

**PLANNING BOARD
TOWNSHIP OF BERKELEY HEIGHTS**

Application No.: SP-10-19

RESOLUTION APPROVING APPLICATION

WHEREAS, pursuant to the applicable provisions of the Municipal Land Use Procedures Ordinance of the Township of Berkeley Heights ("Ordinance"), an Application was submitted to the Township of Berkeley Heights Planning Board ("Board"), by Enginuity, LLC, ("Applicant"), seeking preliminary and final site plan approval to utilize a portion of the former YMCA building located at 550 Springfield Avenue, (identified as Lot 1, Block 612 and Lot 10, Block 609 on the Berkeley Heights Township Tax Map), Berkeley Heights Township, New Jersey; and

WHEREAS, the Application reviewed by the Board consisted of the following:

- Township of Berkeley Heights Planning Board Application for Site Plan Approval dated January 3, 2020;
- Environmental Commission Report dated March 4, 2020;
- Memo from Tom McAndrew, Superintendent, Berkeley Heights Sewer Department dated February 28, 2020;
- Zoning comments dated December 6, 2019;
- Review Memo from Phillips Preiss dated March 4, 2020;
- Zoning permit #2A-19-378 issued to Enginuity, LLC for 550 Springfield Avenue dated November 20, 2019;
- Survey for Block 612, Lot 1 and Block 609, Lot 10 prepared by Fisk Associates, P.A. dated February 10, 2020;
- Letter from Scott Heller, Esq. dated December 19, 2019 (including exhibits)

WHEREAS, the Applicant properly published a newspaper notice of the hearing and the Applicant did duly notify property owners within 200 feet of the subject Property of the scheduling of such hearing pursuant to N.J.S.A 40:55D-12; and

WHEREAS, on March 4, 2020, a public hearing was held on the Application; and

WHEREAS, after reviewing the plans, reports, submissions and evidence presented, the Board hereby makes the following findings:

FINDINGS OF FACT

1. The subject property is located at 550 Springfield Avenue and is identified as Block 612, Lot 1 and Block 609, Lot 10 on the tax maps of the Township of Berkeley Heights. Block 612, Lot 1 contains 34,700 square feet in area and has frontage on Springfield Avenue, Sherman Avenue and Station Street. Block 612, Lot 1 is improved with an existing one-story building containing approximately 23,590 square feet. The building was formerly occupied by the YMCA. An enclosed outdoor play area is located to the rear of the building. A paved parking and drop off area with 8 parking spaces and the driveway is located along Station Street. The property at Block 609, Lot 10 is located across Station Street from Block 612, Lot 1 and contains 15,000 square feet. The property is improved with an existing one-story building known as the Station House Café and an asphalt parking area consisting of 41 parking spaces. The subject property is located in the HB-3 Zoning District.

2. The Applicant proposes to use 11,303 square feet of the existing 23,590 square foot building formerly occupied by the YMCA to provide speech, occupational and other therapy to autistic children. The remainder of the building is presently unoccupied but is available for occupancy by a future tenant. The Applicant proposes no improvements to the existing site. There are existing non-conformities, however, since no change is proposed to the existing building or site, no new bulk ("c") variances are required.

3. In 1995 the Planning Board granted approval for the YMCA use on Block 612, Lot 1. The Planning Board granted a number of bulk variances and design exceptions as well as certain conditions including the resurfacing and restriping of the parking stalls on Block 609, Lot 10 and the painting of a crosswalk or crosswalks on Station Street. The Resolution also required a note to be added to the plans permitting the YMCA and future tenants to utilize the parking stalls on Lot 10, Block 609 for so long as they are tenants on Lot 1, Block 612, with the percentage of parking rights to each of the tenants to be in proportion to the percentage of the building on Lot 1, Block 612 so occupied by such tenant.

4. In 1995 a second Resolution was adopted by the Planning Board granting approval to Summit Area Association of Gerontological Endeavor (SAGE) to occupy the remainder of the building. SAGE was allocated 14 parking spaces in the parking lot at Block 609, Lot 10. SAGE subsequently vacated the leased space and the YMCA occupied the entirety of the building.

