

June 2, 2010

A special meeting of the Allendale Board of Adjustment was held in the Municipal Building on June 2, 2010. The meeting was called to order at 8:12 p.m. by Ms. Teng, Chairperson, who announced that the requirements of the Open Public Meetings act were met by the required posting and notice to publications.

The following members answered roll call: Ms. Teng, Ms. Hart, Ms. Chamberlain, Ms. Weidner, Mr. Redling and Mr. Manning. Mr. Jones was absent. Also present was Mr. Nestor, Board Attorney.

Holmgren's Black Belt Academy, LLC – 240 W. Crescent Avenue, Block 1005, Lot 2 – Site Plan and Use Variance Application

Mr. Nestor said this application is for preliminary and final site plan approval. It is before this Board because there is a request for a D variance which gives this Board jurisdiction. The use that is sought is not a use that is prescribed in the D zone. There are also variances required with regard to the number and dimension of parking spaces and front yard setback. The Borough Engineer, John Yakimik, is present on behalf of the Borough to give his input with regard to the plans and reports that he has reviewed and is embodied in his report dated June 2.

Harold Cook from the firm of Perconti and Cook was present as attorney for applicant. He said the last time applicant was before the Board his architect and traffic engineer had given testimony with respect to the future traffic light, the parking, the circulation of the building and the Board had certain issues concerning the circulation, parking, etc. Their engineer has revised the site plan to take into account the comments and concerns of the Board as well as the dialog between their professionals and Mr. Yakimik. He will ask their architect to give an overview of the site plan that was before the Board at that time and the changes he made for this evening.

John Montoro, architect for applicant was sworn. He said the property is in a D Industrial zone district and the use is for physical fitness. The existing building is a warehouse building which is being broken up as the Karate Studio which is taking up about 4600 s.f. The balance of the space would be divided 50% into office and 50% into warehouse and there are different parking ratios for each.

Mr. Montoro said the whole site has ingress and egress off of Crescent Avenue. One of the concerns that came up at the last meeting was how do people come in, drop off their child and then get out. One of the things that he and Mr. Yakimik discussed is that people will come in and drop off their child and pull into a wider parking space to make it easier for them to get in and out. They also talked about an area of turnaround should someone care to come in and quickly drop off and then get out and that is on the new plan. The plans submitted in April show that they are closing off the back with a gate and some bollards. The gate would be a chain gate so if an emergency vehicle needed to get through they could just go through the chain. Also there is a chain separating the Black Millwork section to allow a vehicle to get through. Mr. Borst indicated that this happens very rarely. By keeping the site separated, it prevents anyone from coming into the site and using it as a shortcut.

Mr. Nestor said the drawings Mr. Montoro is referring to have a revision date of April 9, 2010 and were marked A-1 the last time applicant was here. They run from PB-0 to PB-4 with the 2<sup>nd</sup> page being a map of the property of Mark Borst with a date of September 1, 2005.

Mr. Montoro summarized by saying they tried to make accommodations for increasing the parking size, for circumventing and separating public and construction areas as well as come up with an accounting of cars to meet the Borough ordinances.

Mr. Montoro said he would now like to distribute what is being proposed after meeting with Mr. Yakimik. Mr. Nestor said the new plans will be marked A-8. Mr. Montoro said this plan is a copy of drawing PB-2 and is dated 6/2/10. It shows in yellow the changes that are being proposed from April 9. The karate studio is shown as 4600 s.f. The correct requirement is 1 space for 100 s.f. because of the definition of physical fitness and that requires 46 spaces. Suites B and C are 5175 s.f. for office at 1 to 200 requiring 26 spaces and for storage and warehouse it is 1 to 400 or 13 spaces. The required parking for karate is shown as 46 spaces, office is 26 and warehouse is 13 for a total of 85 spaces. With the revised 10 x 19 ft. spaces 65 spaces will be provided so they are deficient by 20 spaces. He said there will be 18 students and 3 instructors so 46 spaces is a lot to require for this use when there will only be 21 people for this use at any one time.

