

BOROUGH OF BERLIN
PLANNING BOARD MINUTES
April 13th, 2026, Regular meeting

CALL TO ORDER: Chairman M. McGowan called the meeting to order at 7:00 PM

FLAG SALUTE: Chairman M. McGowan called for everyone to rise and recite the pledge of allegiance to the flag.

SUNSHINE STATEMENT: Chairman M. McGowan announced that this meeting is being held in compliance with the Open Public Meetings Act and has been duly noticed and published by law.

ROLL CALL: On roll call, the following members answered present-to-roll call: Mayor R. Miller, D. Pomponio, H. Earle, Councilman M. Wilkinson, E. Hahn, K. Ryker, M. McGowan, J. Schumacher

MINUTES:

A motion to approve March 9th, 2026, minutes was made by D. Pomponio and second by K. Ryker

Roll Call:

D. Pomponio-AYE
J. Schumacher-ABSTAIN
K. Ryker-AYE
H. Earle-AYE
Councilman M. Wilkinson-AYE
M. McGowan-ABSTAIN
Mayor R. Miller-ABSTAIN
E. Hahn-AYE

RESOLUTIONS:

Resolution 26-09

Amending resolution 26-02 to re-elect a new Vice Chairman

A motion to appoint Dan Pomponio as Vice Chairman was made by K. Ryker and seconded by H. Earle.

Roll Call:

D. Pomponio-AYE
J. Schumacher-ABSTAIN
K. Ryker-AYE
H. Earle-AYE
Councilman M. Wilkinson-AYE
M. McGowan-ABSTAIN
Mayor R. Miller-ABSTAIN
E. Hahn-AYE

ZONING OFFICERS REPORT:

NONE

NEW BUSINESS:

Case 26-03

Debra L. Zygmunt
210 Rich Ave
Block 1312, Lot 3.01
Bulk "C" Variance
Setbacks on an inground pool

The applicant, Debra Zygmunt, was sworn in by the Planning Board attorney, Chris Norman.

Ms. Zygmunt, applied for a bulk "C" variance for the installation of an in-ground swimming pool at 210 Rich Avenue. She explained that the proposed pool location is limited by prior improvements made to the property as well as the unique shape of the lot.

Ms. Zygmunt stated that the pool would serve two purposes: encouraging her nine-month-old grandson to visit and providing aquatic therapy related to a military line-of-duty injury. She also noted that within her square block, her property and the one directly behind it are the only homes without pools. A six-foot vinyl fence has already been installed to ensure safety and proper enclosure of the proposed pool area.

Chairman M, McGowan asked if there were any questions from the planning board members or planning board attorney.

Mr. Norman asked Ms. Zygmunt to confirm that she was seeking variance based on undue hardship. Mr. Norman noted that there is limited space in the rear yard, which is typically where a pool would be located. It was further acknowledged that the property is a corner lot, resulting in two front yard frontages, which contributes to the hardship and limits the available placement options for the pool.

Ms. Zygmunt stated that was correct.

Mayor R. Miller asked if any trees need to be removed. Ms. Zygmunt answered, no.

Chairman M. McGowan opened up to the public, none seen or heard.

A motion to approve the C Variance was made by Mayor R. Miller and second by Councilman M. Wilkinson.

Roll Call:

D. Pomponio-AYE
J. Schumacher-AYE
K. Ryker-AYE
H. Earle-AYE
Councilman M. Wilkinson-AYE
M. McGowan-AYE
Mayor R. Miller-AYE
E. Hahn-AYE

OLD BUSINESS:

Case 26-02

36 Park Avenue
Block 300, Lot 2
Use "D" Variance

Mayor R. Miller and Councilman M. Wilkinson excused themselves from the next application.

Tyler Prime, of the firm Prime, Tuvel & Miceli, appeared on behalf of the applicant. Mr. Prime reminded the Board that the application was previously heard on March 9th, during which the original proposal consisted of eight duplex town homes on the site.

Mr. Prime stated that the Board's general feedback at that meeting focused on reducing the intensity of the project. In response, the applicant reevaluated the plan to determine how much it could be scaled back while remaining feasible, particularly given the desire to maintain a residential use in a C-2 commercial zone. Mr. Prime explained that the revised proposal represents the lowest density the applicant can reasonably pursue.

