

**BRIDGEWATER TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
Regular Meeting  
Tuesday, October 1, 2013  
—MINUTES—**

**CALL MEETING TO ORDER:**

Chairman Vornehm called the meeting to order at 7:30 pm in the Bridgewater Municipal Courtroom, 100 Commons Way, Bridgewater, New Jersey.

**OPEN PUBLIC MEETING ANNOUNCEMENT:**

Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act N.J.S.A.10:4-6. On January 16, 2013 proper notice was sent to the Courier News and the Star-Ledger and filed with the Clerk at the Township of Bridgewater and posted on the bulletin board in the Municipal Building.

Please be aware of the Zoning Board of Adjustment policy for public hearings: No new applications will be heard after 10:15 pm and no new testimony will be taken after 10:30 pm. Hearing assistance is available upon request.

**ROLL CALL:**

Don Sweeney – present

Paul Riga – present

Evans Humenick – present

Bill Vornehm – present

Beth Powers, Alt. #2 – **absent**

Roger Pearly, Alt. #4 - present

Lee Schapiro – present

Carl Schulz – **absent**

Pushpavati Amin – present

Michael Kirsh, Alt. #1 – present

Alan Fross, Alt. #3 – present

Others present: Attorney Lawrence A. Vastola, Land Use Administrator Marie L. Broughman, Board Planner Scarlett Doyle

**MINUTES FOR APPROVAL:**

**September 17, 2013, Regular Meeting** – The foregoing minutes will be presented for Board consideration when completed. No action was taken.

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**September 24, 2013, Regular Meeting** – The foregoing minutes will be presented for Board consideration when completed. No action was taken.  
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**MEMORIALIZING RESOLUTIONS:**

SONNER - 85 Loeser Ave

Block 300 Lot 10

# 12-031-ZB Appeal Zoning Officer's Decision

DECISION: Dismissed 9/17/13

Motion by Mrs. Amin, second by Mr. Pearly, the SONNER – 85 Loeser Avenue resolution memorializing the DISMISSAL on 9/17/13 was adopted as amended on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mr. Riga, Mr. Humenick, Mrs. Amin, Mr. Kirsh,  
Mr. Fross, Mr. Pearly

ABSENT: Mr. Schulz, Mrs. Powers

NOT ELIGIBLE: Mr. Schapiro, Chairman Vornehm

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KERN - 19 Linvale Lane

Block 716 Lot 5

#13-020-ZB Bulk Variance – (New Pool with patio/coping)

DECISION: Approved w/ conditions 9/24/13

Motion by Mr. Kirsh, second by Mr. Schapiro, the KERN – 19 Linvale Lane resolution memorializing the APPROVAL W/CONDITIONS on 9/24/13 was adopted as amended on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mr. Schapiro, Mr. Humenick, Mrs. Amin,  
Mr. Kirsh, Chairman Vornehm

ABSENT: Mr. Schulz, Mrs. Powers

NOT ELIGIBLE: Mr. Riga, Mr. Fross, Mr. Pearly

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SUNJUN LOU - 6 Drysdale Lane

Block 500 Lot 66

#13-012-ZB Simple variance Application - (addition)

DECISION: Approved w/ conditions 9/24/13

Motion by Mrs. Amin, second by Mr. Schapiro, the SUNJUN LOU – 6 Drysdale Lane resolution memorializing the APPROVAL W/CONDITIONS on 9/24/13 was adopted as amended on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mr. Schapiro, Mr. Humenick, Mrs. Amin,  
Mr. Kirsh, Chairman Vornehm

ABSENT: Mr. Schulz, Mrs. Powers

NOT ELIGIBLE: Mr. Riga, Mr. Fross, Mr. Pearly

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### **HEARING AND DELIBERATIONS:**

7-ELEVEN - FINDERNE AVENUE & EAST MAIN STREET

Block 315 Lots 4, 5 & 6

# 13-001-ZB Preliminary and Final Major Site Plan with variances & Major Subdivision

TIME: 120=10/2/13

Attorney Jason R. Tuvel was present to represent the Applicant. Sworn testimony was presented by Professional Planner James Kyle of Kyle Planning and Design.

The Application is continued from 8/6/13.

The Applicant submitted exhibits which were marked into evidence as follows:

- A-8 10/1/13** Photo Board: Existing Site Conditions, dated 9/25/13 (4 photos)
- A-9 10/1/13** Photo Board: Existing Conditions relative to sign locations (3 photos)

Attorney Tuvel summarized the application and stated that this is the third hearing. He stated that the d(3) and d(4) variances do not carry the same standard of proofs as the Medici standard, but rather relaxed standards of Coventry Square applies as to the satisfaction of both the positive and negative criteria which was a result of a recent ruling from the NJ Supreme Court regarding the burden of proof for a conditional use variance with the TSI East Brunswick, LLC case. Board Attorney Vastola stated that this is not new case law; however, the law has been modified. He confirmed that the Board is fully aware of the applicable standard.

