

**MINUTES OF THE ZONING BOARD OF ADJUSTMENT REORGANIZATION
MEETING HELD ON TUESDAY, JANUARY 10, 2023**

The Clerk called to order the reorganization meeting of the Board and announced the meeting was duly advertised in compliance with the Open Public Meetings Act by notice sent to the Daily Record, Suburban Trends, and posted on the bulletin board and website at Borough Hall. All stood for the Pledge of Allegiance.

PRESENT: BYRNE, DUBOWSKY, KENNEDY, LUCIANO, WOLFSON, AND ZAPF

ALSO PRESENT: BOORADY, ENGINEER AND LIPARI, COUNSEL

ABSENT: ZALEWSKI AND VILLAVICENCIO (ALT. #1)

Ms. Ward announced the first item on the agenda is the Acknowledgement of Council Appointments. Patrick Byrne, Lester Wolfson, and Thomas Zapf have been reappointed. Everyone has been sworn in and welcome back.

The next order of business is Election of Officers for 2023. The first officer is chairman. Do I have any nominations?

Mr. Zapf nominated Pat Byrne.

Ms. Ward asked for a second.

Mrs. Kennedy seconds.

Ms. Ward asked any other nominations. Motion to close?

Mr. Zapf moved to close.

Mr. Luciano seconds.

Roll call:

Yes: Zapf, Kennedy, Byrne, Dubowsky, Luciano, and Wolfson

No: None

Abstain: None

Ms. Ward stated I will now turn the meeting over to the chair.

Chairman Byrne stated the next order of business is the Vice Chair. I nominate Tom Zapf.

Mr. Dubowsky seconds.

Chairman Byrne asked any other nominations. Motion?

Mr. Dubowsky moved to close.

Mr. Luciano seconds.

Roll call:

Yes: Byrne, Dubowsky, Kennedy, Luciano, Wolfson, and Zapf

No: None

Abstain: None

Chairman Byrne stated the next order of business is the appointment of the Secretary.

Mr. Zapf stated I nominate Joan Ward.

Mr. Luciano seconds.

Roll call:

Yes: Zapf, Luciano, Byrne, Dubowsky, Kennedy, and Wolfson

No: None

Abstain: None

Ms. Ward thanked everyone.

Chairman Byrne stated the next order of business is the Assistant Secretary.

Mr. Zapf asked did we go through this past year without anybody because Mary left us.

Ms. Ward stated you appointed her but you didn't appoint anyone else after she left.

Mr. Zapf asked does anybody want to put their hand up.

Mrs. Kennedy stated I'll do it.

Mr. Zapf stated I nominate Kathy.

Mr. Dubowsky seconds.

Chairman Byrne stated you get to sit up here when Joan is not around which is like never.

Roll call:

Yes: Zapf, Dubowsky, Byrne, Kennedy, Luciano, and Wolfson

No: None

Abstain: None

Chairman Byrne stated I don't think you ever missed a meeting.

Ms. Ward stated no.

Mr. Zapf stated there was one online during Covid that Joan couldn't be heard.

Chairman Byrne stated oh that is right.

Ms. Ward stated I wasn't connected to the internet in council chambers. I was able to connect through the telephone.

Chairman Byrne stated that was the only time. Surprisingly, I have been here longer than Joan.

Ms. Ward stated yes, I took over the Board of Adjustment in 2006.

Chairman Byrne stated it works for me.

Next order of business is Resolution for the meeting dates, newspapers, and agendas. I don't think any of that is changing.

Ms. Ward stated no, everything is staying the same.

We did increase the rate for counsel from \$135 to \$145 an hour, and other than that all the resolutions are staying the same except for the dates.

Mr. Zapf asked can we do them altogether.

Chairman Byrne asked can we do them altogether or do we have to do them one at a time.

Ms. Ward stated I believe you can do them altogether and I will put the same people as the mover and seconder in the minutes. Michael can we do it that way?

Mr. Lipari stated yes.

Ms. Ward stated I'll put the vote after each resolution.

Mr. Lipari asked does anyone have an objection to that.

Chairman Byrne asked does anybody have any comments or anything, otherwise we will go through all four of them. Meeting dates/newspaper/agendas, appointment of Board Attorney, Engineer, and Planner. Can I have a motion?