Mr. Prime noted that the updated plan reduces the number of units from eight to six. The applicant's engineer was present to summarize the specific design changes, and the applicant's planner would provide additional planning testimony consistent with the revised layout. Mr. Prime indicated that the engineer would first outline the modifications before the planner addressed the planning considerations.

Michael Galante, owner of MJ Engineering Associates, addressed the Board. He noted that he had been qualified at the previous meeting and asked whether he needed to be sworn in again. The planning Board Attorney, Mr. Norman, stated he was good to go.

Mr. Galante provided an overview of the revisions made to the site plan. He explained that the updated plans had been submitted to the Board Planner for review prior to the meeting. Instead of the previously proposed two sets of twin units, the applicant evaluated two alternatives to reduce the density to six units: constructing two twins with a single-family home on each side or developing a triplex. The applicant determined that the triplex configuration was the most suitable option.

Mr. Galante stated that the triplex layout allows for greater setbacks from adjacent properties, resulting in a 36-foot setback from the nearest structure. This increased buffer improves compatibility with the surrounding residential uses and provides additional yard space. He added that consolidating the building footprint also creates a more efficient layout for stormwater management, with improvements concentrated in a single area.

He noted that each unit includes a driveway designed to accommodate two vehicles, as well as a garage. This provides a total of three potential parking spaces per unit. Mr. Galante acknowledged the Board's prior concerns that garages are often used for storage rather than parking but emphasized that the driveway alone provides two compliant spaces, and the garage remains available for use if desired. The proposal meets both RSIS standards and the local parking ordinance.

Mr. Galante stated that although some bulk variances are required, the applicant believes the revised layout is the most appropriate design for the site given the reduced density requested by the Board at the previous hearing. He concluded by stating that his testimony summarized all major changes and invited questions from the Board before turning the presentation over to the applicant's planner.

The Chair asked whether any Board Members had questions for Mr. Galante. None heard

Sam Agresta, Principal Planner with AEP, addressed the Board. He noted that he had been qualified at the previous meeting and did not need to be qualified. Mr. Agresta stated that his purpose was to reiterate and reinforce the planning testimony previously provided.

He explained that the subject property is located within the C-2 Zone, with residential zones on both sides. At the prior hearing, the applicant presented testimony addressing the positive and negative criteria required for the requested relief. Mr. Agresta summarized the applicable purposes of the Municipal Land Use Law, including:

- **Purpose A:** Encouraging the appropriate use of land in a manner that promotes the public welfare.
- **Purpose D:** Ensuring development does not conflict with neighboring municipalities or the state.
- **Purpose E:** Establishing appropriate population densities, including residential uses.
- **Purpose G:** Providing sufficient space for a variety of uses, including agricultural, residential, and commercial.
- **Purpose I:** Promoting a desirable visual environment through creative design.

Mr. Agresta stated that the revised plan, reducing the proposal from eight units to six, further supports these purposes by decreasing intensity and minimizing potential conflicts. He emphasized that the property is surrounded by residential uses on three of its four sides, making a residential development more compatible than many of the permitted commercial uses in the C-2 Zone.

Mr. Agresta reviewed several permitted commercial uses—such as offices, banks, health clubs, dance studios, and childcare facilities—and noted that these uses typically generate significant traffic during peak hours. Other permitted uses, including distilleries, breweries, and restaurants, often operate later into the evening. Given the surrounding residential context and the limited roadway network, he stated that these uses could create greater impacts than the proposed residential development.

Turning to the negative criteria, Mr. Agresta testified that the reduced density lessens any potential detriment to the public good. He noted that the surrounding lots are of similar size and that the proposed use is less intense than many commercial alternatives permitted in the zone.

Mr. Agresta also referenced the Borough's Master Plan, citing Item 1.1 on page 3 and Item 1.2 on page 4, which encourage minimizing conflicts between residential, retail, and industrial uses and providing logical transitions between residential and non-residential areas. In his professional opinion, single-family attached dwellings serve as an appropriate transitional use between commercial and residential districts.

