

Township of Millburn  
Minutes of the Planning Board  
March 6, 2019

A regular meeting of the Township of Millburn Planning Board was held on **Wednesday, March 6, 2019** at 7:00 PM in Millburn Town Hall.

Chairwoman Beth Zall opened the meeting by reading Section 5 of the Open Public Meetings Act.

The following members were present for the meeting:

Daniel Baer  
Elaine Becker  
Cheryl Burstein  
Dianne Eglow  
Gaston Hauptert  
Jorge Mastropietro  
Joseph Steinberg  
Marc Matsil  
Miriam Salerno, Vice Chairwoman  
Beth Zall, Chairwoman

Also present:

Valerie Kimson, Acting Board Attorney  
Eric Fishman, Court Reporter  
Martha Callahan, Township Engineer  
Eileen Davitt, Zoning Officer/Board Secretary

**APPROVAL OF MINUTES**

A motion to approve the minutes of February 6, 2019, was made by Dianne Eglow, seconded by Miriam Salerno, and carried with a unanimous voice vote.

**MEMORIALIZATIONS**

**Appl#18-017, Greenwood Gardens, 274 Old Short Hills Road, Short Hills**

Upon a motion made by Cheryl Burstein, a second by Dianne Eglow, and with a roll-call vote as follows:

Cheryl Burstein – yes  
Dianne Eglow – yes  
Gaston Hauptert – yes  
Jorge Mastropietro – yes

Marc Matsil – yes  
Miriam Salerno – yes  
Beth Zall – yes

the following memorializing resolution was adopted

**RESOLUTION  
PLANNING BOARD  
TOWNSHIP OF MILLBURN**

**In the Matter of:**

**Greenwood Gardens, Inc.  
Site Plan Application No. 18-017  
Block 2702, Lots 15, 16 and 17;  
Block 2504, Lot 9  
Preliminary and Final Site Plan Approval  
Waivers**

**WHEREAS**, Greenwood Gardens, Inc. ("Applicant") has made application to the Township of Millburn Planning Board for preliminary and final site plan approval, and a waiver request that the Environmental Impact Statement not be submitted, as well as certain completeness waivers and lighting waivers, all as set forth in the application submitted and as set forth in more detail below, in connection with the expansion and reconfiguration of parking areas throughout the site, the construction of a new ticketing building, and certain other improvements to sidewalks, curbing and lighting; and the construction of a new trash enclosure on property consisting of formal gardens and several historic single-family homes and cottages and off-street parking areas located on Block 2702, Lots 15, 16 and 17; and Block 2504, Lot 9 on the Official Tax Map of the Township of Millburn ("Property"); and

**WHEREAS**, the Applicant has submitted the following plans and documents:

- (i) “Preliminary and Final Major Site Plan for Greenwood Gardens, Block 2702, Lots 15, 16 & 17; Block 2504, Lot 9, Township of Millburn, Essex County, New Jersey”, prepared by Maser Consulting, P.A., dated 11/28/18, consisting of 11 sheets (“Plans”);
- (ii) “Greenwood Gardens Preliminary and Final Site Plan, 274 Old Short Hills Road, Short Hills, N.J. 07078”, prepared by Robinson Anderson Summers, Inc., Landscape Architects, dated 11-28-2018, consisting of four sheets (“Landscape and Lighting Plans”);
- (iii) “Boundary & Partial Topographic Survey for Greenwood Gardens, Lots 15, 16 & 17, Block 2702; Lot 9, Block 2504 Situate In: Township of Millburn, Essex County, New Jersey”, prepared by Maser Consulting, P.A., dated Aug. 8, 2008; latest revision Jan. 28, 2009, consisting of four sheets (“Survey”);

(iv) “Preliminary Wetlands Assessment”, prepared by Kevin Jamieson, PWS, Maser Consulting, P.A., dated 9/26/2018 (“Wetlands Assessment”);

(v) “Stormwater Management Report, Greenwood Gardens, Block 2702, Lots 15, 16 & 17; Block 2504, Lot 9, Township of Millburn, Essex County, New Jersey”, prepared by Maser Consulting, P.A., dated November 2018 (“Stormwater Report”); and