RESOLUTION
BOROUGH OF LINCOLN PARK
ZONING BOARD OF ADJUSTMENT
MEETING SCHEDULE & NEWSPAPERS
CALENDAR YEAR 2023

BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Lincoln Park that the following annual schedule of meetings be designated and notice thereof delivered in accordance with provisions of the Open Public Meetings Act.

PUBLIC NOTICE

PLEASE TAKE NOTICE that a regular meeting will be held by the Lincoln Park Zoning Board of Adjustment on the second Tuesday of each month for calendar year 2023 commencing at 7:00 P.M. Should the regular meeting fall on a holiday, the meeting will be scheduled for the following Tuesday.

The regular meetings will be held in the Municipal Building, Council Chambers. 34 Chapel Hill Road, Lincoln Park, New Jersey 07035.

BE IT RESOLVED, that the within notice may be mailed, faxed, or emailed to the Daily Record, the Official Designated Newspaper of the Board of Adjustment. The Suburban Trends has been designated the Alternate Official Newspaper.

FURTHER, all meeting agendas will be sent to the Daily Record and Suburban Trends and posted on the bulletin board and the official website of the Borough as required under the Open Public Meetings Act.

Mr. Zapf moved the resolution.

Mr. Dubowsky seconds.

Roll call:

Yes: Zapf, Dubowsky, Byrne, Kennedy, Luciano, and Wolfson

No: None

Abstain: None

Ms. Ward stated it's adopted.

RESOLUTION
LINCOLN PARK ZONING BOARD OF ADJUSTMENT
LEGAL COUNSEL
CALENDAR YEAR 2023

BE IT RESOLVED by the Lincoln Park Zoning Board of Adjustment and pursuant to Article II, Section 17-32 of the Development Review Ordinance that the firm of **Mandelbaum Barrett, P.C., 3 Becker Farm Road, Suite 105, Roseland, NJ 07068**, is hereby awarded the position of Board Attorney for the calendar year 2023 in accordance with its proposal dated **December 1st, 2022** attached and made a part of this Resolution. The appointment is made without necessity of public bid pursuant to the Local Public Contracts Law (N.J.S.A. 40A:11-1 *et seq.*) as a non-fair and open contract, pursuant to the provisions of N.J.S.A. 19:44A-20.4 and/or N.J.S.A. 19:44-20.5 and is available for public inspection.

BE IT FURTHER RESOLVED that the compensation of the Zoning Board of Adjustment Attorney for the calendar year 2023 shall be as follows:

- A.. Five Thousand Seven Hundred (\$5,700.00) Dollars for attendance of twelve (12) meetings of the Board.
- B. Four Hundred Seventy-Five (\$475.00) Dollars for each additional meeting as may be requested by the Board from time-to-time.
- C. The annual legal fee shall include the preparation of minor resolutions, time extensions and waivers, telephone conferences, correspondence, attendance at monthly meetings and all other legal services customarily rendered in connection with the representation of a municipal Board of Adjustment, excepting litigation, general legal services and professional fees as against an applicant's escrow account as may be permitted by municipal ordinance.
- D. Any and all legal services rendered in connection with litigation/appeals from the resolution and decisions of the Board of Adjustment and/or ordinance revisions, shall be billed at the litigation rate of One Hundred Forty-Five (\$145.00) Dollars per hour.

- E. General legal services relating to such things as (a) aiding Board and/or Borough Officials in regard to jurisdictional determinations, and (b) providing advice on matters relating to administration of ongoing construction relating to development approvals, but excluding such items as litigation and ordinance revisions, shall be billed at the rate of One Hundred Forty-Five (\$145.00) Dollars per hour.
- F. Legal services and process fees relating to applications processing and chargeable against application escrow accounts pursuant to Borough Ordinance, to be billed at the rate of One Hundred Forty-Five (\$145.00) Dollars per hour.
- G. The Chief Financial Officer of the Borough of Lincoln Park has certified, in accordance with N.J.A.C.5:30(a)(1), that sufficient funds will be available for said purpose in the 2023 Zoning Board of Adjustment Budget, and not to exceed \$6,200.00.

Mr. Zapf moved the resolution.

Mr. Dubowsky seconds.