Mr. Montoro said at the last meeting one of the questions concerned drop off and how it was going to happen. He said they can stripe and delineate a turnaround for cars. He said he believes they have accommodated all of the comments that were made at the last meeting. They are giving the site handicap access and are providing a sidewalk from the drop off area to the front door and also from the northerly end of the sidewalk to the front door. He believes the benefits in this situation outweigh any detriments that would occur.

Mr. Montoro said he reviewed Mr. Yakimik's letter dated June 2. Regarding the section called "Zoning and Variances" the use is a martial arts academy in an industrial zone so a use variance is required. The front yard is existing at 99.7 ft. where a minimum of 100 ft. is required. The minimum parking space size of 9 ft. wide by 18 feet long where a 10 ft. by 20 ft. space is required. They have increased the width but they cannot increase the depth because of clearances required for aisle space. The minimum number of parking spaces of 71 where 85 is required will actually be 65 if the spaces are made larger. Also, the 1 space per 300 sq. ft. of building area ratio has been revised to 1 space per 100 sq. ft. for 46 spaces totaling 46, 26 and 13 totaling 85 requiring a variance. Mr. Montoro said the revisions requested in item 2 will be made. Item 3 will be covered by Mr. Kauker's testimony. Items 1 and 2 under traffic, site circulation and parking will be addressed by Ms. Dolan. Item 3 is covered by the sketch submitted. Under item 5, 9 ft. has become 10 ft. With regard to item 6, the barrier-free parking spaces are shown. The handicapped spaces will be 8 x 18 which is conforming to the handicap criteria. He said Mr. Borst met with the Fire Subcode Official and will meet his requirements. Under item 8, the parking spaces have been increased to 20 ft. long.

Under Section 4, item 1, the condition of the parking area pavement surface, Mr. Montoro said this is something that Mr. Borst and Mr. Yakimik will have to discuss and agree upon. Under

item 1, they agree to enclose the utility poles with a low wall and some plantings. With regard to item 3, they will provide a dumpster enclosure 6 x 18 ft. Items 4 and 5 will have to be discussed and worked out by Mr. Borst and Mr. Yakimik.

Mr. Cook said if the Board acts favorably on this application, he would ask that the technical details as indicated in Item 6, Drainage and Storm Water Management, in Mr. Yakimik's letter be worked out with the applicant. With regard to Item VII, Site Lighting, applicant will provide lighting contours as requested. Applicant will meet with the Allendale Water and Sewer Dept. regarding the adequacy of existing and proposed water and sewer facilities.

Under miscellaneous items, Mr. Montoro said applicant will comply with items 1 and 2. Items 3 and 4 will have to be worked out with Mr. Yakimik and Mr. Borst.

The meeting was opened to the public for comments and there being none, the meeting was closed to the public.

Mr. Nestor commented that the turnaround on A-8 appears to go over the property line. Mr. Cook said that would have to be effectuated with an easement with the owner of the property as a condition if the Board looks favorably on the application. Mr. Montoro suggested waiting to see how the place operates and should that become necessary it could be done at a later date. He said widening the spaces may make it easier to get in and out. Mr. Cook said if the Board does want the turnaround it could be effectuated with a deed restriction.

Aerial photograph that was provided by Mr. Yakimik was marked A-9.

Ms. Hart asked about the hours of operation and will the lights be lit all the time. Mr. Holmgren said his last class will be at 8:30 p.m. during the week. Mr. Montoro said the lights can be put on a timer and can be set to go off at 10 o'clock.