(vi) “Report of Subsurface Exploration and Stormwater Infiltration Evaluation, Greenwood Gardens, Lots 15, 16 & 17, Block 2702, Lot 9, Block 2504, Township of Millburn, Essex County, N.J.”, dated September 28, 2018, prepared by Maser Consulting, P.A. (“Subsurface Exploration Report”); and

**WHEREAS**, the Applicant has provided the requisite notice to property owners and published public notice in accordance with the notice requirements of the Municipal Land Use Law and Section 424 of the Development Regulations and Zoning Ordinance of the Township of Millburn; and

**WHEREAS**, a public hearing was held on the application on February 6, 2019; and

**WHEREAS**, the Applicant was represented by Gary Hall, Esq. and testimony was provided by Abby O’Neill, Executive Director of Greenwood Gardens, Inc.; Edwin Caballero, P.E. (Maser Consulting); Allan Summers, Landscape Architect [fact witness] (Robinson, Anderson, Summers, Inc.); and Richard Murphy, Deputy Director, Greenwood Gardens, Inc., all in support of the application; and

**WHEREAS**, the Board having considered the testimony offered on behalf of the Applicant and the interested parties and having reviewed the Exhibits related thereto, together with the application, Plans; Landscape and Lighting Plans; Survey; Wetland Assessment; Stormwater Report; and Subsurface Exploration Report and all other documents, hereby makes the following findings of fact:

1. The Property is located at 274 Old Short Hills Road, and is formally known as Block 2702, Lots 15, 16 and 17 and Block 2504, Lot 9 on the Official Tax Map of the Township of Millburn. The Property is located in the CE (Conservation-Educational/Cultural Zone). The entirety of the Property measures approximately 27.6 acres (1,203,185 +/- square feet) and generally consists of formal gardens, several historic single-family homes and cottages, and off-street parking areas. The site is accessed from Old Short Hills Road by way of a 50’-wide access easement through Township owned Old Short Hills Park. The Property is largely surrounded by open space and reserve land, although there are single family homes with frontage on Old Hollow Road, located further to the southwest of the Property.

2. The Applicant seeks preliminary and final site plan approval with certain waivers to demolish an existing parking area and swimming pool in the northern portion of the Property and construct a larger parking area in its place in two sections, providing a total of 53 parking

spaces (27 of which are new parking spaces). The new parking areas would be accessed through an extension of the existing driveway which also provides access to another parking area to the south, consisting of 26 parking spaces, which is not proposed to be modified, except as related to the realignment of the driveway into the existing parking area. When completed, there will be a total of 93 parking spaces, of which 6 will be ADA-compliant spaces. The Ordinance requires a total of 86 parking spaces, so the Applicant will exceed the parking requirements by the construction of the new parking spaces. There will remain 2 bus parking spaces on the Property.

3. The Applicant is further proposing a new trash enclosure in the northern-most portion of the new parking area, measuring approximately 20' x 15' surrounded by a 6' high wooden post fence with a gate. The Applicant is also proposing to widen a portion of the entrance driveway to accommodate a new island and a ticket building surrounded by bollards and plantings which would be located on the island, allowing visitors to the site to buy tickets from their vehicles. The ticketing building would measure approximately 4' wide by 6' in length at a height of approximately 10'.

4. The Applicant has sought a waiver from the requirement that an Environmental Impact Statement be provided. Because the Property consists of historic structures, formal gardens and open and extensive landscaping and is nationally significant for its natural beauty, history and design, coupled with the fact that the Applicant's submissions, particularly related to stormwater management and subsurface exploration and stormwater infiltration, support the conclusion that the proposed improvements will enhance the Property, the Board is able to determine that there is no significant detrimental environmental impact by the proposed improvements. The Board unanimously agreed that the Applicant should not be required to submit an Environmental Impact Statement.

5. The testimony from Abby O'Neill, Executive Director of Greenwood Gardens, Inc., revealed that this is a non-profit organization which has operated these public gardens since 2013 having previously received site plan approval from the Board by Resolution adopted February 4, 2009. The gardens are funded by membership, programs, donations and foundation grants along with revenue from educational programs and entertainment. One of their goals is to connect people through the environment.

