

**BOROUGH OF BERLIN  
PLANNING BOARD MINUTES  
May 13<sup>th</sup>, 2024**

**CALL TO ORDER:**

D. Pomponio called the meeting to order at 7:00 PM

**FLAG SALUTE:**

D. Pomponio called for everyone to rise and recite the pledge of allegiance to the flag.

**SUNSHINE STATEMENT:**

D. Pomponio announced that this meeting is being held in compliance with the Open Public Meetings Act and has been duly noticed and published by law.

**ROLL CALL:**

On roll call vote, the following members answered present to roll call: Mayor R. Miller, Councilman M. Wilkinson, K. Ryker, D. Pomponio, W. Hans, F. Ballak, J. Cole, J. Schumacher, E. Hahn

**MINUTES:**

D. Pomponio asked if there were any questions or comments on the minutes for April 8th, 2024, none heard.

A motion to approve the April 8, 2024, minutes was made by K. Ryker and seconded by F. Ballak

**All in favor**

R. Miller-AYE  
M. Wilkinson-AYE  
K. Ryker-AYE  
D. Pomponio-AYE  
W. Hans-AYE  
F. Ballak-AYE  
J. Cole-AYE  
J. Schumacher-AYE  
E. Hahn-AYE

**RESOLUTIONS:**

**Authorizing Settlement of Land Use Litigation  
By *Whispering Woods* Hearing to Implement  
Consent Order Filed with the Superior Court of New Jersey on October 30, 2023  
In the Matter of *Berlin Wall Holdings, LLC v. Borough of Berlin Planning Board, et al.*  
For Real Property at Block 1502, Lots 1, 2 and 3**

A motion to approve Settlement of Land Use Litigation in the matter of Berlin Wall Holdings, LLC v. Borough of Berlin Planning Board was made by Mayor Rick Miller and seconded by Councilman M. Wilkinson. RC

**ROLL CALL**

R. Miller-AYE  
M. Wilkinson-AYE  
K. Ryker-AYE  
D. Pomponio-AYE  
W. Hans-AYE  
F. Ballak-AYE  
J. Cole-AYE  
J. Schumacher-AYE  
E. Hahn-AYE

**ZONING OFFICERS REPORTS:**

**Zoning report for April 2024**

D. Pomponio asked if there were any questions or comments on Zoning reports, none heard.

**OLD BUSINESS:**

**NONE**

Case 24-01  
Michael Iuliucci- Dog Boarding  
100 Maine Ave in Berlin,  
Block 501 Lot 2  
D variance & site plan waiver

Mayor Rick Miller and Councilman Millard Wilkinson excused themselves since this was a D Variance application.

Michael Iuliucci stepped up to the podium and Berlin Borough's attorney Chris Norman swore in Mr. Iuliucci and then swore in Nicholas Minner from Colliers Engineering & Design and Malvika Apte from CME Associates.

Mr. Iuliucci gave a brief description of his application. Mr. Iuliucci went on to say, this first started about four or five years ago when he was breeding his labradors and people would ask if he would watch their dog while they went on vacation. Mr. Iuliucci lives on a dead-end street backed up to public owned property. Mr. Iuliucci stated that he partitioned a part of his property off with arborvitae to get a buffer. Mr. Iuliucci has a ten-dog kennel in his garage that he has heated and air conditioned and a play area for the dogs. Mr. Iuliucci stated that this project has now turned into more than a summer business, so he is here for permission to continue operating.

Vice Chairman D. Pomponio asked, how long has been operating. Mr. Iuliucci responded since Covid; he has been breeding labradors for about twenty years, but the kennel is separate from the breeding.

Berlin Borough's attorney Chris Norman asked what the hours of operation were. Mr. Iuliucci stated by appointment only and then went on to say, they have 10 kennels, it's mostly word of mouth, they have some Facebook presence, people that know him or his wife, they know their property and how they treat their dogs, everything's done by text or phone, his driveway is probably 40 ft wide on a dead-end street, in and out and it is always appointment only. None of the dogs are kept outside overnight, Building is insulated two by six walls, extra insulation. Mr. Iuliucci stated that if they ran into a noise issue with a dog then he would sleep outside and then ask for that dog not to return.