With regard to the number of parking spaces Mr. Nestor asked if applicant is asking for a variance for 20 spaces. Mr. Cook said that is correct. Mr. Nestor commented that 65 spaces have been allocated to the entire facility. He asked if applicant is asking to have the variance applied to the karate parking spaces as opposed to the office or warehouse spaces. Mr. Cook said he believes the testimony was that there would be 3 employees and 18 students for a total of 21 whereas under the physical fitness and recreation requirements it would require 46 so from a practical point of view everyone would not drive there but if they did there would be 21 cars. Mr. Nestor said future applicants will have to comply with the parking requirements on the site plan. If he cannot he has to come back for a variance. These 46 spaces are specific to this use and the variance for the parking is being granted based upon this use and the space this tenant is going to occupy.

Mr. Nestor said applicant is allocating the remainder of the spaces other than Holmgren's to 50% office and 50% warehouse. A Board member commented that based on the ability to provide only 65 spaces and holding 26 for office and 13 for warehouse that leaves 26 spaces. There are 18 people in the class and 3 instructors for a total of 21 and it is likely that as one class is ending there will be new people coming on the site looking for space. Assuming that the office and

warehouse are full there is going to be a challenge to find places to park. Mr. Cook said that Mr. Holmgren will testify that there is time in between classes and he can give an opinion as to how many vehicles will drop off clients, etc.

Mr. Cook called Elizabeth Dolan, Traffic Expert who had testified at the last hearing. Since the last meeting she has had discussions with Mr. Yakimik and Mr. Montoro and has reviewed the situation.

Ms. Dolan said since the last meeting she testified that she expected the parents to park up against the building. The children would walk out or the parents would escort the children to or from the building. She also wanted to evaluate the potential for a quicker drop off and that is what John Montoro presented to the Board this evening. The question left for her is what would be the appropriate diameter and she would say 40 ft. minimum. The design vehicle says the car can do the turn in about 40-42 ft. for that type of maneuver. The added enhancement to the revised plan that has been presented this evening is the 10 ft. wide stall and that provides a lot more comfort to the drivers and for a higher turnover type of use even though the Institute of Transportation Engineer says 9 ft. is sufficient. She said she does not feel that the parking supply is a problem and there are 26 spaces just for this use. Mr. Holmgren will testify about the 15 minute gap in between the classes so there is not a mad rush within a five minute concentrated period. She said the site has been designed with the appropriate circulation and there is a very comfortable parking supply on this site.

Mr. Cook asked Ms. Dolan to address some items in the Dewberry letter. Ms. Dolan said item 1 talks about the date on which the counts were performed. While many of the area schools were in session at that time, the schools in Allendale were not. It has been recognized that an improvement is warranted here so the traffic volumes have already been studied by the County in terms of designing this traffic signal. Mr. Yakimik will probably testify about the timing of those improvements. It was originally hoped they would be constructed this summer. Ms. Dolan said if the Board wants a left turn prohibition that may be the way to go but unfortunately there is a heavy left turn coming out of Myrtle Ave. She pointed out that 15 cars in an hour or double that as they enter and exit may not warrant a left turn prohibition. If this doesn't happen, the situation can be studied after the school is in operation to see what the volumes are and if necessary, left turns can be prohibited until such time as the signal is installed. Mr. Cook said if the Board does take positive action on this application there could be a condition that if the light is not installed, whatever action is necessary as far as no left turn or whatever is required, the applicant would be obligated to comply. Mr. Nestor marked the drawing from the Bergen County DPW as Exhibit A-10.

Mr. Cook said the building is vacant now and should the Board look favorably upon this application, if this were to be used as a warehouse as permitted in the zone there would be trucks coming in and out and it would create a traffic condition far worse than this project.

Mr. Nestor asked if it is a real concern to Ms. Dolan that the traffic counts were not taken when school was in session. Ms. Dolan said the evening peak hour volumes are much higher than the morning volumes. She feels the analysis is valid and they would probably find when school is in session that the morning numbers would go up slightly but she wouldn't expect them to be any

higher in the evening peak hour counts. She has done counts all over New Jersey and for the most part, the evening peak hour counts are the highest and that is when the Karate Studio would be in session. The morning is less of an issue. She believes her analysis is still valid because this is a use that would have its major impact during weekday afternoons and evenings.