5. The Applicant's Attorney, Scott Heller, ESQ. introduced the application on behalf of Engenuity, LLC and noted that the Applicant seeks to replace the former YMCA tenant with a new tenant known as Bierman ABA, Inc. The new tenant will provide autism therapy service, speech therapy and occupational therapy and will occupy 11,303 square feet of the existing 23,590 square foot building. No changes are proposed to the building or site, however, the Township Zoning Officer determined that site plan approval is required pursuant to Section 10.1.2 of the Land Use Ordinance because the new tenant constituted a change of use.

6. Michelle Charles from Bierman ABA, Inc. (Bierman) testified that Bierman provides one-on-one ABA (Applied Behavior Analysis) Therapy to autistic children as well as speech therapy and occupational therapy. The hours of operation will be 8:30 a.m. to 4:30 p.m. on Monday through Friday. Drop off would take place between 8:30 a.m. and 9:00 a.m. Typically 3 to 4 children would be dropped off at a time and taken directly from the car into the building. At the end of the day (4:30), parents come into the building to pick up the children. Ms. Charles testified that Bierman anticipated 25-30 staff. The age range of the children is 2 to 8 years old. Bierman operates all year long but does not operate on weekends or evenings and would not have any events on-site. Ms. Charles also noted that Bierman operates multiple facilities in several states. Each facility is owned by Bierman and is not a franchise.

7. Cary Heller testified that he is the Principal of Enginuity, LLC, which owns both properties. Mr. Heller explained the history and use of the properties. Mr. Heller testified that the building at 550 Springfield Avenue (Block 612, Lot 1) was previously occupied by the YMCA but that a portion of the space was previously occupied by SAGE and that there were up to 105 people using the property. Mr. Heller testified that there were a total of 50 parking spaces shared between the two properties as well as 3 spaces in a curb cut along Station Street. Mr. Heller testified that the Bierman lease allocated 26 dedicated parking spaces for the tenant.

8. Based upon the testimony presented, the Board concluded that preliminary and final minor site plan approval is appropriate and can be granted subject to the conditions set forth in this resolution. In particular, the Board notes that while Bierman is not a "school" for purposes of required parking the Bierman use should have a parking requirement similar to a school use. The parking requirement for schools is one parking space per teacher or staff member. At the present time there is adequate parking available for the Bierman use. The Board, however, will require the Applicant to return to the Board for approval of any future tenant(s) of the remaining space to ensure that adequate parking will be provided.

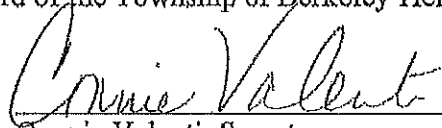
NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Berkeley Heights on this 1st day of April, 2020, that the application for preliminary and final minor site plan is hereby granted subject to the following conditions:

1. The Applicant shall require approval from the Planning Board for any future tenant use of the remaining portion of the building to ensure adequate on-site parking or to consider a request for a parking variance for such use.
2. The Applicant shall re-stripe the cross walk on Station Street between the two properties as previously required by the 1995 Planning Board Resolution which shall be subject to review and approval of the Board Engineer.
3. The Applicant shall comply with Township Land Use Ordinance regarding tenant signage.
4. The Applicant shall be required to provide ADA Compliant access from the parking lot to the front entrance.

5. All conditions of the 1995 Resolutions shall remain in full force and effect except to the extent modified by this Resolution.
6. The Applicant shall design and construct all improvements in accordance with the Uniform Construction Code and Americans with Disabilities Act.
7. The Applicant shall comply with all representations, commitments and agreements made by the Applicant or their representatives at the hearing in this matter or contained in any documents or submissions delivered to the Board at any time prior to this approval, including notes contained in original or revised submissions, which all shall be considered as conditions of approval of this Application.
8. If applicable, the Applicant shall obtain any and all approvals required by outside agencies.
9. The Applicant shall pay all taxes, fees and required escrow deposits that may be due and owing prior to the issuance of any building permits.

BE AND THE SAME IS HEREBY GRANTED

I hereby certify that the above Resolution is a true copy of the Resolution adopted on April 1, 2020 by the Planning Board of the Township of Berkeley Heights.



 Connie Valenti, Secretary

Roll Call Vote

On March 4, 2020:

6 - 0

Motion to Approve:

Mr. Einbinder

Second:

Mr. Mangold

Ayes:

Mr. Einbinder, Ms. Schwarz, Mr. Mangold,
Ms. Poage, Ms. Greenwald, and Mr. Cunningham

Nays:

None

Abstentions:

None