Mr. Agresta concluded by stating that the subject property is uniquely suited for the proposed development and that, in his professional opinion, granting relief from strict compliance with the zoning ordinance would advance the purposes of the Municipal Land Use Law as well as the goals of the Borough's Master Plan.

Chairman M. McGowan asked if Mr. Warburton, the planner for the planning board had any question.

The Board Planner stated that he had reviewed the revised plans and confirmed that the applicant reduced the total number of units from eight to six. As a result, the buffers along each property line have increased.

Mr. Warburton, the Planning Board Planner, reiterated that his comments from the previous meeting remain applicable. He noted that although the property lies within the C-2 Zone, it is surrounded on both sides by the R-1 Zone, as shown on the zoning map. He explained that the R-1 Zone requires a minimum lot area of 14,520 square feet for a standard subdivision. In the R-2 Zone, the minimum lot size is 7,200 square feet.

Mr. Warburton observed that the proposed middle lot is approximately 2,600 square feet, with the two end lots now increased to approximately 6,200 square feet each, which is an improvement from the prior plan. However, he emphasized that his primary concern remains the overall density of the proposed development in this location.

He noted that although the reduction from eight units to six is a positive step, the density is still significantly higher than what is typical in the surrounding area of Berlin Township. He referenced the single-family homes across Atlantic Avenue, many of which are situated on lots of approximately 7,500 square feet. He acknowledged that there are one or two nearby lots in the 2,500–3,000 square-foot range but stated that these are exceptions rather than the norm.

Mr. Warburton concluded by stating that, from a zoning and planning perspective, the density of the proposed development remains his primary concern.

Chairman M. McGowan asked if there were any questions from the board members.

D. Pomponio asks to clarify that last month to this month the biggest change was 8 units to 6 units. The professionals answered, yes

Mr. Galante responded to the Board Planner's comments, noting that several concerns raised at the previous meeting had been addressed in the revised plans. He explained that the curb line along South Atlantic Avenue has been modified and shifted back to allow for additional on-street parking. He stated that this improvement would widen the roadway and will function as a public benefit to the area.

Mr. Galante acknowledged the Board Planner's observations regarding the adjacent lot sizes and stated that the applicant believes the revised layout is consistent with the character of the immediate block. He explained that the surrounding area transitions from smaller residential lots to higher-density residential and then to commercial uses, and that the proposed development provides an appropriate architectural and aesthetic transition within that context.

He further stated that the project will generate less traffic than many permitted commercial uses in the C-2 Zone and will provide adequate parking in compliance with RSIS and local ordinance requirements. Mr. Galante emphasized that the concerns raised by the Board have been mitigated through the reduction in density and the revised site design.

Mr. Galante added that each application must be evaluated on its own merits and that approval of this project would not set a precedent for future development in the area. In his opinion, the proposed layout will integrate well with the surrounding neighborhood and will not obligate the Board to make similar decisions on unrelated applications.

The planning board attorney, Mr. Norman asked whether the zoning map, particularly the color-coded depiction of the surrounding neighborhood, indicated any other lots with similar characteristics that might lead to a "me-too" situation—where another property owner could seek the same type of variance. He inquired whether there were any undeveloped or similarly constrained lots that could present comparable circumstances, or whether the neighborhood was already fully established and built out, thereby reducing the likelihood of similar applications. He noted that his concern related to the potential risk of setting a precedent.

In response to Mr. Norman's question, the applicant's planner, Mr. Agresta, stated that he agreed with Mr. Galante's earlier testimony regarding precedent. He noted that an approval of a use variance applies only to the specific lot in question and does not establish a precedent that would automatically permit similar development on other lots within the zone. He emphasized that each application must be evaluated independently based on its own facts and circumstances.

Mr. Agresta further explained that the subject property is uniquely situated, being located one block back from Route 30. This positioning gives the site a more isolated and residential

character, making it less desirable for commercial development and more suitable for residential use. He added that the C-2 Zone in this location functions as a small “island” of commercial zoning surrounded by residential districts on multiple sides.

Given these conditions, he stated that he does not believe approval of this application would trigger similar requests throughout the neighborhood or alter the established development pattern. In his professional opinion, the characteristics of the site lend themselves to the proposed residential use without creating broader implications for the surrounding area.