Ms. Hart said she would be much more comfortable if they made everybody go out by the Black Millwork driveway which is a much easier turn. Mr. Nestor pointed out it is private property and a separate property owner. The Board has no authority to do that.

The meeting was opened to the public for comments and there being none, the meeting was closed to the public.

Mr. Nestor asked if this is the safest entrance and exit that can be developed here in Ms. Nolan's opinion. Ms. Nolan said it is appropriate in this location because it is opposite Myrtle Ave. which has a flared, very wide leg, and the improvement to channelize that comes with the signal. Absent the signal, it is an existing driveway and the only thing to do with this situation where you would have an improved level of service and operation would be to prohibit left turns, but really you should be prohibiting lefts from Myrtle as opposed to the ones coming out of this driveway because the sight generated traffic volumes that we are looking at are modest – maybe 11 lefts coming out of the site driveway with the full occupancy of the office and Holmgren's. That is not a significant volume compared with almost 200 coming off of Myrtle Ave. It is appropriately placed in terms of the ultimate improvement for the signal. The failing level is on Myrtle and that is a function of the high left turn volume combined with the street volumes coming up and down Crescent.

Mr. Nestor pointed out that when Corinthian occupied the space people were coming in and out of that driveway. The only concern here is that there may be children involved. He said we can't lose focus of the fact that it was existing and functioning. Mr. Manning said the onus is on the Board because this is a whole new use for that building and we have to look into the future with regard to the traffic light.

Ms. Dolan's report was marked A-11.

Martin Holmgren, owner of Holmgren's Black Belt Academy was sworn. He said he has been teaching martial arts in Bergen County for over 15 years. He was affiliated with Stevens Karate in Allendale which is in the A & P Shopping Center. He plans on operating from 3:30 until 8:30 p.m. from Monday through Friday. On Saturday mornings they will operate from approximately 9:30 to about 3 p.m. He has been teaching at Stevens in Allendale for several years and he has seen thousands of students and classes, most of which have less than 18 students. There is a lot of car pooling and even in a class of 12, there might be 3-4 siblings in these classes. He said he has never seen more than 10 cars that come in or out. The classes last 45 minutes. Usually the first class starts at 3:30 and runs until 4:15. The next class would start at 4:30. Usually there is 15 minutes between each class. The classes always start and end on time which is part of the discipline of the martial arts. Mr. Holmgren said he has been in and out of the parking lot many times over the past 6 months. He has parked in every spot and he feels people can pull into a parking spot and bring their kids safely inside and then pull out. Mr. Holmgren said he has

spoken with the Mayor who advised that the light will be installed at that intersection which will make it safer for everyone. He said that is why he chose the location. He believes there are plenty of parking spots and he feels comfortable that it will be a safe drop off and pick up with 15 minute intervals between classes. He said the average class will have 12 students which does not require that many vehicles. Mr. Cook said after 5:30 or 6 o'clock as well as on Saturdays the rest of the buildings will be empty.

The meeting was opened to the public for comments and there being none, the meeting was closed to the public.

John Yakimik, P.E. Borough Engineer for the Borough of Allendale was sworn. Mr. Yakimik said after a meeting with the County in February, there was every indication that the signal would be under construction in June of 2010. However, it is obvious that the construction has not yet started. He said that he and the Mayor met with the County Engineer and his staff in late April. The County is now concerned about two items. The first item is off site improvements associated with the signal and the costs of those improvements. He said he has been working with the County for 6 years to put this signal in place and every step of the way they have gone to the County with suggestions and recommendations for off site improvements and they have agreed every step of the way. Obviously, they were quite disturbed by this 11<sup>th</sup> hour change by the County and they have asked for additional cost information from him. He has that information on his desk and it is ready to be released. He believes they are asking these questions because of the current economic condition that the County is in and they are looking to save as much money as possible. He said he is confident they can compromise with the County to get this issue fleshed out and lower the off site costs and still keep the important items for the signal going forward. Off site items consist of such things as driveway reconstructions, landscaping, retaining walls, etc.

