

RESOLUTION NO. 2013-11

Applicant: DIGGERLAND ADVENTURE PARK
Property: Cooper Road, Pinedge Drive and Pinedge Court
Block 2601 Lot 1 & 5

Preliminary and Final Major Site Plan Approval - with variance

RESOLUTION OF THE BERLIN TOWNSHIP PLANNING/ZONING BOARD
GRANTING PRELIMINARY FINAL MAJOR SITE PLAN - WITH VARIANCE

WHEREAS. The applicant is applying for preliminary and final major Site Plan approval with variance for property known as Block 2601 Lot 1 & 5, and

WHEREAS. The applicant has made application for preliminary and final major site plan approval and is proposing to construct an amusement park to consist of modified construction equipment and riding amusements. The applicant also proposes a pre-manufactured office/retail building, concession building and restroom building and an open air pavilion, and parking area, and

WHEREAS. The site is located along the southwest side of Cooper Road and is along Pinedge Drive and Pinedge Court. Resintech Office warehouse and solar panel field is located on the northeast side and rear. Office warehouse buildings along the southwest side. Single family residence along the rear of the southwest side and a wooded portion of the undeveloped section of Montebello age-restricted residential housing. The site consist of 12.31 acres. The applicant proposes to clear the entire site, and

WHEREAS. The applicant has submitted a site plan for approval, which plan has been reviewed by Charles J. Riebel Jr. P.E., P.L.S., P.P. the Engineer for the Board. The report of the Board's Engineer is dated October 24th 2013. The applicant's site plan was prepared by Greggory B. Fusco, P.E., P.P. The applicant's Site Lighting Plan was prepared by David J. Mantone P.E. The applicant appeared before the Board on September 26th 2006, and was represented by the law office of Brian M. Guest Esq., and

WHEREAS. The Board has received and reviewed all reports filed by the applicant and the Board engineer. The applicant appeared before the Board on October 29th 2013, and was represented by the law office of Brian M. Guest Esq., and the applicant Yan Girlya and Greggory B. Fusco, P.E., P.P. appearing.

WHEREAS. The Zone is C2 Commercial in that the site is located in the area of the aged restricted residential Montebello development.

WHEREAS. The Board determined that the application is properly before the Board and the proof of notice and publication is appropriate, and

WHEREAS. The applicant has received and reviewed a copy of the Board Engineer's report and all reports and documents submitted by the applicant as part of initial filing.

Following a review of the application, and the receipt of testimony, the Board determined;

1. The applicant request the following variances;
 - a. To permit a 30 feet high, freestanding sign (25 feet permitted)
 - b. to permit a sign area to be 167.5 feet (65 square feet permitted)
 - c. to permit 6X9 changeable copy LED sign (changeable copy prohibited)
 - d. to permit 248 vehicle parking with 9 bus parking spaces.
 - e. to permit a 60 feet high rope course amusement structure (35 feet height permitted in C2 Zone)
 - f. building façade ordinance Section 340-59.
2. From a review of the plan it is determined that the applicant must request the Township Mayor and Council to vacate the Right-of Way of Pinedge Court. The applicant agreed to seek the vacation and responsibility for all fees and cost related to the Right-of-Way vacation, to include ownership of storm drainage and sanitary pipes and the granting of any easements made necessary by reason of the "Right-of-Way vacation.
3. There was a discussion of the applicant intending to use pre-manufactured buildings which do not comply with façade requirements of Section 340-59 of the Township Code. The applicant provided testimony to support a variance from this façade requirement, and the Board was in agreement.
4. The applicant provided testimony that somewhere between 700 to 800 patrons are anticipated on usual day operation and perhaps increase on holidays. Hours of operation are anticipated to be 10:00 and to 7:00 pm seven days a week, on occasions hours may be extended to 8:00 10:00 pm. Most visitors remain at site for approximately two to three and one half hours.
5. There was much discussion on on-site safety and equipment operation rules. The applicant provided testimony that at each amusement ride area there will be stationed an employee site Marshall to provide safety of patrons. There is also intended several on site supervisors as well a manual emergency remote stop of all amusement rides. The applicant also testified that all amusements will meet and maintain the required license from the State of New Jersey. The applicant proposes permanent lighting in the parking and walking area and temporary portable lighting during special events if necessary. The applicant also testified that re-fueling of amusements rides will occur only after hours and no re-fueling nor transporting of fuel will occur when patrons are on site.
6. The applicant proposes a 1000 gallon, double steel wall fuel storage tank. The applicant testified that the area will be screened and in compliance with all State of New Jersey safety regulations. The applicant also provided testimony that there will be no major facility located on-site for amusement ride repair. Only minor repairs and maintenance will be conducted on site.
7. The applicant proposes 248 parking spaces in the designed parking area with 9 bus parking. The Board determined this was sufficient. The applicant will also seek a lease for additional off-site parking if necessary. There was some discussion of landscaping within the paring area. The applicant provided testimony and the Board agreed the advantage of landscaping within the large parking area is greatly outweighed by appearance and safety issues