Vice Chairman D. Pomponio asked if the frame garage, kennel operation with the 4 ft wire fenced area is in the right rear of the lot with the shed in the rear. Mr. Iuliucci stated that is correct, and half the fence has been changed to a 5 ft chain link and if approved tonight the rest along Main Ave will be changed over to a 5 ft black chain link.

Eric Hahn asked if there are three different fencing sections, one in the front, one little one and the main one in the back. Mr. Iuliucci stated the little section is a garden. The area where the fence is by the shed, is where the dog area is located. Mr. Hahn then asked if at the end of the day, do all the dogs all go inside, and Mr. Iuliucci stated that all the dogs go inside and are never left outside.

Mr. Hahn then asked about the pickup and drop off for the dogs. Mr. Iuliucci stated that it is by appointment only, the driveway is 40 ft wide so there is plenty of room to get in and out. There are two doors to the building, and they normally don't let anyone in. They only come to check it out, the meet and greets are on the right-hand side, it's more of an open room.

Mr. Iuliucci answered the question on the ADA from one of the professionals, stating that he has cameras if they need access to see inside. If they needed access inside, then we could take them around back up the ramp, but we are a concierge service. I'm meeting them outside, taking their dog from the car into the building.

Mr. Hahn then asked if there were any unique lights. Mr. Iuliucci stated no and the whole property is surrounded by arborvitae, and you are unable to see anything in there.

Wayne Hans asked how many dogs. Mr. Iuliucci stated, 10. Mr. Hahn asked if that was the limit and Mr. Iuliucci stated, I have ten kennels and that's all he wants.

John Cole asked, how are dogs monitored? Mr. Iuliucci stated that he has cameras and it's him, his wife, and kids.

D. Pomponio asked if there are any employees and Mr. Iuliucci stated, no and when he retires, he will still be the employee.

D. Pomponio asked before the professionals go into their reports is there anything that Mr. Iuliucci would like to add. Mr. Iuliucci said, No.

D. Pomponio then started with Malvika Apte from CME Associates. Mrs. Apte asked if there was a weight limit on dogs. Mr. Iuliucci stated no, his wife and him do a meet and greet with the dogs and owner. Most of the dog's weigh between 20lbs and 60lbs, there are two mastiffs but there is no weight limit. Mrs. Apte asked if he needed some kind of license and amount of open space for the type of dogs. Mr. Iuliucci stated yes, they have plenty of room inside and out and for the mastiffs he has a bigger cage for them. Mrs. Apte asked about the two sheds shown on the survey. Mr. Iuliucci stated that the big shed at the rear of the property is just a residential shed that stores his tractor, lawnmower, rakes, shovels, and the small shed, all the dog stuff, mostly from his breeding business. Mrs. Apte asked if the breeding business is generally within his house. Mr. Iuliucci stated, Yes.

Mr. Norman asked if breeding is part of the ten dogs and Mr. Iuliucci stated that it is additional.

Mrs. Apte asked if there is any grooming or training. Mr. Iuliucci stated there is no grooming or training at this time.

Mrs. Apte asked if there are any kind of emergency medical services close by. Mr. Iuliucci stated that Doctor Polo in West Berlin is going to sign off on everything as far as infectious disease report. The emergency vet is Mount Laurel in Mount Laurel or Red Bank.

Mrs. Apte then gave a brief description of her report to the board. The applicant is looking for two D -one variances. One is for this facility to be located on this property. It's in the residential zone where this type of use is not permitted and the second D- one is for two principal users to be permitted on this property. The other two bulk variances are the sheds that is located on the front yard of this corner lot, and this is an existing nonconformity that exists on the property. The applicant has clarified that the wood fence is going to be changed into a chain link fence of 5 ft, however, fences in the front yard are prohibited, and that's why he is proposing that one design waiver which is no sidewalks. Our ordinance requires sidewalks to be provided in every zone but for this applicant, he's not proposing any additional construction on the property and there don't seem to be any sidewalks around in that area.

D. Pomponio then clarified that there are no changes or modifications. Mr. Iuliucci stated, No changes or modifications but the fence.

