

**RESOLUTION
BOROUGH OF BUTLER
PLANNING BOARD
IN THE MATTER OF KRZYSTOF KAMINSKI
DECIDED ON OCTOBER 16, 2025
MEMORIALIZED ON NOVEMBER 13, 2025
APPLICATION NO. 25-001
MINOR SITE PLAN APPROVAL**

WHEREAS, Krzystof Kaminski (hereinafter the “Applicant”) has made application to the Borough of Butler Planning Board (hereinafter “Board” or “Planning Board”) seeking minor site plan approval for property known and designated as Block 22, Lot 3 as shown on the Tax Assessment Map of the Borough of Butler and located at 27 High Street, Butler, New Jersey (hereinafter the “Property”) in the R-5 Residential Zone (hereinafter “R-5 Zone”); and

WHEREAS, a public hearing was held on October 16, 2025, after the Planning Board determined it had jurisdiction; and

WHEREAS, the Applicant was represented by Richard J. Clemack, Esq.

NOW, THEREFORE, the Planning Board makes the following findings of fact based on evidence presented at its public hearing, at which time a record was made.

The application before the Board is a request for minor site plan approval under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-46.1 in regard to property known and designated as Block 22, Lot 3 as shown on the Tax Map of the Borough of Butler and located at 27 High Street, Butler, New Jersey in the R-5 Zone.

Overview of Application

Richard J. Clemack, Esq., attorney for the Applicant, provided an overview of the application. The Applicant previously came before the Planning Board seeking a certification that the Property was a valid pre-existing non-conforming use with three (3) residential apartments pursuant to N.J.S.A. 40:55D-68 and in the alternative, the Applicant previously sought use variance

approval under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70d(1). The Board notes that it considered the application on September 19, 2024 at which time the Planning Board determined that the Applicant failed to satisfy the proofs necessary in order to establish that three (3) dwelling units on the Property constituted a pre-existing nonconforming use under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-68. However, the Board determined that the Applicant provided the proofs necessary to enable the Planning Board to grant variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70d(1). Thus, the Applicant has met the criteria for the Board to approve the application permitting a multi-family dwelling with three (3) residential dwelling units on the Subject Property.

The Board also found that although under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-37 one- or two-family dwelling units are exempt from site plan approval, since the Applicant was proposing a three-family dwelling the Applicant would be required to return to the Planning Board in order to seek site plan approval in regard to providing additional on-site parking for the third dwelling unit. The Board granted d(1) use variance approval on September 19, 2024 and memorialized its decision in a Resolution adopted on October 17, 2024.

Engineering Testimony

Thomas Ott, P.E., a licensed professional engineer in the State of New Jersey, testified on behalf of the Applicant. Mr. Ott was qualified as an expert witness as a civil engineer. Mr. Ott testified that the Applicant is seeking minor site plan approval due to driveway and drainage improvements being provided on the Property. Mr. Ott represented that the driveway would be 12 feet wide and 40 feet long. Mr. Ott testified that the Applicant would provide landscaping in the form of six (6) arborvitae at a planting height of five (5) feet along the left side of the driveway off of Central Avenue.

Mr. Ott also testified that the Applicant is installing a new 1,000-gallon drywell for stormwater management. Mr. Ott agreed to install a cast iron cover over the 1,000-gallon drywell.

Mr. Ott testified that the old flood light in the backyard would be replaced with LED lights with a downward shield. Mr. Ott testified that the illumination would be .2-foot candles of spillover lighting onto the adjoining property but, the arborvitae trees would grow and that would prevent any spillover lighting. The new driveway added along the Central Avenue frontage would create two (2) stacked parking spaces.

Public Portion

The meeting was opened up to the members of the public and there were no members of the public present expressing an interest in this application.

NOW, THEREFORE, the Planning Board makes the following conclusions of law based upon the foregoing findings of fact.

The application before the Planning Board is a request for minor site plan approval under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-46.1 for property known and designated as Block 22, Lot 3 on the Tax Assessment Map of the Borough of Butler, and located at 27 High Street, Butler, New Jersey in the R-5 Zone.

The Applicant seeks minor site plan approval to create additional parking spaces for the three-family residential use previously approved by the Butler Planning Board as set forth herein. The subject Property is a through lot with frontages along High Street and Central Avenue. The Applicant proposes no changes to the existing driveway opening along High Street, and no changes to the existing parking area. The existing parking area is depicted on the site plan with four (4) passenger vehicles. A second driveway is proposed to be added along the Central Avenue frontage. This new driveway would create two (2) stacked parking spaces. As a result, the Applicant would

have a total of six (6) on-site parking spaces which equates to two (2) parking spaces per dwelling unit. Other improvements include stormwater management facilities for the new driveway and landscaping between the westerly property line and the new driveway. The Applicant stipulated that it would comply with all terms and conditions set forth in the report of the Board Engineer, Thomas A. Boorady, P.E., P.P., dated August 11, 2025.

Minor Site Plan Approval

The Board notes that it is appropriate to grant minor site plan approval under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-46.1.