Mr. Yakimik said the second problem that has arisen which is probably the most difficult hurdle to overcome is that the County has decided to revise their agreement with the Borough with regard to police traffic protection during construction. They essentially want the Borough to pick up the tab and they have changed the rules with police traffic protection significantly increasing the amount of time they want a police officer out there during construction. Both Mr. Yakimik and the Mayor are confident this issue can be resolved but the question is how long will it take. Right now if both issues were resolved tomorrow we are looking at 5 months before the shovel goes in the ground for the signal. Mr. Yakimik said he can't see the signal going away because of the dangerous aspects of that intersection; however, he can't make any guarantees at this point.

Ms. Chamberlain commented that the bottom line is we are not going to have a light for some time so we have to plan for a scenario without the light and how do we handle the traffic and move from there.

Ms. Tengi asked Mr. Yakimik for his opinion on what he feels is a safe and effective way for ingress and egress. Mr. Yakimik said he would prefer the traffic consultant for the applicant to comment further on that. He said his concern is that we have to plan for the period of time when the signal is not in place. He does appreciate that this was formerly the Corinthian site and it did

have cars and traffic going in and out, but he is more concerned with the karate school because there will be a group of cars coming in and out of the site at any given time. He believes using the Corinthian driveway would be safer if it can be done legally. Mr. Cook said the karate school applicant is not going to place an undue burden on the ingress and egress unless the entire building is full. This is an existing building and it was fully occupied as an industrial use with cars and trucks present. He believes a fair compromise would be to approve as submitted with the hope that the light is going in. If the light does not exist when the next tenant comes in, this applicant would have to come back with some type of remedial plan to address the traffic for the next tenant and the rest of the building.

Ms. Hart pointed out this use is not like the traditional industrial use that previously existed with a random truck or person going in or out. There will be 10-15 cars going in or out all at once. Mr. Cook said tractor trailers can create a lot more damage and block a lot more traffic than a few cars. In addition, we are talking about limited hours.

Ms. Hart commented that it looks like Black Millwork uses the back of this site. Mr. Yakimik said that is correct. They do use the rear and Mr. Borst, the adjacent owner uses the site for the storage of his equipment. He said Black Millwork as part of a 2005 approval does store trucks in the extreme rear of the site. Mr. Manning said what we have to consider now is the impact of those 18 cars leaving at the same time and making a right or a left out of that building. At the same time there are Borst trucks going in and out of there and that has to be taken into account also. Mr. Yakimik said as part of the site improvements for the traffic signal this driveway which is predominantly used by Borst will be closed off. Mr. Manning said right now the Board has to operate under the assumption there will not be a light.

Mr. Yakimik said the applicant has to go to Bergen County for approval since West Crescent is a County Road. They may have some very different ideas and the County's determination will supersede whatever the Board decides. Mr. Cook said he went over this with Michael Varner and with the engineer in charge of the plans. They are on board with what has been submitted but that is with the anticipated light. With respect to this site, there will be no ingress or egress traffic 5 days a week from the site until 3:30 in the afternoon until 8:30 at night. On Saturday, there will be no other traffic from this site. If this were to function as an industrial site there would be traffic in the morning coming in and going out at 5 o'clock. His suggestion is that the next tenant that comes in come up with an alternate plan until the light is installed. The impact of 1/3 of the building being occupied is not enough at this point to require different plans. If there is another tenant in 2-3 months and they have to come back here at that time and the traffic light is not a definite, they will realign the driveway and come up with a plan.