Nickolas Minner from Colliers Engineering and Design went over the letter that was dated May 7<sup>th</sup>, 2024. Mr. Minner stated that overall, the applicant did a good job with the proposal and explaining the application. Mr. Minner went over the two variance assessment comments and recommendations. Number three in Per section 335 attachment two of the Borough of Berlin Ordinance. There is not a parking standard for this type of business, but training or instructional facility requires one stall per 250 square feet. The building appears to be 1400 square feet plus or minus, which would require six stalls. The survey indicates that there are no parking stalls that are specifically marked on the site. The testimony was, there are no employees other than the family and the testimony was by appointment only. Variance is still required but with this kind

of use on the property, that would be for the board to consider. Mr. Minner then went on about the ADA on parking and he feels since this is a business there should be at least one ADA parking stall that is handicap accessible with accessibility into the building. Mr. Minner went on to explain that there are federal mandates for businesses but there is ample room in the driveway as noted and testified, in accordance with section 335-38 A, which is regarding curbing. The property curbing does not exist along Main Avenue. There are no site improvements that are going on for this facility, and there are no sidewalks that are along Main Avenue in accordance with section 335-61, which is regarding sidewalks. There are no training activities on this site currently. If parking facilities are required, if the variance is not given, we would recommend lighting to be adequate to illuminate those facilities.

There's no development that's going on for this property, there's no impervious area, there's no stormwater management. There is a sign along Main Avenue, can you elaborate on that sign, is it permanent, is it within the code and within standard. Mr. Iuliucci stated that it is within the standard but not permanent. Mr. Minner then asked about the size and Mr. Iuliucci stated it was 3.14 square ft and 2 ft round. Mr. Minner stated that it would meet the requirements for the sign standards and D. Pomponio asked if it was at the beginning of the driveway. Minner stated yes, it is a small round sign, not lit on a post and Iuliucci stated it is more for breeding purposes. Mr. Minner then asked Mr. Iuliucci if he had applied and received his business license etc. to run a business.

Mr. Iuliucci stated that he has insurance on his vet to the extent that he says everything is good but can't sign off because it is not legal business until he gets the use approval.

Mr. Norman asked Mr. Iuliucci if he needed the use approval to get the business license and Mr. Iuliucci stated, correct. Mr. Minner stated as a condition of approval, those documents of documentation would need to be supplied.

Mr. Minner stated that if the board grants the variance for the parking, then the site plan waiver would be acceptable because there are no other site improvements.

Mr. Norman asked Mr. Iuliucci about the timeframe for letting the dogs out in the morning and back in the evening. Mr. Iuliucci responded between 7:30am & 8:00am. The evening really depends on what group of dogs they have, if they are a good group, they could be out at 11:00 pm with no noise. We try to keep it as quiet as possible.

Mr. Norman then asked about what type of clientele. Mr. Iuliucci stated that 90% of people go away for the weekend for travel, baseball & soccer or vacation. Mr. Iuliucci stated a lot of it is local.

Mrs. Apte asked if the board were considering placing the condition of maximum of ten dogs are you able too. Mr. Iuliucci responded, yes, the applicant stated he doesn't need more than ten dogs.

D. Pomponio asked if there were any questions from the board.

F. Ballak asked if Mr. Iuliucci was ok with putting limitation on the number of dogs because Mr. Ballak concern is the variance staying with the property. Mr. Iuliucci is fine with ten dogs because the property is not built for more than ten dogs. D. Pomponio stated that ten is what they were going with.

Mr. Norman stated as a board they have the discretion to reduce that number if they think it is too much. Mr. Norman stated that Mr. Ballak point was very good because if someone else is to take over the business, they may not be so good with the operation and neighbors come and go, and future neighbors may not be ok with it.

F. Ballak asked what was on the other side of Main Ave. Mr. Iuliucci stated that Mrs. Hayes is on the corner of Clementon Road which is residential, two apartments, a house and a nursey across the street on Clementon Road.

D. Pomponio asked if there were any other questions from the board.

F. Ballak had a question for the professional, if the board is granting the approvals tonight is it approving the code compliance of the facility or just the use?

Mrs. Apte stated that the use is just being approved. The applicant showed the survey where the location is and he is not making any improvements but in terms to any kind of health certificate or veterinary certificate, the applicant would need for running this kind of business, the applicant testified that he would be providing that as he gets his certificates. Mr. Iuliucci stated that there is two, the town gives him a license and Dr. Polo signs off on the infectious disease report.

F. Ballak stated he meant more about the board signing off on proper electric for the place and stuff like that. Mr. Iuliucci stated that the town did all the inspections when the addition/garage was put up.

F. Ballak then stated at that point they were looking at it from the CO compliance for the addition not a business. Mr. Minner stated that is not for the planning board.