Chairman M. McGowan asked if there were any other questions from the Board members.

Mr. Pomponio reiterated that it was stated the lot is surrounded on three sides by residential uses and asked for clarification regarding the specific directions shown on the plan. The applicant confirmed that to the left of the drawing there are two existing homes located within a residential zone. He further confirmed that the properties across South Atlantic Avenue, within Berlin Township, are also residential.

Mr. Agresta noted that to the right of the subject property is commercial use, identified as a landscaping business. Directly adjacent to that commercial lot, the next property transitions back into a residential zone. He clarified that on the Park Avenue side, the zoning is commercial, and that this frontage also extends toward the White Horse Pike, which he described as a commercial-friendly corridor.

The Chair asked whether there were any additional questions from the Board.

D. Pomponio noted that tonight’s meeting is only for a use variance proposal. Professional stated, that is correct.

E. Hahn asked Mr. Warburton to state the lot requirements for each zone.

Mr. Warburton explained the zoning context of the surrounding area. He noted that the R-1 District, shown in yellow on the zoning map, comprises most of the neighborhood. He pointed out a small portion of R-2 zoning located nearby.

He stated that under the R-1 District standards, a conventional subdivision—without any bonus density provisions—requires a minimum lot area of 14,520 square feet, with a minimum lot width and frontage of 100 feet and a minimum lot depth of 125 feet.

Mr. Warburton stated that if the property were instead evaluated under the R-2 District standards, a standard subdivision would require a minimum lot area of 7,260 square feet, with a minimum lot width of 70 feet and a minimum lot depth of 110 feet.

Mr. Hahn asked whether the lot layout shown on the plan explained why the subdivision appeared “scrunched,” as he described it. He noted that proposed Lot 1 occupies the full width along one side of the property and proposed Lot 3 occupies the full width along the opposite side. He stated that this configuration results in the three proposed lot sizes of approximately 6,200 square feet, 2,600 square feet, and 6,200 square feet.

Mr. Warburton acknowledged that without the third lot, the remaining lots would more closely align with R-2 standards.

Chairman M. McGowan open up to the public, seeing or hearing no one.

The attorney Mr. Norman clarified that the applicant is seeking a **use variance** to permit the two triplex buildings. He noted that the property lies within the C-2 Zone and that any approval would also be subject to site plan review. Addressing the concern raised by Board Members regarding potential precedent, the Board Attorney explained that a use variance applies only to the specific lot for which it is granted. He stated that approval does **not** automatically allow similar development on other lots within the zone.

He added that, if the Board wished, language could be included in the resolution indicating that the Board does **not** anticipate similar applications elsewhere in the C-2 Zone based on the unique circumstances of this property. He emphasized that while such language cannot prevent another property owner from filing an application, it can serve as a finding that the Board relied upon in making its decision, thereby helping to insulate the Board from claims that approval of this application obligates approval of others.

D. Pomponio asked for confirmation that such language could be included. The Board Attorney reiterated that although it cannot bar future applications, it can document the Board's position and the specific factual basis for treating this site as unique.

Mr. Warburton stated that, given the density concerns discussed, it is important for the resolution to clearly specify that the total number of units permitted on the tract is six. He emphasized that the Board is considering a **use variance** for the two triplex buildings as presented, and that the approval should not allow the applicant to return to the site plan stage seeking to add additional units or increase density beyond what is being reviewed.

He noted that the intent is to ensure that the approval, if granted, reflects the maximum number of units permitted on the property and prevents any future request to expand the development beyond the six units currently proposed.

Mr. Pomponio stated that, given the density concerns discussed, he wanted to ensure the resolution clearly reflected that the total number of units permitted on the tract would be limited to six. He emphasized that although the Board was considering a **use variance**, not a density variance, it was important to specify that the six units presented in the application represent the full extent of development allowed on the property.

He added that the intent was to avoid a situation in which the applicant might return at the site plan stage seeking to add additional units or increase the intensity of the development beyond what the Board was reviewing that evening.

Mr. Pomponio asked the Board Attorney to confirm that no architectural plans were being approved at this stage.

