

**BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Tuesday, November 19, 2013
—MINUTES—**

CALL MEETING TO ORDER:

Chairman Vornehm called the meeting to order at 7:31 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 – absent	Lee Schapiro – present
Paul Riga – present	Carl Schulz – absent
Evans Humenick – present	Pushpavati Amin – present
Bill Vornehm – present	Michael Kirsh, Alt. #1 – present
Beth Powers, Alt. #2 – present	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

MINUTES FOR APPROVAL:

September 24, 2013, Regular Meeting – Motion by Mrs. Amin, second by Mr. Schapiro, the foregoing minutes were adopted as amended on the following roll call vote:

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

October 1, 2013, Regular Meeting – Motion by Mrs. Amin, second by Mr. Schapiro, the foregoing minutes were adopted as presented on the following roll call vote:

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

October 15, 2013, Regular Meeting & Executive Session Minutes – Motion by Mr. Schapiro, second by Mr. Kirsh, the foregoing minutes were adopted as presented on the following roll call vote:

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

MEMORIALIZING RESOLUTIONS:

7-ELEVEN - FINDERNE AVENUE & EAST MAIN STREET (pending)

Block 315 Lots 4, 5 & 6

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

DECISION: Denied 10/1/13

Eligible to vote: Mr. Sweeney, Mr. Schapiro, Mr. Riga, Mr. Humenick, Mrs. Amin, Mr. Kirsh, Chairman Vornehm

The foregoing resolution of memorialization will be presented for Board consideration when completed. No action was taken.

HEARING AND DELIBERATIONS:

WAWA INC. - ROUTE 28 & CHIMNEY ROCK ROAD

Block 257 Lot 3 & 4

#13-010-ZB Preliminary & Final Major Site Plan w/Variations

Time: 120=11/23/13

Attorney Timothy Prime was present to represent the Applicant. Sworn testimony was presented by Site Engineer Ronald Klos, PE of Bohler Engineering; Traffic Engineer Elizabeth Dolan, PE; and Professional Planner Paul A. Phillips.

The Applicant submitted an exhibit which was marked into evidence as follows:

A-8 11/19/13 Revised lighting plan, dated 11/19/13

During the hearing references were made to the following exhibits which were previously submitted on 9/24/13:

A-5 Agreement between Applicant and Railroad

A-6 Rendering of Delivery Truck Turning, dated 9/23/13

A-7 Rendering of Fueling Truck Delivery, dated 9/23/13

Attorney Prime summarized the application stating that the property fronts on Route 28 and Chimney Rock Road and it is located in the M-1A Manufacturing zone. Light industrial use exists on the property. A d(1) Use variance was granted by the Zoning Board of Adjustment on 7/5/11.

Since then, the Applicant has obtained a License Agreement with an easement to cross over the railroad, exhibit A-5. The Applicant is proposing a 5,580-sf convenience store with fueling stations.

Site Engineer Klos referenced exhibit A-8 and discussed the modifications to reduce the lighting on the fuel island canopy. A 15% reduction included removing the center row of lights and reducing the average foot candles, which has not yet been reviewed by the Board Professionals. He stated that the ordinance does not discuss canopy lighting requirements. Board Planner Doyle stated that the ordinance requires an average limit across the property and the proposed canopy lighting does not comply with the ordinance. A 1.5-foot candle average is required throughout the parking lots where 2.99-ft candles is proposed and 3.25-ft candles was previously proposed. The average of the parking area at the intersection is 3.06-ft candles where 1.5-ft candles is allowed at the property line with 5.7-ft candles proposed.

Traffic Expert Elizabeth Dolan, PE stated that she had met with the Sergeant Schimp of Bridgewater Police Department and Thomas J. Forsythe, PE of the Bridgewater Engineering Department to discuss concerns regarding a left turn lane out of Wawa to travel west on Route 28 with particular attention to the peak hours. Traffic intending to turn onto Route 28 west should be directed onto Chimney Rock Road. The exit on Route 28 should force traffic east. Traffic Expert Dolan stated that as of 10/11/13, NJDOT has no maneuver limitations and a left turn onto Route 28 is okay. The County hasn't issued their response and they are waiting for the response from NJDOT before commenting. Engineer Dolan stated that this is an open issue and she suggested that full movement should be approved and as a condition of approval within 6-months of receiving a certificate of occupancy, a cooperative traffic study would be conducted with the Police Department.