Mr. Yakimik said smoothing out the hump at the entrance ingress and egress to the site will help immediately with the safety issue. Mr. Cook said applicant will do that. As far as the no left turn is concerned, he would suggest that the Board retain jurisdiction and if that is what they want, the applicant will do it. Mr. Yakimik said he will talk with Mr. Varner of the County about this.

Mr. Nestor asked if the Allendale Police Dept. should look at this to make sure the ingress and egress is proper. Mr. Yakimik said he would refer it to them for a constructive opinion.

Ms. Hart asked about the “Do not enter” signs. Mr. Yakimik said his comment to the applicant and his professionals was that his concern was that when they were confident the signal was going in, they did not want people to use this driveway to circumvent the signal. They want the traffic from the entire complex to enter and exit through the signal. He said the other aspect was not to mix the passenger traffic with the industrial use that is going on in the back. Mr. Nestor said there has been no notice given to the neighbor, Black Millwork, that people will be accessing his driveway. Mr. Nestor asked if Mr. Yakimik has addressed Exhibit A-8 in his letter. Mr. Yakimik said he has not addressed the most recent document that was handed to him this evening, but he will say that he is comfortable with it because he believes in this type of use and situation and the trade-off on the number of spaces versus the width of the spaces is a very practical and worthy trade off. He is comfortable with the size and number of spaces and would recommend that variance be granted.

Mr. Nestor asked, “If we take away the turnaround that is shown on the plan that would require the easements for the Borst property to the south, do you have concerns about safety with the traffic movement within the property itself.” Mr. Yakimik said he has a slight concern of a slight chance of somebody making a K turn in the back and mixing with industrial uses in the back, but after hearing testimony from Mr. Holmgren and personally having children that attend karate schools, he can say the elimination of that would be de minimus or inconsequential.

Mr. Nestor asked if Mr. Yakimik is concerned with the ingress and egress from the street. Mr. Yakimik said that would be a concern for the period of time that there is no signal at this location. Mr. Nestor said one of the suggestions was prohibiting left hand turns out of the site. He asked if there is any other suggestion Mr. Yakimik would have with regard to safety with egress or ingress to the site. Mr. Yakimik said the suggestion he made previously to smooth out the driveway was an important one. With regard to the left turn restrictive movement, he wanted to make it clear that he is not recommending it at this time without further study. He wanted to make it clear he has no opinion on that at this time.

Mr. Yakimik went over the items in his report that have been taken care of including Mr. Wittekind’s denial letter. In regard to signage for the property, it will have to comply with the code. Mr. Yakimik said he is comfortable with the number of parking spaces being proposed so the variance is recommended. He said he concurs with the traffic expert that although the data did not reflect a day when school was in session, he does note that the intersection is heavily influenced by school traffic but he concurs that the peak of that period would occur differently with the peak associated with the karate school.

Mr. Yakimik said he will check with the Fire Subcode Official to make sure that no parking spaces as proposed are being negated by any fire zones. If there is anything more than a loss of 2 or 3 spaces then it might be necessary to come back to the Board. He said he did have a discussion with Mr. Wittekind who said it was not necessary to have fire zones immediately adjacent to the building, so hopefully none of the spaces being established this evening will be negated.

Mr. Yakimik said the parking area is in very poor condition along the rear of the building to a line where the pavement ends and the distinction between pavement and dirt is no longer obvious. The applicant is proposing to stripe and put some parked vehicles in that area. According to the code any parking areas in a commercial district should be adequately paved. When Black Millwork was before the Planning Board for parking of their trucks it was decided that since it was strictly trucks and commercial use and there were flooding problems under the railroad trestle, they did not want to increase the impervious area of any part of the site and the Board allowed Black Millwork to operate with a gravel base. He feels that area should be repaired. He pointed out other sections of the parking lot that should be patched as part of the improvements to the site. Mr. Yakimik said he is speaking about repair or resurfacing the rear section of the parking lot as per the plan submitted so that it can be used as an aesthetically pleasing parking lot and elsewhere on the site it is to be patched.

