

**BOARD OF ADJUSTMENT
BOROUGH OF BERNARDSVILLE
June 6, 2011 Minutes
7:30 PM PUBLIC MEETING**

1. Adequate Meeting Notice: Chairman Biba read into the record the Open Public Meeting Law Statement.
2. Roll Call: Members Present: Chairman Biba, Vice Chairman Greenebaum, Mr. Negri, Ms. Dee, Mr. Omlor, Mr. Peterson, Mr. Sailliard and Ms. Kramer.
Members Absent: Mr. English, Ms Lincoln [recused] and Mr. Diemar.
Professionals Present: Attorney Lynch, Engineer Brightly and Planner Zimmerman.
3. Approval of Minutes: May 16, 2011
[Eligible Voters: All, but English and Diemar]
Motion to approve: Mr. Negri
Second: Mr. Greenebaum
Voice Vote: All eligible members voted in the affirmative
4. Communications: None
5. Resolutions: None
6. Pending Applications:

10-06: Nixon Residence: 161 Campbell Road, B: 8 L: 9
Continued from February 23, 2011, extension granted. Request to postpone to August 1, 2011. Extension requested. [Eligible Members: [Biba, Greenebaum, Negri, Dee, Peterson, English, Lincoln and Sailliard] This announcement preserves the Notice and there is no need for further notice.

11-01: St Bernards Church, 88 Claremont Road, B: 68 L: 9.
Continued from April 4, 2011, extension has been granted. [Eligible voters: Biba, Greenebaum, Negri, Dee, English, Sailliard & Kramer] Representing the applicant is Daniel Somers. Esq. Witnesses called this evening will be Mr. and Mrs. Verso for the Dance Center of New Jersey and a representative from the former Pre-School tenant. Mr. Biba clarified that unless there is a witness to testify for the new pre-school tenant, no testimony will be accepted. Mr. Somers stated there is no tenant and therefore will call only Mr. and Mrs. Verso regarding the Dance Center.

Hence, because testimony will only be for the Dance Center the Board can only weigh its Resolution for this use. It will address parking, traffic, school use and sign. Any other use i.e. for profit Preschool will have to appear before the Board at a later date.

Mr. Biba suggested that perhaps this application should consider a traffic study given the five corner intersection and to offset this expense, the applicant could explore sharing this expense with the other Board application across the street at 27 Mine Mount Road who also will conduct a traffic study. Mr. Somers questioned the need and stated that his office has a conflict with a client of Mr. Bisogno's firm who represents 27 Mine Mount and therefore would not sub contract with this study.

The Board agreed not to consider this suggestion at this time until testimony has been completed.

Mr. Somers began with a summary of the application and the variances being sought. Called again as a witness is Daniel Lincoln who presented the following Exhibits:

A3 -Floor Plans....previously submitted at April 4 hearing

A4 -Floor PlansPreviously submitted at April 4 hearing

A5 – Variance Chart

A6- Parking Lot Display [Photo taken 2011 Easter Sunday]

A7- Dance Sign Schematic

Mr. Lincoln reported that it was assumed 51 parking stalls [on gravel] could be accommodated; however at the Easter Sunday Service 54 cars were parked.

Additional parking could be obtained in the area of the playground. This playground was originally a driveway access to Stevens Lane.

Mr. Greenebaum suggested that perhaps for the unexpected use i.e. Funeral and Weddings that using this access again to Stevens Lane would be beneficial. Mr. Somers stated that this idea should first be discussed with Rev. Feus.

The proposed sign will be painted on both sides. The background will be dark green and the lettering painted gold. This sign will not be illuminated.

Next witnesses called are Mr. and Mrs. Edward Verso, Califon, New Jersey; Principals for the New Jersey Dance Center. Both were sworn and accepted by the Board. Mr. Verso recited his extensive background in dance and theater. Mrs. Verso provided descriptions for the classes and locations where classes held.