Conclusion

Upon consideration of the plans, testimony and application, the Planning Board determines that the Applicant has submitted sufficient information so as to enable the Board to render an informed decision. The Board also determines that the Applicant has met the minimum requirements of the Municipal Land Use Law, Case Law and Borough Ordinances to a sufficient degree so as to enable the Board to grant minor site plan approval. The Board further finds that the granting of this application will not adversely impact or impair the use and enjoyment of adjacent properties. The Board further finds that it previously granted use variance approval to permit three (3) dwelling units on site pursuant to N.J.S.A. 40:55D-70d(1).

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Butler that the application of Krzysztof Kaminski for premises commonly known and designated as Block 22, Lot 3 on the Tax Assessment Map of the Borough of Butler, and located at 27 High Street, Butler, New Jersey in the R-5 Zone, is determined as follows:

- (1) Minor site plan approval is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-46.1.

IT IS FURTHER RESOLVED that the above land use relief is granted subject to the following terms and conditions:

1. The development of the site shall take place in strict conformance with the testimony, plans and drawings which have been submitted to the Board with this Application.

2. The Applicant represents that all representations and stipulations made either by or on behalf of the Applicant to the Borough of Butler Planning Board are true and accurate and acknowledges that the Planning Board specifically relied upon the Applicant's stipulations in the Board's granting of approval. If any representation or stipulation is false, this approval is subject to revocation.

3. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the public hearing on October 16, 2025.

4. The Applicant shall comply with all terms and conditions set forth in the report of the Planning Board Engineer, Thomas A. Boorady, P.E., P.P., Darmofalski Engineering Associates, Inc. dated August 11, 2025.

5. The Applicant shall submit revised plans confirming a) the area of roof runoff to be captured should be no less than 478 square feet; b) providing a roof plan which verifies that no less than 478 square feet of roof runoff will be captured and directed towards the proposed stormwater system; c) the volume of runoff to be stored shall be based upon a 3 inch rainfall depth over the 478 square feet of new driveway; and d) the size of the perforated pipes and stone shall be revised accordingly.

6. The Applicant shall provide a signed and sealed copy of the property survey to verify the existing conditions as shown on the engineer's plans.

7. The Applicant shall provide additional documentation to demonstrate that all parking areas will have adequate illumination while ensuring there will be no glare or illumination on adjacent properties and public roads. Fixtures shall be residential rated with concealed bulbs or diodes that are mounted horizontal to the grade surface. There shall be no flood lights on the property.

8. The Applicant shall provide an operations and maintenance plan for the stormwater system. Further, the Applicant shall record the operations and maintenance plan with the Morris County Clerk as a Deed Modification to ensure long-term operation and maintenance.

9. All existing above ground and underground utilities shall be shown on the plan to confirm there will be no conflicts with the proposed driveway, stormwater management system and landscaping, the nature and sufficiency of which shall be subject to the review and approval of the Board Engineer.

10. The granting of this application is subject to a condition that the property owner and all contractors shall agree to be responsible for contacting the Borough Engineer for site inspections prior to and during the construction of all improvements as shown on the engineering and architectural plans, including but not limited to: retaining walls, curbs, driveways, parking areas, seepage pits, trench drains, stormwater management facilities and associated piping, landscaping, guiderails, fencing and similar related items. The Applicant shall also provide adequate notice of at least three (3) business days prior to beginning construction of these improvements. The Board Engineer's office will not approve improvements which have been constructed and backfilled without inspections.

11. The Applicant shall provide an as-built topographic survey prepared by a licensed professional land surveyor and the final site inspection by the Borough Engineer will be necessary

prior to issuance of a Certificate of Occupancy/Approval to ensure all items of construction are in conformance with the approved plans. The as-built survey shall provide the location of all above-ground and below ground improvements, including the septic system, wells, drainage structures and utilities.

12. The granting of this application is subject to and conditioned upon the Applicant's escrow account shall remain open with sufficient funds to account for professional fees associated with the Borough Engineer's review of revised plans, site inspections, review of final as-built, and recommendation of Certification of Occupancy/Approval.

13. The Applicant shall install a cast iron cover over the 1,000-gallon drywell.

14. This approval is subject to the payment in full by the Applicant of all taxes, fees, escrows, assessments and other amounts due and owing to the Township. Any monies are to be paid by the Applicant within twenty (20) days of said request by the Board Secretary.

15. Certification that taxes are paid to date of approval.

16. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Butler, County of Morris, State of New Jersey, or any other agency having jurisdiction hereunder.

17. All terms and conditions of the Board's prior Resolutions shall remain in full force and effect except as satisfied or amended and not in conflict with this approval.

VOTE ON APPLICATION
OCTOBER 16, 2025

Motion Introduced By: Mayor Martinez

Seconded By: Hough

In Favor: Roche, Brown, Hough, Reger, Councilman Piccirillo, Mayor Martinez, and
Chairman Veneziano

Opposed:

Recused: Finelli

VOTE TO APPROVE RESOLUTION
NOVEMBER 13, 2025

Motion Introduced By:

Motion Seconded By:

In Favor

Opposed

Butler Planning Board

William Budesheim, Board Secretary

Sal Veneziano, Chairman

The undersigned secretary certifies that the within Resolution was adopted by the Butler Planning Board on October 16, 2025 and memorialized herein pursuant to N.J.S.A 40:55D-10(g) on November 13, 2025.

William Budesheim, Board Secretary