created. On the amusement area the applicant presented testimony that there would be regular maintenance of water spray to control dust and dirt in the open site areas. There was also much discussion on tree removal at the entire site. The Board expressed concern over extensive tree removal at this site. The Board acknowledged that effectively all the site would be removed of trees. The applicant recognized the Board's concern and expressed consent to meet with the Township to develop a contribution plan to off-site plantings in accord with the tree removal ordinance at an agreed contribution to be agreed to with Township Governing Body.

8. There was discussion and the applicant provided testimony to support the request for a variance to permit parking within 20 feet from the curb line of the street. In addition, the applicant agreed to provide curb and sidewalk where missing along the frontage of Cooper Road and Pinedge Drive.

9. The applicant acknowledged receipt of report and recommendations from the Township Police Department and Fire Marshall, and agreed to comply with all Fire and Police department recommendations and comments.

9. In considering the applicant's request for variances, the Board determined that there would be no substantial detriment to the public good nor substantial deviation from the intent and purpose of zoning.

10. The applicant stated that he will meet all other requirements set forth in the Engineer's report dated October 24th 2013 as noted in the testimony and as approved by the Board, and will secure any and all other governmental approvals and permits as may be necessary.

NOW THEREFORE, BE IT RESOLVED, by the Planning/Zoning Board of the Township of Berlin that the application for preliminary and major site plan approval, be and is hereby GRANTED.

BE IT FURTHER RESOLVED, by the Planning/Zoning Board of the Township of Berlin that the following variance is Granted;

- a. To permit a 30 feet high, freestanding sign (25 feet permitted)
- b. to permit a sign area to be 167.5 feet (65 square feet permitted)
- c. to permit 6X9 changeable copy LED sign (changeable copy prohibited)
- d. to permit 248 vehicle parking with 9 bus parking spaces.
- e. to permit a 60 feet high rope course amusement structure (35 feet height permitted in C2 Zone)
- f. a variance from building façade ordinance Section 340-59
- g. to permit parking in an area less than 20 feet from curb line of street.
- h. To permit of-site parking provided that a lease is provided.

BE IT FURTHER RESOLVED, that the following conditions of this approval have been approved and agreed to by the applicant;

The applicant will request vacating the Right-of Way of Pinedge Court. The applicant will responsibility for all fees and cost related to the Right-of-Way vacation, to include ownership of storm drainage and sanitary pipes and the granting of any easements made necessary by reason of the "Right-of-Way vacation.

The applicant will secure and maintain on required State of New Jersey license and inspection and maintenance of amusement rides and park operation.

The applicant recognized the Board's concern and expressed consent to meet

with the Township to develop a contribution plan to off-site plantings in accord with the tree removal ordinance at an agreed contribution to be agreed to with Township Governing Body. The applicant will discuss with the Township Governing Body a plan for off-site tree mitigation and replacement.

ATTEST:

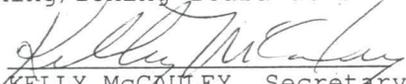

KELLY McCAULEY
Secretary

BERLIN TOWNSHIP
PLANNING/ZONING BOARD

ANDREW SIMONE
Chairman

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution adopted by the Berlin Township Planning/Zoning Board at a meeting held on October 24th 2013.


KELLY McCAULEY, Secretary