorney will research the legality of provision *a.18* and the window sign prohibition in *b.1.(c)* and do a sweep of the entire draft to assure it presents no legal issues. In the first line of *b.1.(b)*, add the word "existing" between "on" and "signs". Add "MUTCD" to *b.4.* and spell it out in *d.10.* Add the word "permitted" after "expressly" in *e.4.* It was acknowledged that in subsection *f.*, the four existing zone districts will have to be replaced with the proposed new zone districts upon adoption of new downtown zoning regulations. Mr. Szabo affirmed that the proposed sign ordinance changes are

compatible with the proposed downtown zoning changes. The letter formatting of "Wall Signs" and "Window Signs", on pages 8 and 9 respectively, need to be corrected. Adding hours of operation, phone number and Facebook type signs in *f.2.g)(2)* was discussed but not agreed to. Per Mr. Szabo, wayfinding signs are the purview of the Council. Pending final revisions to be made by Mr. Szabo and receipt of a legal review memo from the Board attorney, the Board affirmed by a unanimous voice vote that the finalized draft sign ordinance is to be forwarded to the Mayor and Council with its recommendation for adoption.

**B. Continued review of draft Downtown Zoning Ordinance:**

Facilitated by Mr. Szabo and Mr. Horowitz, the Board continued its review of the draft downtown zoning ordinance, beginning with section *12-12.14 Building Height*. Substantive comments by the Board, its professionals and other participants, not including wordsmithing, included the following:

Mr. Szabo will add a subsection *12-12.14.h)* to provide for limitation on roof fencing. A definition of "grade plane" or "natural grade" should be added. The method for measuring the building height was discussed at length. Mr. Szabo will provide wording for walkout basements relative to the number of stories allowed. It was agreed that the grade referenced for measurement purposes should be predevelopment, not a finished or adjusted grade. Per Mr. Szabo, online codified ordinances are unable to include color illustrations, such as photographs, placed within the ordinance text. They typically refer readers to other locations where those can be viewed or obtained. Black and white diagrams can be included within the text. Illustrations should be located in the appendix and referenced throughout the text. It was clarified that attachments can encroach into setbacks but not into the right-of-way. The Board discussed at length whether setbacks should be measured from curb lines or property lines. *12-12.13* needs to be clarified as to which it is, and needs to be consistent with the standards established for the Quimby Lane redevelopment plan, currently being prepared by Topology. Mr. Szabo will check standards typically recommended by his office and consult with Topology to coordinate conformity with the plan being developed. The measurement of setbacks was tabled for further discussion at a future meeting. The last sentence in *12-12.17.c)* regarding signs is to be deleted. Mr. Simoff recommended that the parking requirement for restaurants should be based on seats and not square footage. Mr. Szabo said it is common for ordinances to use an "either/or, whichever produces the greater number or spaces" approach, such as: 1 space per 300 S.F. or 1 space for 3 seats. The Board felt a 1 space per 3 seat standard should be used. Chairman Graham asked about the feasibility of having a zero parking requirement for the downtown. Mr. Szabo indicated that would need to be combined with metered parking and/or a comprehensive municipal parking plan. It was noted that any residential developments located in the downtown must have parking. Ms. Sellers will ask Topology for its recommendation on downtown parking. Ms. Thompson asked Mr. Mottola to distribute a Word document of the draft downtown ordinance currently being reviewed.

**7. New Business: Review of 4/30/20 Bills List:**

Motion to pay the bills in the amount of **\$350.00**: Ms. Thompson. Second: Ms. Kellogg.

Roll call vote:

All members voted in the affirmative.

*(Due to current circumstances Chairman Graham delegated Mr. Mottola to sign the voucher.)*

**8. Board Reviews/Public Hearings/Pending Applications:**

Application #655 STIDWORTHY – Preliminary and Final Major Subdivision, 42 Garibaldi Street, B:112, L:11 and 9 Liberty Road, B:112, L:11.01; Deemed substantially complete 2/24/20; Waiver requests, completeness determination & public hearing date T.B.D.

The Board acknowledged the applicant's request to hear this application remotely and Mr. Warner stated his experience at participating in and lecturing on such hearings. He generally outlined the requirements for proceeding with online hearings. Chairman Graham agreed to tentatively scheduling the application for May 28 and checking on progress at the May 14<sup>th</sup> meeting. Mr. Warner said he would confirm with Mr. Zelle (applicant's attorney) and Mr. Mottola what is required of each. Mr. Szabo opined this would be a good test case due to the application's generally noncontroversial nature. He said that difficulties can arise with getting hard copies of the application to members of the public that require them. In addition to posting a digital copy of the application and reports on line, Mr. Mottola will mail hard copies of all to Board members or arrange for pickup by any members that wish to do so.

**9. Emergent Matters: Temporary easement of downtown commercial district restrictions to accommodate reopening of businesses.**

Mr. McQueen stated that the Council recognizes that as the phased reopening of public activities progresses it may be necessary to selectively ease enforcement of certain regulations temporarily by Council resolution to allow commerce to change and adapt. This would not involve ordinance revisions. The Council wants to get the opinions of relevant committees and stakeholders on what would help spur commerce in Bernardsville in a responsible way. He cited a few ideas that had already been brought up; spoke of discussing safety matters with the police chief and coordinating implementation strategies with the zoning officer. He asked that Board members email him any ideas they may have. Ms. Thompson volunteered to join the work sessions Council will be holding.

**10. Executive Session: None.**

**11. Business of Visitors, second opportunity: None.**

**12. Adjournment:** The meeting was adjourned by Chairman Graham at 10:41pm.

Respectfully submitted,



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

Keywords: sign-downtown-zoning-ordinance-MUTCD-height-setback-articulation-projection.