6. The Applicant's Engineer, Edwin Caballero, located the site, explained the existing conditions and summarized the scope of the application. The Applicant proposes to realign the access drive and construct a new parking lot in the pool area and reconstruct an existing parking lot that had overlaid a tennis court.

7. The Applicant's Engineer noted that the maximum building coverage including accessory structures in the CE Zone was 2.7% and that the existing plus proposed building coverage would be 1.8%. He further confirmed that the maximum lot coverage in the zone is 18% and that the existing coverage of the Property is 13.9% and with the additional parking lot and other improvements will increase coverage to 14.4%, still below the maximum.

8. There is currently an access from the north to the existing parking lot in the northern portion of the Property. This access to the parking area will be eliminated with the new configuration which will reconfigure that parking lot and join it to the new parking lot with access from the main roadway into the site.

9. The Engineer noted that the existing access road off of Old Short Hills Road on the site will be widened to allow for the construction of a new ticketing booth as mentioned above. In addition, there will be a new dumpster enclosure at the north end of the existing northern parking lot where the access road is being eliminated. The dumpster is periodically emptied in the morning and the trash is brought to the dumpster utilizing golf carts.

10. The Engineer further testified regarding the stormwater management system which will consist of stormwater detention and ultimate surface discharge. The Township Engineer confirmed that the stormwater management design meets all Township Ordinances and Best Management Practices (“BMP’s”) for water quantity and quality. The Applicant will be required to obtain a grading, drainage, soil erosion and sediment control permit as part of the construction process, as well as to obtain approval from the Hudson-Essex-Passaic Soil Conservation District. The Applicant’s Engineer testified that they had received the Soil Erosion and Sediment Control Permit and that they are exempt from Essex County Planning Board approval.

11. In addition to an ambitious Landscaping Plan consisting of literally hundreds of shrubs and flowering plants to complement the existing mature shade and evergreen trees located in the vicinity of the new parking area, the Applicant has proposed additional evergreen plantings in the vicinity of the new trash enclosure and a new “woodland trail” to provide pedestrian connection from the existing southerly parking lot to the new parking area. A new rain garden is proposed to be located west of the new island and ticketing building which would include a variety of evergreen and deciduous trees and shrubs, as well as flowering perennials.

12. Allan Summers, a Registered Landscape Architect in Pennsylvania in Pennsylvania (but not in New Jersey), testified as a fact witness, based upon the lighting plans that had been submitted by Robinson Anderson Summers, Inc. referenced above. The Applicant proposes to install a total of 8 new LED lighting fixtures, in and around the proposed parking areas. Certain of the other lighting fixtures currently on-site will be relocated due to other revisions to the roadway, parking and trail configuration. The existing lighting is metal halide lighting and to the extent that those lights will remain and/or be relocated, they will continue to be metal halide lighting. The Applicant seeks a waiver from Section 512.1 of the Township’s Design and Performance Standards to allow for the installation of the 8 new LED lighting fixtures which are currently prohibited under the Ordinance. Mr. Summers testified that the new LED lighting will not have any light leakage and because of that reason, they will not have to have additional shields around the perimeter of the fixtures to eliminate the dispersion of the light. The Applicant also sought during the course of the presentation of the application a waiver from Section 512.1 of the Township’s Development Regulations which otherwise requires area lighting to average between 0.5 and 1 foot candle in a given area. The proposed lighting will be between 0.41 foot candles and 2.7 foot candles. In addition, the Township Engineer’s report

expressed a concern for the high contrast between light and dark based upon the reported uniformity levels of average/minimum and maximum/minimum ratios. Mr. Summers testified that they will lower the contrast level from 12 to 8 to address part of the concerns raised by the Township Engineer, but noted that the parking lot lighting was typically not operated except when events were held at the gardens and/or in the winter before closing time. The hours of operation of the gardens are 10:00 a.m. to 5:00 p.m. from May through November. When there are outdoor events that may occur between May and October, the gardens could remain open up to 8:00 p.m.