Planner Kyle discussed the present conditions of the property in question and he referenced exhibit A-8. The site is tired and dilapidated. The Applicant is proposing to redevelop the site. The existing improved lot coverage will be reduced, new green areas are proposed with landscaping, the parking will be delineated and the existing water damaged building will be replaced.

Planner Kyle stated that the application is in keeping with the FINDERNE Neighborhood Study. He referenced exhibit A-5, 3D Colored Rendering of 7-Eleven building. The number of curb cuts has been reduced and the architecture of the building includes earth tone colors of limestone and brick.

Planner Kyle referenced Board Planner Doyle's report and listed the existing non-conforming aspects of the property including lot area, lot width, front yard setback, side yard setbacks, improved lot coverage including others listed in the chart has inserted into these minutes from Planner Doyle's report dated 7/11/13.

Planner Kyle stated that a portion of Lot 6 will be added to Lot 4 to make Lot 4 more conforming. The three lots will function as if two buildings were located on one lot, but the property line will distinguish ownership and maintenance responsibilities. He referenced exhibit A-2, Aerial Photo w/superimposed copy of proposed Site Plan, and the existing conditions and businesses in the neighborhood. Planner Kyle referenced the MASTER PLAN AMENDMENT & RE-EXAMINATION REPORT dated 2/28/2005 and stated that the application meets the intent and purpose of the planning objectives including the C-1 zone encompassing local shopping for the residents with convenience stores. The application is an upgrade to the community properties thereby maintaining viability. The use is consistent with the community facilities on the four corners of the intersection of E. Main Street and FINDERNE Avenue.

**BULK VARIANCES**

In addition to the use variance for proposed lot 6.01, there are other associated with the proposed subdivision and site plan. These are also shown below.

**ZONING FOR THE C-1 ZONE AND THAT WHICH IS PROPOSED**

<b>USE</b>							
Description	Required C-1	Exist Lot 4	Exist Lot 5	Exist Lot 6	Proposed Lot 4.01 (7-11 lot)	Proposed Lot 6.01	Departs From Ordin.
Automotive Service Lot 6.01	Not Permitted				N/A	Not Permitted	Yes
Retail lots 4.01 and 6.01	Permitted				Compliant	n/a	No
<b>SUBDIVISION</b>							
Description	Required C-1	Exist Lot 4	Exist Lot 5	Exist Lot 6	Proposed Lot 4.01 (7-11 lot)	Proposed Lot 6.01	Departs From Ordinance
Min. Lot Area	40,000 sf	7475 sf	6614 sf	31932 sf	22236 sf	23785 sf	YES (2)
Min. Lot Width Corner (in feet)	120'				115.59		No
Min. Lot Width Interior (in feet)	100 feet		50.2	155.8		139.47	No
Min. Front Yard	25 feet	Demo. Is part of Application	69.6	30.9	62.50	30.9	No
Min. One Side Yd. /both	15'/40'	Demo. Is part of Application	0.4/3.2	12.7/45.2	15.00'/N/A	12.7'/29.38'	YES (2)
Min. Rear Yd.	25 feet	Demo. Is part of Application	1.6	50.9	26.91	50.9	No
Max. % Lot Coverage	50 %	98.7	98.0%	97.0%	77.2%	83.2%	YES (2)
Max. Bldg. Height	35' /2.5 sty.	Demo. Is part of Application	1 sty.	1 sty.	1 sty./18-10"	1 sty./20'	No
Max. F.A.R.	0.15	Demo. Is part of Application	0.36	0.15	0.135	0.198	YES (1)
<b>SITE PLAN</b>							
Description	Required C-1	*Exist Lot 4	**Exist Lot 5	**Exist Lot 6	Proposed Lot 4.01 (7-11)	Proposed Lot 6.01	Departs From Ordinance
Parking Stall size	9.5' x 18'				9.5 x 18'	9.5 x 18'	No
Number of Stalls (4.01)	12				18	N/A	No
Number of Stalls (6.01)	16				N/A	21	No

