

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

March 26, 2026

The Regular Meeting of the Board of Adjustment was called to order at 7:00 PM.

It was confirmed that the meeting was being held in conformance with all regulations of the Open Public Meetings Act. Adequate notice of this meeting has been posted on the Township website and sent to the newspaper of record. The Agenda has been posted on the Township website and bulletin board at the Municipal Building at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue substantially past 10:30 PM.

Roll Call:

Members present were Mr. Coviello, Mr. Delia, Mr. Ringwood, Mr. Deegan, Ms. West-Augustin (7:10) and Mr. Smith. Amanda Wolfe, Board Attorney, Thomas Solfaro, Board Engineer, and Michael Mistretta, Board Planner, were also present.

Adoption of Minutes:

February 26, 2026 Regular Meeting

A motion was made by Mr. Deegan, seconded by Mr. Delia, and carried 3-0-2 (Abstain-Mr. Ringwood, Mr. Smith) to adopt the minutes of the February 26, 2026 Regular Meeting as presented.

Adoption of Resolutions:

App.#25-018: Ilir & Loreta Bitici, 51 Mercier Pl., Block 3002, Lot 14 (R-20 Zone)

Resolution to revise and replace the resolution adopted at the 2/26/2026 meeting.

A motion was made by Mr. Ringwood, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was 4-0 with Mr. Coviello, Mr. Delia, Mr. Ringwood and Mr. Deegan voting in favor.

App.#25-002: Marianne C. Massulli Living Trust, 60 Liberty Ave., Bl. 1806, L. 3

The resolution to be adopted is a Resolution of Compliance to confirm that the Board accepted the Applicant's revised plan for total lot coverage dated February 25, 2026 as required in the resolution of approval adopted on May 15, 2025. (R-15 Zone)

A motion was made by Mr. Ringwood, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was 4-0 with Mr. Coviello, Mr. Delia, Mr. Ringwood and Mr. Deegan voting in favor.

Resolution of Denial:

App.#25-013: Rodak Builders LLC, 123 Forest Ave., Block 508, Lot 6 (R-15 Zone)

Proposed demolition of an existing house and construction of a new single-family dwelling. A variance is needed for insufficient front-yard setback.

A motion was made by Mr. Smith, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was 3-0 with Mr. Coviello, Mr. Delia and Mr. Smith voting in favor.

Request for Reconsideration based on Revised Application:

App.#25-013: Rodak Builders LLC, 123 Forest Ave., Block 508, Lot 6 (R-15 Zone)

Proposed demolition of an existing house and construction of a new single-family dwelling. A variance is needed for insufficient front-yard setback.

A motion was made by Mr. Deegan, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was 3-0 with Mr. Coviello, Mr. Delia and Mr. Deegan voting in favor.

Applications for Review:

CARRIED FROM FEBRUARY 26, 2026 WITH NO FURTHER NOTICE REQUIRED:

App.#24-0020: Berkeley Heights 713 Realty, LLC, 713 Plainfield Avenue, Block 3102, Lot 33 (R-20 Zone)

Proposal to convert the abandoned repair garage to a small convenience store, reconfigure the parking area, add a diesel fueling station, install EV space, modify signage and add landscaping. The applicant also seeks expanded hours of operation for the existing service station.

Lawrence Sachs, attorney for the applicant, stated that the applicant appeared before the Board in December and presented an overview of the project and testimony from the engineer, architect and traffic engineer. The applicant is here this evening to present the testimony of the Planner. Mr. Sachs further stated that in response to an inquiry made at the last hearing the products to be sold at the convenience store will be similar to products sold in most similar stores in New Jersey. The applicant plans to proceed with the Planner's testimony tonight but would prefer to defer the vote until there is a full Board present.

Mr. Coviello advised the members of the public present that the applicant will wait for a full board to vote on the application. He noted that the public will be permitted to ask questions regarding the testimony of the Planner but public comments on the application will be held at a later hearing so that those comments will be fresh at the time of the vote.

Nicholas Graviano, Planner, was sworn, provided his educational and professional background and was accepted as an expert witness. Mr. Graviano presented his planning analysis of the project, reviewed the variances and design waivers being requested and the existing non-conforming conditions, and described the proposed renovations to the building, landscaping and parking. Mr. Graviano also reviewed the proposed signage and the applicant's proposal to expand the existing hours of operation from 7:00 am – 7:30 pm to 6:00 am to 10:00 pm. He noted that the proposed hours coincide with widely accepted noise regulations in New Jersey and are required by the corporate Sunoco brand. Mr. Graviano further stated that the applicant has agreed to not allow tractor trailer trucks to access the site.