13. Richard Murphy, the Deputy Director, has been involved with the Applicant for 15 years and is the Director of Operations of the Property. He testified that there were a minimal number of evening events which typically took place in the summer when the natural lighting extended through the end of the event. He testified that although the lights are on a timer, they are operated manually and typically turned on and off when needed. The Board questioned the “warmth” of the LED lighting and it was noted that the LED lighting would have a 3,000 kelvin rating which is “warmer” than some of the original LED lighting which was particularly and in some cases excessively “white light”.

14. Mr. Summers also testified that 90% of the new trees will be native trees and that they were adding 36 trees as shown on Sheet 12.

15. There were a number of professional reports issued in connection with this application. The Township Forester, by Memorandum dated 1/15/2019 noted that a tree removal permit and a tree restoration plan will be required. The Applicant agreed that they would comply with that report. The Township Police Department, by Memorandum dated 01/17/2019 stated that the application poses no concerns to the Millburn Police Department. The Township Fire Marshal, by Memorandum dated January 25, 2019, established three requirements related to fire safety and access, as well as the submission to the Fire Marshal of a PDF copy of the Auto CAD final approved plans on a CD or via e-mail. The Fire Marshal also noted that the Applicant must meet all building codes and New Jersey Uniform Fire Code requirements. The Applicant agreed to comply with all of the requirements set forth in said Fire Marshal’s Memorandum. The Township Engineer also issued a Memorandum, dated January 24, 2019 which reflected concerns or requirements that have been dealt elsewhere in this Resolution. In addition, the Applicant’s Engineer did testify with regard to the operation and efficiency of the proposed detention basin and the Applicant agreed to obtain all permits and approvals as set forth in the Township Engineer’s Memorandum. Furthermore, the Applicant’s Engineer did address the lighting concerns and requirements as set forth earlier in this Resolution.

16. After considering the testimony, the recommendations of the Board's Professionals, and the advice of its counsel, the Board is of the view that preliminary and final site plan approval should be granted; a waiver of the submission of an Environmental Impact Statement should be granted and the Applicant should be permitted to install the 8 LED lighting fixtures as set forth earlier in this Resolution, all in accordance with the requirements as set forth in this Resolution and subject to the conditions set forth below.

**NOW, THEREFORE, BE IT RESOLVED** that this Resolution shall serve to memorialize the action of the Planning Board of the Township of Millburn taken on February 6, 2019, granting preliminary and final site plan approval for the expansion and reconfiguration of the parking area, construction of a new ticketing building and various other improvements to sidewalks, curbing and lighting and the construction of a new trash enclosure, all as set forth in the application for premises known as 274 Old Short Hills Road, along with the granting of a waiver to allow for the use of LED lighting and a waiver of the submission of an Environmental Impact Statement as set forth above, subject to the following conditions:

1. The Applicant shall comply with all applicable municipal ordinances and regulations, as well as all County, State and Federal Laws applicable to this development application.
2. The foregoing is subject to review of, approval by, and requirement imposed by such other Federal, State, County and local bodies having jurisdiction over the development.
3. The Applicant shall remit all outstanding escrow fees as requested by the Township of Millburn.
4. The Applicant shall submit proof of exemption from approval from the Essex County Planning Board and the approval granted by the Hudson-Essex-Passaic Soil Conservation District.
5. The Applicant shall comply with the requests of the Township Fire Marshal, the Township Engineer and the Township Forester in connection with the proposed use.
6. The parking lot lighting shall only be operated during special events when the parking lots are being utilized. All such lighting shall be turned off not later than one hour after the conclusion of any event requiring such lighting, or, if there be no such event, not later than one hour after Greenwood Gardens shall close for the evening.
7. The Applicant shall submit information on the native plants being utilized to the Township Forester for approval.
8. The Applicant shall reduce the average/minimum and maximum/minimum lighting ratios from 12 to 8.
9. Any signage to be provided on premises shall be in compliance with Township requirements and all necessary permits shall be obtained by the Applicant prior to installation.
10. The Applicant shall be bound to comply with all representations made before this Board by the Applicant and the Applicant's witness during the course of the public hearing on the application held on February 6, 2019 as related to the application for relief and the same are incorporated herein and are representations upon which this Board has relied in granting the

approvals set forth herein and shall be enforceable as if those representations were made conditions of this approval.