The Board Attorney clarified that the application before the Board was **conceptual** in nature. He explained that the Board was reviewing the **use variance** request to allow two triplex buildings on the tract, but that no building elevations, architectural renderings, landscaping plans, driveway layouts, drainage facilities, or stormwater management systems were being approved at this time.

He stated that all such details would be required as part of a **subsequent site plan application**, which would need to comply with all applicable engineering, architectural, and stormwater regulations.

The Board Attorney reiterated that the Board's action at this stage would be limited to determining whether the proposed **use**—six residential units in two triplex structures—is appropriate for the property. He emphasized that the actual building dimensions, layout, and technical specifications would still need to be fully defined, reviewed, and approved during the site plan process.

Mr. Pomponio then asked, assuming the Board were to approve the use variance and the conceptual layout presented, what additional variances the applicant might need to seek at the site plan stage.

Mr. Warburton explained that, because the application involves a **use variance** within the C-2 Zone, the applicant may require additional **bulk variance relief** at the time of site plan review. He noted that when a use variance is granted, the Board must determine what set of zoning standards will apply to the project moving forward. He stated that there are generally two approaches:

1. **Apply the bulk standards of the underlying zone**—in this case, the C-2 Commercial District; or
2. **Apply the bulk standards of a residential zone** that more closely reflects the nature of the proposed use.

Mr. Warburton noted that the C-2 standards are designed for larger commercial parcels and may not be appropriate for evaluating a residential development of this type. He suggested that the Board could, if it wished, include a **condition** in the resolution requiring that the project comply with the **R-2 residential bulk standards** for purposes of site plan review.

He stated that applying the R-2 standards would ensure that the applicant does not seek greater density or intensity than what is typically permitted in that district and would establish a clear benchmark for any bulk variances that may be requested later.

He emphasized that such a condition would not increase density but would instead provide a consistent and reasonable framework for evaluating setbacks, lot coverage, building height, and other dimensional requirements during the site plan phase.

J. Schumacher asked for clarification regarding the “scrunched” center lot and whether it fell into any recognized density category within the Borough's zoning standards.

Mr. Warburton responded that, to his knowledge, there is no standard density classification that would accommodate a lot of that size under typical zoning regulations. He noted that the only provision in the Borough's code that allows lots to be reduced to that scale is within the affordable housing (low-income housing) standards, which contain specific allowances for significantly smaller lot sizes. He emphasized that those standards were referenced only for comparison and are not applicable to the current application, nor is the applicant proposing an affordable housing development.

He reiterated that the unusually small size of the center lot does not align with standard R-1, R-2, or C-2 bulk requirements and that the affordable housing provisions are the only section of the code that permits lots of that reduced dimension.

Ms. Schumacher noted that the two outer lots appear to be closer to conforming with residential standards but questioned how the center lot—given its significantly reduced width—could be evaluated under any traditional zoning framework. He pointed out that the R-2 District requires certain minimum setbacks and dimensional standards and asked how those could be applied if the R-2 Zone typically requires a **100-foot** lot width or frontage.

Mr. Warburton responded the applicable R-2 bulk standards for context. He stated that the **front yard setback** requirement is **35 feet**, with **10 feet** required for one side yard and a **combined total of 20 feet** for both side yards. He added that the **minimum distance between buildings** in the R-2 District is **20 feet**, and the **rear yard setback** is **25 feet**.

He noted that the **maximum building height** permitted in the R-2 Zone is **30 feet**, with a maximum of **two stories**. The **maximum lot coverage** allowed at initial construction is **40 percent**. He also referenced the **3.75 units per acre** density standard, clarifying that this density applies only to the Borough's affordable housing provisions and is **not** relevant to the current application.

The Board Planner stated that, based on the conceptual layout presented, many of the R-2 standards he listed could likely be met by the applicant during the site plan phase, though variances would still be required for certain dimensional deficiencies—particularly for the center lot.

The applicant's planner stated that he believed the R-2 bulk standards could generally be met across the site. He noted that, when considering the tract, the **40% maximum impervious coverage** requirement could be satisfied. He acknowledged that the center lot would have a higher percentage of coverage due to its smaller size but stated that overall compliance was achievable.