During Mr. Verso's testimony Mr. Biba questioned if the school was currently in occupancy and classes in session. Mrs. Verso responded that the program has been ongoing since September 2010. Mr. Biba questioned Mr. Somers how this violation is possible. Mr. Somers noted that he had conversations with both Municipal Counsel Mr. Pigeon and Zoning Officer Mr. Mondok and it was inferred that while school was in session, the application commence. Mrs. Kramer and other members of the Board voiced a difference for each referenced Mr. Mondok's March 2, 2011 Zoning Reports which stated the contrary position. Mr. Biba expressed strong dismay for this action.

Mrs. Verso was permitted to continue with her testimony regarding class schedule, school philosophy, student drop off and collection and how the school is able to be flexible with their schedule for the sudden need the church i.e. wedding or funeral.

This program began and continues with 80 students. Average early class size is 8-10 students, but does increase to 12-14 students after school hours between 4-6PM. Traffic flow has been reduced with the increase of car pooling. To date there has only been one conflict with the church and the school, which warranted the school to cancel class.

This concluded Mrs. Verso's testimony.

Next witness called is Elizabeth McKenzie, PP, PA, Flemington, New Jersey. Ms. McKenzie's professional background was accepted for expert testimony. Ms. McKenzie reported that she has reviewed the application and rendered her opinion of the variances sought, the uniqueness of the application and the site. Ms. McKenzie suggested that the Board approve the Dance Center not as another principle use, but rather an accessory use to the Church. Mr. Zimmerman disagreed noting the criteria for an accessory use.

Ms. McKenzie referred to the three D variances and noted the Special Reasons. The church is historic and maintenance is costly to the congregation. The use of the building while the church is not used is beneficial to the site and the proposed use is beneficial to the community. There is no detriment to the goal.

No further witnesses.

The Board clarified that the Dance Center signed a three year lease.

Public Questions/Comments:

John T. S [inaudible], 53 South Alward Avenue, Basking Ridge, New Jersey.

Clarified Choir's use of the church is limited to actual church, not hall. Voice lessons also are held in the church.

Ms. Dee inquired if the Hall is compliant with Fire Codes. Mr. Somers responded that inspections have been conducted and there is compliance.

Board comments. All are permitted to offer a comment.

Ms. Kramer – Will approve, but applicant should have first appeared before Board prior to opening Dance Center.

Mr. Sailliard – Agree with Ms. Kramer’s position. Will have benefit to the community.

Mr. Negri – Will approve with provisions.

Mr. Omlor – Will approve, but should have first sought approval.

Mr. Peterson – Will approve.

Mr. Greenebaum – Will approve , as a second principle use with provision, including new driveway and concern about scheduling and parking at times when the site have multiple activities, i.e. funeral.

Mr. Biba – Will not approve for blatant violating use.

Mr. Lynch proceeded to present condition summary.

Motion to approve: Mr. Greenebaum

Second: Mr. Peterson

Roll Call: [Eligible voters]

Aye – Greenebaum, Negri, Dee, Sailliard, Kramer

Nay - Biba

7. New Applications: None

8. Old Business: None

9. New Business: None

10. Bill List:

Motion to authorized Bill List totaling: \$ 5,143.95 – Ms. Dee

Second: Mr. Negri

Roll Call: Aye: Biba, Greenebaum, Negri, Dee, Omlor, Peterson Sailliard and Kramer.

Nay: None

11. Comments from Members:

12. Comments from Staff:

A- Summer Vacation Schedules – Ms. Lyons requested that Members please notify her of upcoming vacation absences. Also, in light of new hearing date for Nixon application the Board will not meet June 20.

B- New Hearing Date: Zacacard LLC - Applicant is unable to consider Special Meeting offer of June 14 and is unable to continue in July. The Board agreed to consider this matter at the August 15 regularly scheduled meeting. Therefore, the July 5 regularly scheduled meeting will be canceled due to lack of business.

13. Adjournment: The time is 10:40 PM

Motion to adjourn: Mr. Negri

Second: Mr. Greenebaum

Voice Vote: All members present voted in the affirmative.

Respectfully submitted,

Teresa Lyons, Administrative Officer

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Keywords: minutes-board of adjustment-nixon-161-campbell-road-saint-bernards-church-88-claremont-dance-center-of-new-jersey-