Mr. Yakimik said items 4 and 5 deal with landscaping and screening and he leaves that to the discretion of the Board. He said there are sections of the code that talk about screening for uses which abut a residential district and across from the site on the east side of W. Crescent is a residential district. Mr. Nestor asked if there is screening there now. Mr. Yakimik said there is landscaping immediately in front of the building and there is a large lawn area. He did not know if the Board would consider that adequate. Mr. Yakimik said he is not sure about the applicability of shade trees on the site because it is pre-existing. When Black Millwork received its approval for parking vehicles in the rear of the site, the condition of that approval was for them to plant a number of shade trees in the rear of the property and elsewhere on the site and they were supposed to submit a landscaping plan. It appears that has never been effectuated. He will leave it to the Public Works Committee and John Wittekind for any action they need to take on that.

Mr. Yakimik observed that roof leaders come off the site and drain directly on the parking lot. If the Board prefers they can be piped into a convenient storm water system. He would be willing to work with the applicant's engineer to resolve this matter.

With regard to site lighting, the code refers to performance standards for lighting in the commercial district. It also talks about making sure that lighting is shielded adequately from residential districts and that it should be all night lighting. He said the lighting should be designed properly to comply with those sections of the code and that can be done in coordination with his office if the Board votes favorably on the application. He said the application should be reviewed by the Allendale Water and Sewer Department for the adequacy of existing and proposed water and sewer facilities.

Mr. Yakimik said any approval should be subject to approvals from the Bergen Co. Dept. of Planning and Economic Development, the Allendale Borough Engineer and Property Maintenance Officer for a local soil movement permit if over 50 cubic yards of soil are to be moved for the proposed improvements; the Municipal Recycling Officer and the Bergen County Soil Conservation District.

Ms. Hart asked about the turning circle. She asked if he is in favor and would he do it with or without the traffic light. Mr. Yakimik said he has not looked into the details but he would be in favor of it.

Mr. Nestor asked if Mr. Yakimik needs to see this in final plan form. Mr. Yakimik said the Board has to sign off on something and if it is favorable to this application he would ask for a formal revised plan for the Board and him to sign off on.

Mark Borst was sworn. He said he a 50% owner of Bilmar Properties that owns the property in question as well as the adjacent property where the proposed turnaround would be located. He is the owner of Borst Landscaping Design. He has been in the landscaping business for over 20 years. He said his goal is to remove the front foundation planting and to redevelop that whole landscape. According to the plan they are required to put a sidewalk in front of that area. At a future date they would like to cut the asphalt back, put in curbing and curb the whole parking lot properly and at that time put some screening on that side of the building to make it more attractive as you come down Crescent Avenue. On the opposite side of the building some foundation planting will be done but there are not really any opportunities on the property to do any additional landscaping.

Michael Kauker was sworn. He said he is a licensed professional planner in the State of New Jersey and a member of the American Institute of Certified Planners. He has been employed in the field of planning since 1997. He has been qualified as an expert witness before numerous Boards throughout the State and Bergen County.

Mr. Kauker said his firm prepared a zoning analysis and report in conjunction with this application. Mr. Kauker said the applicant requires a use variance under the Municipal Land Use Law. There are also some associated C or bulk variances required. Property is located in the D Industrial zone and a karate studio is not a specifically permitted use in that zone.

Mr. Kauker said the subject property is particularly suited for the proposed use. There is an existing one story brick building located on the property which is currently vacant. He said there is a trend of these older industrial buildings being converted into these recreational types of uses. He believes it is a good fit in relation to the existing industrial uses in the area. All of the existing permitted uses in the zone are more intense. There are a maximum of 18 students and 3 employees on the site at one time. There are two bulk variances that are required. One is for front yard setback which is not changing as a result of this application and the second is for parking spaces. He said this is not an intense use and will be less intense than a number of the permitted uses. The traffic generated by this use will be non-incident with other traffic because it is not generated during peak hours. He feels this use fits in well with the existing uses in the zone and will not impair the intent and purpose of the zone plan and zoning ordinance. It is his opinion that the applicant meets the burden of proof and that the positive criteria outweighs the negative criteria and the use and bulk variances can be granted. He believes because of the economy there is a trend toward a conversion of industrial and manufacturing type space into some other type of use.