Mr. Graviano expressed his opinion that this is an appropriate location for this use and that the variances being requested can be granted without detriment to the public good and to the zoning ordinance.

In response to questions from the Board, Mr. Sachs stated that Sunoco has not yet objected to the applicant not operating during the hours they require. Mr. Graviano stated that the applicant is reducing the impervious coverage and adding landscaping and a rain garden.

Mr. Solfaro advised that with the reduction of the impervious coverage they will not be required to provide mitigation, and they are providing the rain garden even though it is not required. Mr. Solfaro also stated that a design waiver is not required for the ADA parking space.

Mr. Mistretta stated that the number of parking spaces required is 8 but they receive credit for the charging station so that brings the requirement down to 7.

Mr. Graviano stated that the convenience store requirement would be 4 spaces, and the gas station requirement would be 3 for a total of 7.

Mr. Sachs advised that he believes an application has been submitted to the County and he will provide that information to the Board.

Mr. Graviano stated the products to be sold at the convenience store will be typical of similar type stores, not a large operation such as Wawa or Quick Chek and will include milk, bread, cigarettes, candy and lottery tickets. No food will be prepared on site.

Open to Public

The hearing was opened to the public for questions with regard to Mr. Graviano's testimony.

Members of the public, including Michael Harris, Gregory Fevola, Peggy House, Chris House, Sunitha Kandula, Joe Iadanza, Kathleen Williams and Rohit Dubey, raised questions with regard to the following topics: whether the applicant is aware of any neighbors who are in favor of the convenience store, if there is any connection between the reduction of the size of the building and the addition of diesel fuel, if the proposed project and extended hours will create additional noise, lights and traffic, if the Planner is aware of the number of times the applicant has requested an expansion of the hours of operation, what kind of trucks will be allowed to access the gas station, what percentage of passenger vehicles will require diesel fuel, what items are currently being sold at the site, is the applicant aware of the 2022 Master Plan provisions regarding separation of industrial and residential areas, can the applicant provide a copy of its contract with Sunoco that requires the expanded hours, how will drivers of tractor trailers know that they are not permitted to get fuel at this location, how many gas stations are there with convenience stores that are located in residential areas, what steps will be taken to protect pedestrians using the walkway and to prevent trucks from blocking the sidewalk, will there be enough parking for employees, are the fuel tanks plastic or metal, is there existing monitoring of the DEP remediation site, who is the owner of the gas station, modifications of the restrooms so that residents do not have a view of the external one and what is the risk of explosion on the site.

Mr. Graviano stated that his analysis is based on the applicant's use of the site and it is not part of this analysis to determine if this is favorable to the neighbors, he sees no reason to not allow diesel fuel sales since the applicant has agreed to limit diesel fuel sales to passenger vehicles, he does not believe the project and extended hours will create additional noise, lights and traffic, lighting regulations

of the township will be adhered to, this is a new application for a new set of circumstances and it is within the applicant's rights to submit an application including a request for extended hours regardless of any previous applications, trucks permitted on the site will include landscaping trucks and dump trucks but tractor trailers will not be allowed, approximately 4% of passenger vehicles in the United States require diesel fuel, gas station related items are currently sold on the site, this is an existing commercial use not a new use and the proposal will not change the character of the residential area, it would not be appropriate to provide a copy of the Sunoco contract, the applicant is willing to provide any permitted signage that would prohibit tractor trailers from coming into town to access this site, the Planner did not know how many gas stations with convenience stores are located in NJ residential areas, the applicant would be willing to install barriers to protect pedestrians but if there is an issue that should be addressed by the police department, there is sufficient parking for employees, the material of the fuel tanks will meet all applicable regulations, the existing water monitoring units will remain, the applicant is the owner of the site and is a franchisee of Sunoco, the testimony of the traffic engineer was provided previously and is available online, the applicant will address the privacy issues with regard to the restrooms and the applicant will comply with all regulations with regard to explosive materials.

Mr. Coviello advised that this is the final time for public questions. Public comments will be heard at the next hearing on this application.

Additional questions were raised with regard to tractor trailer access to the site and monitoring of that access. Mr. Sachs advised that the nature of the site is not conducive to use by tractor trailers and the only one permitted on the site will be the fuel delivery truck. Access by trucks will be managed by the employees on site.

The hearing of the application was carried to May 28, 2026 with no further notice required. Ms. Wolfe advised that the public will have an opportunity to make comments and present evidence at that time.

Adjournment:

A motion was made by Mr. Deegan, seconded by Mr. Delia, to adjourn the meeting. The voice vote was unanimous, and the meeting was adjourned at 8:25 PM.

Regina Giardina, Secretary Pro Tem