He further noted that the center lot would require approval of a **zero-foot side-yard setback**, given the narrow width of the parcel. He explained that such a variance would allow the building to remain within the conceptual footprint presented and would enable the project to function cohesively across the three lots.

The applicant's planner stated that, with these considerations, he believed the project could be designed to remain within the dimensional "box" established by the Board and that the resulting development would be a strong addition to the area.

Mr. Norman noted that the resolution language could state that the applicant must comply with the **bulk standards of the R-2 District**, except as they relate to the middle unit, which would require separate variance relief due to its constrained width.

The applicant planner confirmed that the project could meet the **40% maximum lot coverage** requirement when evaluated across the entire tract. He acknowledged that the center lot would have a higher percentage of coverage due to its smaller size but stated that the overall site would remain compliant.

The Board Planner clarified that while the center lot would require relief for lot coverage and side-yard setbacks, the two outer lots would also require some degree of bulk variance relief. He emphasized the importance of documenting these expectations clearly in the resolution.

The Board Attorney added that the resolution could also state that the **site plan must be substantially consistent with the conceptual plan presented** at the hearing. He explained that this would ensure the applicant does not significantly alter the layout, building placement, or general configuration during the site plan phase, while still allowing for normal engineering refinements.

The applicant's planner noted at approximately **36% lot coverage**, we should remain at about 36% overall. That leaves roughly **4% of the total lot**, or about **900 square feet**, before reaching the 40% maximum. It's tight at 40%, but that figure includes the back patio, the driveways, and the building footprints.

Mr. Earle noted that his comments were not so much a question of appropriateness but rather context for members who were not present at the prior meeting. He explained that he had raised several questions at the last hearing, all of which were answered by the applicant, and that revisions were made in response—changes he appreciated.

He added that a neighboring resident had attended the previous meeting and, while generally supportive of the concept, expressed concern about the size of the originally proposed buildings. In response to that feedback, the applicant reduced the proposal from four units to three per building. He stated that, based on the applicant's testimony and the Board Attorney's comments, he would expect the final design to resemble the concept presented.

Mr. Earle added that the applicant now has his support, noting that his position is different from what it had been at the initial meeting. He stated that he wanted this reflected in the record, particularly for members who were not present previously. He explained that there had been extensive discussion at earlier hearings and that the applicant demonstrated flexibility in response to Board and public feedback. He reiterated that these changes were appreciated and contributed to his current support for the application.

Chairman M. McGowan asked whether any additional Board Members wished to comment. Hearing none, he summarized the conditions discussed: the Board is considering a **use variance** permitting a transition from the C-2 Zone to an R-2-type residential use; the approval would be limited to this application and is **not intended to set precedent**; the future site plan must be **substantially consistent** with the conceptual plan presented at the hearing; and the project must comply with **R-2 bulk standards**, except where relief is required for the middle unit.

Mr. Norman then asked whether the applicant should be required to adhere to the **architectural plans** submitted with the application.

Mr. Earle responded that, while the applicant revised the architectural elevations to improve appearance, he did not believe the final design needed to match the submitted renderings exactly. He stated that the Board's primary concern was ensuring that the buildings maintain a **duplex-style appearance** with appropriate curb appeal—such as shutters or similar residential features—rather than adhering to a specific color scheme or identical façade. He added that the applicant's revised elevations were appreciated and reflected an effort to enhance the visual character of the project, but that some flexibility in architectural details would be acceptable so long as the overall residential aesthetic is maintained.

A motion to approve the use variance with stipulation was made by K. Ryker and second by H. Earl.

Roll Call:

D. Pomponio-AYE

J. Schumacher-AYE

K. Ryker-AYE

H. Earle-AYE

M. McGowan-AYE

E. Hahn-NAY

PUBLIC PORTION:

Seeing or hearing no one

CORRESPONDENCE:

NONE

GOOD OF THE ORDER:

NONE

ADJOURNMENT OF REGULAR MEETING:

A motion to adjourn the meeting was made by J. Schumacher and seconded by H. Earle at 7:38pm All in Favor-AYE

Cc: Bill Behnke, Fire Marshall
Stacey DiVello, Escrow Financial Department
Wayne Hans, Construction Official
Michael Bernardin, CTA Tax Assessor