Description	Required C-1	*Exist Lot 4	**Exist Lot 5	**Exist Lot 6	Proposed Lot 4.01 (7-11)	Proposed Lot 6.01	Departs From Ordinance
Residential line Buffer/Conserv. Esmt 126-332	50 feet plus building setback				None	None	YES (2)
Parking or driveways located in the minimum Front Yd. area 126-171C, and 126-332	25 feet setback minimum				Violation	Violation	YES (2)
Driveway entrance/tangency 126-181C- Corner	50' from to tangent of curb rad.				88.57'	38.47'	YES (1)
Loading in Front Yd. & size	Not Permitted 12' x 50'				0	0	YES (1)
Driveway entrance to side property 126-181D-	10' to prop. line. (Board can permit shared parking)				5'	0' ; 2.88'	YES (3)
Parking or drive to side Property line	10' to prop. line				2.75' abutting Lot 3	2.88'	YES (2)
Clear distance between two driveways 126-181F	100 ft				>100'	70.66'	YES (1)
Drive width + maintained 126-183	25' -20' into lot				<25'	>25'	YES (1)
Lighting 126-190K parking lot	Average= 1.5 fc				3.06 fc	>3.06 fc at prop. line. Not compliant	YES (2)
Lighting 126-190K Max at Prop. line	1.0 fc; (in residential areas- 0.6)				9.0 fc between lots Other- 0.9)	9.0 fc between lots Other- 0.9)	YES, (2) between lots
Lighting 126-190C Apex	<150°				90°	Not Compliant	Yes(1)
Limits on Lighting 126-160B	Lights are to be reduced at close of business, except security.				All lights proposed to be on from dusk to dawn.	Lights are proposed not to be regulated	Yes(2)
Street trees 126-191B.13c	8				NONE	NONE	Yes (2)
Landscape trees 126-191C	13 /7 to be deciduous				13/3 DECIDUOUS	NONE	Yes (2)
Trees in Parking Lot	5%				5%	0	Yes (1)
Landscaping: double row buffer trees 126-191D.2.b (200')	35 : 4.01 54 : 6.01 89 Total				5	NONE	Yes (1)
Buffer plants 126-191D.2.B2,	On Resid. Side 75% evergreen				5, not compliant	NONE	Yes (1)
Foundation Plantings 126-191C	109 : 4.01 120 : 6.01				97 provided	NONE	Yes (1)

Description	Required C-1	*Exist Lot 4	**Exist Lot 5	**Exist Lot 6	Proposed Lot 4.01 (7-11)	Proposed Lot 6.01	Departs From Ordinance
Maximum Fence Height	6 feet				6'	NONE	No
Sign advertising business not on property	Not Permitted (use similar to billboard)				Sign advertises lot 6.01	NONE	Yes (1)
Total Building Façade sign 5% 126-195.D.1	100 s.f. or 5% which is less. (one per side facing street)				88 s.f. 3 signs for two streets	One Sign for one street	Yes (1)
Freestanding signs per lot	One permitted per lot				Three, including oversize and placement of directional.	One	YES (2) — one of which advertises off prem. activities
Free Standing Sign Height	25' but less than building				Bldg. = 18'10" Two Signs = 25' & 20'	Bldg = 20' Sign = 16'	YES (2)
Free Standing Sign Setback	25-75 sf = 25' setback				5' for one; 10' for one	3.7'	Yes (3)
Sign Setback 126-195(F) 11a for 50 sf sign-not in triangle	20 feet on Main and 25 feet on Finderne				5' setback (Main) and 10' setback (Finderne)	3.7'	Yes (3)
Façade Signage location	Cannot be above parapet.				Complies	Does not Comply	Yes (1)

\*Owner: 39-43 Finderne Ave, LLC  
 \*\*Owner: Finderne Ave, LLC

Planner Kyle discussed the subdivision aspect of the application. From the Tax Assessor's point of view there are three lots; however, from a zoning point of view there are two parcels under the same ownership. Lots 4 and 5 can be sold separately. Proposed Lot 5.01 will consist of 23,785-sf and Lot 4.01 will consist of 22,236-sf. Significant landscaping is

proposed to replace existing pavement. A variance for f.a.r. is needed as .198 is proposed for Lot 6.01 where .15 is allowed. He stated that the service station use (Meineke) will remain.

Planner Kyle stated that the site will accommodate the increased floor area for Lot 6.01 of 4.8%. Special reasons include a, g, h and i. The total f.a.r. increase is 589-sf for the two lots together, which is relatively diminimis, 1.8% overall. The site is still useful for automotive service station without fuel pumps at this location. He discussed the negative criteria stating that the existing conditions will be improved with the decrease in improved lot coverage. The use is not being intensified. Only the lot area is being reduced.

Planner Kyle discussed the various bulk variances and provided special reasons and negative criteria for each variance as listed in the chart inserted into these minutes from Planner Doyle's report dated 7/11/13.

Planner Kyle stated that the use is particularly well suited for the property. He stated that there will not be a substantial detriment to the public good nor will there be a substantial impairment to the intent and purpose of the zone plan and zoning ordinance.