11. This Resolution is a memorializing Resolution as set forth pursuant to N.J.S.A.40:55D-10g(2), memorializing action taken by the Board at its meeting on February 6, 2019.

I, EILEEN DAVITT, Secretary/Clerk to the Planning Board of the Township of Millburn in the County of Essex, do hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by the said Planning Board on the 6th day of March, 2019.

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**APPLICATIONS**

**APPL#18-016, JONATHAN GORDON, 153/163 HIGHLAND AVENUE, SHORT HILLS**

Jonathan Gordon and Michael Lanzafama, CLS, P. P., appeared and were sworn. Mr. Gordon stated that he is seeking minor subdivision approval **and a waiver from EIS submission requirement** in order to re-locate the current lot line.

Michael Lanzafama’s credentials were presented and accepted by the Board. He gave a brief description of the proposal. The properties are located at 153/163 Highland Avenue.

Entered as A-1: sheet 3 of submitted plans titled Minor Subdivision Plat

Mr. Lanzafama stated that the proposal is to transfer 2,827 SF of the lot from lot 2 (153 Highland) to lot 3 (163 Highland) and 55 SF from lot 3 to lot 2. Both lots will continue to be conforming lots. There are no variances associated with the application. In addition, the application is seeking a waiver from the requirement to submit an EIS since the proposal has no impact on the environmental integrity of the property.

Upon a motion made by Cheryl Burstein, a second by Miriam Salerno, and with a roll-call vote as follows:

- Daniel Baer – yes
- Elaine Becker – yes
- Cheryl Burstein – yes
- Dianne Eglow – yes
- Gaston Hauptert – yes
- Jorge Mastropietro – yes
- Joseph Steinberg – yes
- Miriam Salerno – yes
- Beth Zall – yes

Appl#18-016, Jonathan Gordon, 153/163 Highland Avenue, minor subdivision was **APPROVED**.

**APPL#19-001, JUMANA CULLIGAN (PAPER RIBBON & WRAP), 321 MILLBURN AVENUE, MILLBURN**

Ron Zoller, Attorney for the applicant, stated his appearance. The applicant is seeking site plan approval for a change of use from retail service to retail sales.

Mr. Zoller stated that the applicant proposes to be open 7 days/week and there will be only 1 employee in addition to the applicant. Deliveries will be via FedEx or UPS. There are no large truck deliveries.

Upon a motion made by Dianne Eglow, a second by Cheryl Burstein, and with a roll-call vote as follows:

- Daniel Baer – yes
- Elaine Becker – yes
- Cheryl Burstein – yes
- Dianne Eglow – yes
- Gaston Hauptert – yes
- Jorge Mastropietro – yes
- Joseph Steinberg – yes
- Miriam Salerno – yes
- Beth Zall – yes

Appl#19-001, Jumana Culligan (Paper Ribbon & Wrap), 321 Millburn Avenue, site plan approval was **GRANTED** with the following condition: the applicant shall purchase 2 business parking permits prior to commencing operation and shall purchase additional permits for any additional employees.

**APPL#18-013, PINGRY SCHOOL, 50 COUNTRY DAY DRIVE, SHORT HILLS**

Roger Mehner, Attorney for the applicant, stated his appearance. He indicated that the applicant re-designed the lighting plan and now meets all the level requirements of the Township ordinance. The application still requires a waiver to allow LED lights which are not currently permitted by ordinance. Mr. Mehner stated that they hired a consulting firm to provide testimony as to the potential noise issues that were raised by the Board at the February 6 hearing.

Mr. Thompson, lighting expert, appeared and remains sworn. He stated that the original proposal called for 28 fixtures on 25 poles at a height of 15 feet. However, the average lighting intensity exceeded the allowable.

Entered as A-4: revised lighting plan

The applicant has removed 2 fixtures thereby reducing the lighting on site but still meeting minimum safety standards. The current plan calls for 26 fixtures on 23 poles at 15 feet in height. The lights will be turned on approximately 10 nights per year when special events are being held. The lights will be turned off by approximately 9:30 PM.