Roll call:

Yes: Zapf, Dubowsky, Byrne, Kennedy, Luciano, and Wolfson

No: None

Abstain: None

Ms. Ward stated it is adopted.

RESOLUTION
LINCOLN PARK ZONING BOARD OF ADJUSTMENT
BOARD ENGINEER
CALENDAR YEAR 2023

IT IS HEREBY RESOLVED by the **Zoning Board of Adjustment** of the Borough of Lincoln Park (the “Board”) that the firm of **Darmofalski Engineering Associates, Inc. (“Board Engineer”)**, **86 Newark-Pompton Turnpike, Riverdale, New Jersey 07457-1429**, is hereby awarded the position of the Zoning Board of Adjustment Engineer for the calendar year 2023 commencing January 1, 2023 and continuing through December 31, 2023 or until the appointment of a successor, to provide engineering services to the Board in accordance with its proposal dated **November 28th, 2022** and the attached Schedule, both of which are attached and made a part of this Resolution; and

WHEREAS, Darmofalski Engineering Associates, Inc. has more than 26 years of experience in municipal engineering and has successfully and professionally provided engineering services to the Zoning Board of Adjustment since 2009; and

WHEREAS, Darmofalski Engineering Associates, Inc. has completed and submitted a Political Contribution Disclosure Form, Stockholder Disclosure Certificate and a Business Entity Disclosure Certification in accordance with P.L 2004, Chapter 19 (as amended by P.L.2005;c51), N.J.S.A. 19:44A-20-4 *et seq.*, and/or Lincoln Park Borough Ordinance 9-15; and

WHEREAS, the Chief Financial Officer of the Borough of Lincoln Park has certified, in accordance with N.J.A.C.5:30(a)(1), that sufficient funds will be available for said purposes in the 2023 Zoning Board of Adjustment Budget, and not to exceed \$4,000.00; and

WHEREAS, this award is made without necessity for public bidding pursuant to the “Local Public Contracts Law” (N.J.S.A. 40A:11-1 *et seq.*) as a non-fair and open contract, pursuant to the provisions of N.J.S.A. 19:44A-20:4 and/or N.J.S.A. 19:44-20:5 and is available for public inspection.

SCHEDULE OF SERVICES
ZONING BOARD OF ADJUSTMENT ENGINEER
JANUARY 1, 2023 THROUGH DECEMBER 31, 2023

The Zoning Board Engineer (“Board Engineer”) shall render the following services to the Lincoln Park Zoning Board of Adjustment (the “Board”) at the rate of \$135 per hour during the period January 1, 2023 through December 31, 2023 or until a subsequent appointment is made, and with reference to the Darmofalski Engineering Associates, Inc. proposal dated **November 28th, 2022**, a copy of which is attached and made part hereof:

1. **Development Applications.** The Board Engineer shall perform all required engineering services in connection with review of development applications submitted to the Board. Such services shall include, without limitation, reviewing all applications for completeness, compliance with all applicable ordinance requirements and other engineering-related functions. All services rendered in connection with development applications shall be charged to and payable from applicants’ escrow accounts. All charges, vouchers, and invoices shall conform to N.J.S.A. 40:55D-53.2.
2. **Meetings.** Attendance at all regular and special meetings of the Board. Except in cases of emergency or whenever there shall be no engineering-related issue on the Board’s agenda (confirmed by the Board Secretary), the Board Engineer shall attend all Board meetings. Whenever the Board Engineer cannot attend, the Board Engineer shall make appropriate arrangements for meeting coverage by a professional engineer.
3. **Inspections.** Perform all necessary inspections of improvements constructed by developers pursuant to Board-approved development applications.
4. **Other Services.** Perform such other engineering services as the Board may request from time to time.
5. **Delegation.** The Board Engineer may, when appropriate, delegate to competent personnel under his direct supervision responsibility for (a) inspections, and (b) design/drafting services (if any) and (c) any other services that will serve the economic interests of the Borough

of Lincoln Park and the developers who appear before the Board. All such services shall be performed at the rate of \$85 per hour.