The meeting was opened to the public for comments and there being none, the meeting was closed to the public.

Ms. Tengi said she believes the use issue in the industrial zone must be addressed by the people who are currently revising the Borough's master plan. With the state of the economy we need to bring the code more into conformity with current needs of the community. She believes the use of the Karate Academy is well suited for this property and will have a minimal negative impact on the community. In her opinion it would have been easier to make the decision had the County traffic light been going up next month; however, listening to the Borough Engineer's testimony she felt more secure that the Board can render a decision despite the absence of the traffic light at this time. Ms. Hart asked if the Board feels the turning circle is something that should be pursued. Mr. Manning said he is more concerned with the exiting of the property until the light goes up. He would like to see the left turn prohibited as a safety issue. The Board agreed that this is contingent on County approval and compliance with Mr. Yakimik's recommendation. Mr. Manning said the left turn prohibited could be a temporary condition until the traffic light is installed. Ms. Hart said it could be right turn only.

Ms. Chamberlain moved to approve the use variance application. She said her major concern is controlling the traffic in and out of the site before the traffic light is in place. She agreed that this is an off-hour use of the property but the school goes into effect at 3:30 so there will be classes changing between 4:30 and 6:30 which is prime time at that intersection so she does not feel the turning issues can be ignored. She feels that there is no detriment to the public good with this use on the site and that it would be an improvement and a benefit to the community. Motion seconded by Manning. He does not see any conflict with the master plan and it seems to be a compatible use for that area. Ms. Chamberlain said she would like to see the proposed parking revisions and the circle turnaround. Approval will be contingent on approval by the County.

Mr. Cook said right now Mr. Yakimik has not formulated an opinion on whether or not restricting a no left turn or right turn only would be appropriate. The resolution could contain a provision that if Mr. Yakimik in the future, prior to the installation of the traffic light, decides there should be a restriction of no left turn or right turn only, the applicant would consent to whatever restriction that may be made and would even consent to the implementation of Title 39 so it can be enforced.

The applicant agreed to the condition of the parking circle and the condition of a right turn only until the light is installed and the condition that all of Mr. Yakimik's recommendations as per his report and testimony tonight are satisfied. Mr. Yakimik's letter of June 2, 2010 was marked Exhibit B-1. Mr. Cook said the applicant agrees to work with Mr. Yakimik with regard to the roof drains and he will have the authority to work with the design for the site lighting. The applicant agreed to fix the pavement area behind the property and to the sides of the property. The applicant agreed to the protecting of the two utility poles within the driving area and the screening of the garbage area.

Motion was seconded by Mr. Manning. On roll call Mr. Redling, Ms. Hart, Ms. Chamberlain, Ms. Tengi, Mr. Manning and Ms. Weidner voted in favor.

With regard to the bulk variances, Ms. Chamberlain moved, seconded by Ms. Tengi to approve the bulk variances allowing 65 spaces as per the plan with the condition that if the Fire Code Official requires a fire zone causing a loss of spaces, there will be no less than 62, otherwise it will be necessary for applicant to come back before the Board. In addition, some of the spaces will be delinquent both in length and width but the majority of them will be 10 ft wide and 18 ft. deep as per plan marked A-8 to be incorporated into the final plans to be submitted to Mr. Yakimik. In addition, a variance is required for frontage since it is 99.7 and 100 ft. is required.

On roll call, all members present voted in favor.

On a motion by Ms. Chamberlain, seconded by Ms. Tengi, the meeting adjourned.

Respectfully submitted,

Barbara Knapp