D. Pomponio asked if there were any other questions or concerns from the board members, none heard at this

D. Pomponio opened it up to the public on this application will open to the public on this application only any questions concerns or anything. None seen or heard so Mr. Pomponio closed the public portion for this application.

Mr. Norman gave a summary of the application which is a use variance and a waiver of a site plan review to allow a dog boarding operation. The proposed conditions are limited to ten dogs, applicant is by appointment only, no dogs outside overnight, if a dog had a problem with noise the owner would not invite the dog back, maintain security cameras, provide an ADA parking stall to the extent required and any licenses from board of health and related market type licenses outside agency approvals.

D. Pomponio wanted to confirm that an ADA parking spot is a condition and Mr. Norman stated that it is required by law. Mr. Minner stated it was it is a building code.

Mr. Iuliucci asked about the access sign and ramp. Mr. Minner stated that an access sign will need to be stripped with blue stripping and make sure there are adequate widths to get up to your door and slopes. It is one space, and you can go to the website, since it is only one it must be van accessible.

D. Pomponio then asked about lighting and if that was required. Mr. Iuliucci stated that there are lights on the building and then Mr. Pomponio asked if it lit up the driveway and Mr. Iuliucci stated, Yes

Mr. Norman asked if they were motion lights and Mr. Iuliucci stated that the lights are on timer's dusk to dawn.

W. Hans asked if the side with the ADA parking spots lights up. Mr. Iuliucci stated, Yes

Mr. Minner stated that the lights would be acceptable for this use.

D. Pomponio asked if the sign fit the standard sign and J. Schumacher asked if the sign needed a construction permit and Mr. Minner stated that the sign is good, but a construction permit is needed for the sign.

Mrs. Apte asked if there is any grooming, and Mr. Iuliucci stated, No

F, Ballak asked if there could be a limitation on the number of dogs. Mr. Norman stated that there was a limit of ten dogs. If the board would like to change that it could be changed. The board was good with a limit of ten dogs.

D. Pomponio then asked if there is a motion on the application for a D variance and a site plan waiver.

A motion to approve the D variance and site plan waiver was made by F. Ballak and seconded by J. Cole.

**ROLL CALL**

K. Ryker-AYE

D. Pomponio-AYE

W. Hans-AYE

F. Ballak-AYE

J. Cole-AYE

J. Schumacher-AYE

E. Hahn-AYE

Mr. Iuliucci asked if he can turn in his license and Mr. Norman stated that he will need to wait for the resolution to be approved. Mr. Norman stated that if needed he would send Mr. Iuliucci an email stating that the board approved it, and a resolution is coming.

**CORRESPONDENCE:**

NONE

**PUBLIC PORTION:**

D. Pomponio opened the meeting up to the public for any concerns or questions.

A resident stepped up to the podium and asked if she needed to give her name and address and the planning board attorney, Chris Norman stated, No.

The resident asked about a resolution and Mr. Norman responded that the resolution is a formality because the substance of the decision was already made. The resident then asked when the redevelopment for the Dollar General on the White Horse Pike is supposed to come back with changes. Mr. Norman stated that there will be notice of public meeting for the site plan for the Dollar General. The resident stated that it looks like they have already started the storage area because there was a tractor going into the woods and it is not as far down as Florence Ave. Mr. Norman stated that testing was being done to the soil. The resident asked if it is going to be posted when they introduced the new site plan. Mr. Norman stated that everyone within two hundred feet will get notice. The resident asked if the 48 eight townhomes get approved how long it is going to take because it took them four years to build four houses. Mr. Norman stated that they don't have control over the housing cycle or the economics of it. Mr. Norman then stated that they do need to come before the board with the actual site plan for 48 homes and it must be approved and there are studies that still need to be done, like traffic studies. The resident stated the biggest complaint is to Pine Ave. Mr. Norman said they are all concerns that will be heard at future hearings. The resident asked if they would be posted so the residents will know and D. Pomponio stated, Yes. They will be posted as they happen.

D. Pomponio asked if anyone else from the public would like to speak, none seen or heard. The public portion of this meeting closed.

**GOOD OF THE ORDER:**

NONE

**ADJOURNMENT OF REGULAR MEETING:**

A motion to adjourn the meeting at 7:42pm was made by J. Schumacher and seconded by W. Hans

**All in Favor, AYE**