Planner Kyle stated that the circulation around the Meineke building is an existing condition. It is not being created by this application.

Board Planner Doyle stated that in 2001 the Board approved a car rental use; however, the applicant never returned to the Board for site plan approval, but the site was improved with the car rental anyway. Planner Doyle stated that the lights should be shut off at the close of business. Planner Kyle stated the 7-Eleven never closes and will be open 24-hours per day and 7-days per week.

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Chairman Vornehm called for a short recess at 9:30 pm and called the meeting back to order at 9:35 pm on the following roll call:

Don Sweeney – present	Lee Schapiro – present
Paul Riga – present	Carl Schulz – <b>absent</b>
Evans Humenick – present	Pushpavati Amin – present
Bill Vornehm – present	Michael Kirsh, Alt. #1 – present
Beth Powers, Alt. #2 – <b>absent</b>	Alan Fross, Alt. #3 – present
Roger Pearly, Alt. #4 – present	

Others present: Attorney Lawrence A. Vastola, Land Use Administrator Marie L. Broughman, Board Planner Scarlett Doyle

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Members of the public were present as follows:

Mike Farnham, 36 Finderne Avenue, addressed concerns regarding deliveries being made in the middle of the night and additional traffic. He spoke in opposition to the application stating the lot is too small, too many variances are needed, noisy bread deliveries at 3:00 am, and he

stated that the convenience store will become a destination after 11:00 pm as it will be the only store that is open in the area.

John Veneroso, 595 Bridgewater Avenue, addressed concerns regarding additional traffic and safety, garbage pickup at the site, the proposed f.a.r. 4.8% above what is allowed in the zone, and the increase in the proposed lighting. He spoke in opposition to the application stating the site will increase traffic and accidents. He stated that there are existing conveniences stores close by.

Anthony Benedetti, representing McCarthy's Bar & Grill, requested that the proposed fence between McCarthy's and 7-Eleven should end at the front yard setback. In addition, he requested that the finished side of the fence face McCarthy's. Planner Kyle agreed to accommodate both of Mr. Benedetti's requests.

Virginia Schrum, 126 Morgan Place, addressed concerns with deliveries made by tractor trailers, requested muted building materials, pedestrian traffic, and pedestrian safety. She requested that the new building should be built to meet current code.

Kerry Anne Jardine, 614 Second Street, addressed concerns regarding light spillage beyond the 7-Eleven site, the number of requested variances, and the vacant Meineke building. She spoke in opposition to the application due to the increased traffic, increased accidents, loitering, and increased crime with 24-hour operation. She addressed concerns regarding her quality of life and character of the neighborhood.

Jeff Lichtman, Manager of Burger King, spoke in opposition to the application and addressed concerns regarding residential foot traffic in addition to the added vehicular traffic.

Attorney Tuel summarized the application and he urged the Board to vote in favor of the application.

Board Attorney Vastola confirmed that the Board can't deny based on traffic, as the use is permitted in the zone. In addition, the Board can't limit the 24/7 operation. The reason the application is before the Zoning Board of Adjustment is that a variance is needed for floor area ratio (f.a.r.).

The Board deliberated and expressed concern with store deliveries occurring in front of the store in the parking lot while requesting a variance from provide a required loading dock, the proposed site is too small for the proposed use and too many variances and waivers are needed, the proposed use is too intense for the size and location of the property, and that the existing impervious coverage improvements were done years ago without filing an application for site plan which was a requirement of the 2001 use variance approval. Those in favor of the application agreed that the proposed development would visually improve the site over the existing conditions.



Motion by Mr. Sweeney, second by Mr. Schapiro, the Board DENIED the 7-Eleven application # 13-001-ZB Preliminary and Final Major Site Plan with variances & Major Subdivision which carried on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mr. Schapiro, Mr. Riga, Mr. Humenick,  
Mr. Kirsh  
OPPOSED: Mrs. Amin, Chairman Vornehm  
ABSENT: Mr. Schulz, Mrs. Powers  
NOT ELIGIBLE: Mr. Fross, Mr. Pearly

The Applicant folded exhibits A-7, A-8 and A-9 and gave them to the Board Clerk with the remaining exhibits A-1 through A-6 mounted on foam boards before leaving the courtroom.

**MEETING OPEN TO THE PUBLIC:**

There were no members of the public wishing to address the Board on any matter not listed on the agenda.

**OTHER BOARD BUSINESS:**

There was no other Board business.

**ADJOURNMENT:**

It was the consensus of the Board to adjourn the meeting at approximately 11:00 pm.

Respectfully submitted,  
Marie L. Broughman  
Land Use Administrator  
& Zoning Officer