6. **Insurance.** Within ten (10) days of the date of this Resolution and if the Board Engineer has not already done so, the Board Engineer shall provide to the Board Secretary proof that it has obtained professional liability insurance in minimum amounts of \$1 million per claim and \$1 million in the aggregate, or in such other amounts as may be required by the Borough’s risk manager or its Council. That insurance shall be kept in full force at all times during the period of this appointment and until a successor Board Engineer is appointed

7. **Invoices.** The Board Engineer shall submit invoices for all services no less than monthly and on forms supplied by or acceptable to the chief financial officer of the Borough.

8. **Termination.** The Board may terminate the Board Engineer’s appointment or the Board Engineer may resign from the position only after 30 days following written notice delivered to the other party (“Effective Date”). In the event of termination, any work of the Board Engineer completed prior to the Effective Date shall be compensable and be paid in accordance with the terms of this Resolution.

9. **Compliance With Law.** The Board Engineer shall comply fully with all applicable municipal, county, state and federal laws, ordinances, regulations, and directives in connection with the performance of the duties of Board Engineer including, without limitation, the Local Unit Pay to Play Law, P.L. 2004, c. 19, as amended by P.L. 2005, c. 51, and N.J.S.A. 10:5-31, *et seq.*

Mr. Zapf moved the resolution

Mr. Dubowsky seconds

Roll call:

Yes: Zapf, Dubowsky, Byrne, Kennedy, Luciano, and Wolfson

No: None

Abstain: None

Ms. Ward stated it’s approved.

RESOLUTION
LINCOLN PARK ZONING BOARD OF ADJUSTMENT
AWARD OF CONTRACT FOR
PROFESSIONAL PLANNER FOR 2023 CALENDAR YEAR

WHEREAS, there exists a need for the professional services of a Professional Planner for the Zoning Board of Adjustment of the Borough of Lincoln Park, County of Morris, State of New Jersey (the “Board”), for the 2023 calendar year, in accordance with the Municipal Land Use Law of the State of New Jersey, N.J.S.A. 40:55D-1, *et seq.*, and Article II, Section 17-14 of the Development Review Ordinance of the Borough of Lincoln Park; and

WHEREAS, the contract for Board Professional Planner may be awarded without N.J.S.A. competitive bidding as a non-fair and open “Professional Service” contract in accordance with 40A:11-5(1)(a)(i) of the Local Public Contracts Law and compliance with provisions of N.J.S.A. 19:44A-20.4 and/or N.J.S.A. 19:44-20.5, because the contract is for a service performed by a

person(s) authorized by law to practice a recognized profession that is regulated by law.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Lincoln Park that the firm of **PAUL N. RICCI, AICP, PP, RICCIPLANNING, LLC**, 177 Monmouth Avenue, Atlantic Highlands, New Jersey 07716 is hereby awarded the contract as Zoning Board of Adjustment Professional Planner for the calendar year 2023 commencing January 1, 2023 and continuing through December 31, 2023 or until the appointment of a successor, on an on-needed basis, to provide planning services to the Board in accordance with its proposal dated **December 4th, 2022** and the attached Schedule of Services, both of which are attached and made a part of this Resolution; and

BE IT FURTHER RESOLVED that a copy of this Resolution or a summary of its material terms be published in the official newspaper of the Borough and be on file, available for public inspection, in the office of the Secretary to the Lincoln Park Zoning Board of Adjustment, Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey 07035.

SCHEDULE OF SERVICES
ZONING BOARD OF ADJUSTMENT PLANNER
JANUARY 1, 2023 THROUGH DECEMBER 31, 2023

The Zoning Board of Adjustment Professional Planner shall render services to the Lincoln Park Zoning Board of Adjustment (the “Board”) at the rate of \$150 per hour and planning staff \$125 an hour during the period of January 1, 2023 through December 31, 2023 or until a subsequent appointment is made.

Mr. Zapf made the motion to approve.

Mr. Dubowsky seconds.

Roll call:

Yes: Zapf, Dubowsky, Byrne, Kennedy, Luciano, and Wolfson

No: None

Abstain: None

Ms. Ward stated it’s approved.

Chairman Byrne asked any other business.

Ms. Ward stated I have nothing else for the reorganization meeting.

Chairman Byrne asked anyone else. No. Motion to adjourn.

Mr. Zapf made the motion to adjourn.

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Ms. Kennedy seconds.

Meeting adjourned 7:10 P.M.

Respectfully submitted:

Joan Ward, Secretary

Patrick Byrne, Chairman