James Catella, P. E., appeared and was sworn. His credentials were presented and accepted by the Board. He spoke to the impact of synthetic turf on surface water and any potential negative impact to environment. He indicated that the proposed synthetic turf will not result in any negative impact to the surrounding environment.

Jack Zyburra, P. E., appeared and was sworn. His credentials were presented and he was accepted as an acoustical expert. He stated that he conducted a study and summarized the existing sound levels and the predicted sound levels due to parking lot activity.

Steve Lydon, P. P., appeared and was sworn. His credentials were presented and accepted by the Board. He gave a brief summary of the applicant's proposal. He stated that he reviewed the plans and supporting documents as well as the Township's recently adopted Master Plan Reexamination Report. He stated that the property is a 20-acre site and is a conditional use in the residential zone. There will be no increase to the school enrollment. The proposal is to convert the grass field to a synthetic turf field as well as provide additional parking for overflow and special events. Pingry School received site plan approval in 2013 for several building additions. They are now seeking site plan approval with a variance for the fence height and a waiver from the lighting LED restriction. The proposed fence is a black net with black poles around new turf field. The fabric netting will barely be visible from the property lines.

Upon a motion made by Joseph Steinberg, a second by Elaine Becker, and with a roll-call vote as follows:

Daniel Baer – yes  
Elaine Becker – yes  
Cheryl Burstein – yes  
Dianne Eglow – yes  
Gaston Hauptert – yes  
Jorge Mastropietro – no  
Joseph Steinberg – yes  
Miriam Salerno – yes  
Beth Zall – yes

Appl#18-013, Pingry School, 50 Country Day Drive, site plan approval/variance relief/**waiver for LED lighting** was **GRANTED** with the following conditions: 1) the applicant shall comply with the Township Forester's memorandum dated 12/11/18; 2) the applicant shall provide a detail of the discharge to Taylor Brook; 3) the applicant shall provide a deer repellent program to the satisfaction of the Township Engineer and Township Forester; 4) a tree removal permit shall be obtained; 5) secondary baffling **of the lights** shall be provided as needed and to the

satisfaction of the Township Engineer; 6) lights shall be turned on only for night events and must be turned off no later than 9 PM on those nights.

**BUSINESS**

**Ord.#2527-19**--Amendment to Section 609.10 of the Development Regulations pertaining to temporary real estate signs

The Board discussed the proposed amendment to section 609.10 which will regulate the use of real estate directional signs for open houses.

With a motion made by Dianne Eglow, seconded by Joseph Steinberg, and with a roll-call vote as follows:

Daniel Baer – yes  
Elaine Becker – yes  
Cheryl Burstein – no  
Dianne Eglow – yes  
Gaston Hauptert – yes  
Jorge Mastropietro – yes  
Joseph Steinberg – yes  
Miriam Salerno – yes  
Beth Zall -- yes

The Planning Board recommends Township Committee adoption of Ordinance #2527-19 as not inconsistent with the Master Plan.

**Ord.#2528-19**—Amendment to Section 301.54 and 608.8 of the Development Regulations pertaining to the OR-2 zone

The Board discussed the proposed amendment to section 608.8 of the Development Regulations pertaining to the definition of retail services and the OR zones.

With a motion made by Dianne Eglow, seconded by Beth Zall, and with a roll-call vote as follows:

Daniel Baer – no  
Elaine Becker – no  
Cheryl Burstein – yes  
Dianne Eglow – yes  
Gaston Hauptert – yes  
Jorge Mastropietro – yes  
Joseph Steinberg – no  
Miriam Salerno – yes  
Beth Zall – yes

The Planning Board recommends Township Committee adoption of Ordinance #2528-19 as not inconsistent with the Master Plan.

**ADJOURNMENT**

A motion to adjourn was made by Cheryl Burstein, seconded by Miriam Salerno, and carried with a unanimous voice vote. (9:35 PM)

Eileen Davitt  
Board Secretary

Motion: DB  
Second: MM  
Date Adopted: 4/17/19