Board Attorney Vastola stated that NJDOT controls the movements on NJ State Highways and the Board can't override the NJDOT.

Traffic Engineer Dolan stated that in accordance with the request of Sergeant Schimp the Police Department comments can be sent to the NJDOT with the resubmission. The Municipality has 30-days to submit comments to NJDOT; however, Engineer Dolan agreed to submit the Police comments.

Professional Planner Paul Phillips stated that he was the presenting planner for the 2011 use variance approval. He summarized the application stating the property is consists of 2.4-acres with frontage on Route 28 and Chimney Rock Road. The C-1 zone is adjacent to the property; however, the property is in the M-1A zone with a few residential properties to the south and across Chimney Rock Road. Planner Phillips discussed the impact on the public good stating green space on the property will be significantly increased as existing impervious coverage is 92.85% where 64.54% is proposed and a maximum of 60% is allowed. The adjacent C-1 zone allows 70% improved lot coverage. He stated that there is a significant decrease in the existing impervious coverage, although a variance is still required.

Planner Phillips discussed the impact on the zone plan and zone ordinance. The M-1A zone requires 5-acres were 2.4-acres is proposed. The canopy location requires a front yard setback variance as 53.4-ft is proposed and 100-ft is required; however, the existing setback is 15.4-ft. No foundation

plantings are proposed due to the proposed open area of sidewalk for ADA for no 'trip and fall' reasons. The loading zone location is proposed in the side yard with the remaining three sides of the building surrounded by parking. He concluded that there is no substantial detriment to the public good. Planner Phillips discussed the off street parking noting there are no parking spaces within the 100-ft setback, but the fueling positions are within the 100-ft setback. If a variance is needed it could be granted without any substantial detriment to the zone plan and zone ordinance.

Planner Phillips stated that the application was bifurcated, with use variance approval in 2011. At that time a conceptual plan was presented which was not fully engineered. The use variance in addition to a variance for lot area was granted, but no other bulk variances were granted. Attorney Vastola stated that a 5,025-sf building was presented for the concept plan where a 5,585-sf building is proposed for the Site Plan. Planner Phillips stated that there were no conditions that the concept plan represented the actual building; therefore, there is no need to go back to amend the prior approval for the use variance.

Planner Phillips stated the lighting is concentrated under the canopy, the entrances and at the railroad, which is not a significant impact on the zone plan or zone ordinance.

Engineer Klos stated that variances are needed for the lighting intensity at the canopy and railroad; however, the remainder of the site lighting meets the ordinance. This is typical for canopy lighting and it is not out of character for this type of use. In addition, there are no contiguous residential properties.

Planner Doyle stated that the foot candles of the canopy lighting is too high and the site operates 24-hours per day, 7-days per week. Planner Phillips stated that he feels the 100-ft setback in the M-1A zone was not meant for canopies, only buildings. Planner Phillips stated the area is intensely commercial; however, there are no other 24/7 stores in this area and the use variance has already been granted.

Planner Phillips agreed to work with Board Planner Doyle regarding supplemental landscaping and avoidance of invasive species.

Members of the public were present as follows:

Glen Hansen, 684 Kline Place, expressed concerns regarding the proposed five lanes of traffic on Route 28 including two eastward bound lanes, two westward bound lanes, and one turning lane.

Lucy Singura, 536 Union Avenue, stated that Route 28 and Chimney Rock is the most dangerous intersection. She stated that she will review the traffic study prepared by Dolan & Dean and exhibits A-6 and A-7 regarding truck turning radiuses and movements.

Mike Duplak, 126 North Auten in Somerville, addressed concerns regarding the proposed left turn slot into the site from Route 28.

Carol Patulla, 437 Foothill Road, requested truck movements in from Chimney Rock. She addressed safety concerns. Traffic Engineer Dolan stated that the left out onto Route 28 will be a self policing issue as it will not be available during peak hours due to the amount of traffic present.

Attorney Ben Wetzel of Francis Linnus' office was present to represent his clients Dennis and David McFarland. He referenced the Traffic Impact Analysis Report dated 3/20/13 and discussed various movements during peak and nonpeak hours. In addition, he questioned why some of the eighteen variances couldn't be reduced. Planner Phillips stated the M-1A zone standards are not made for this fuel/convenience store use. The improved lot coverage (ILC) is a c(2) variance; however, the site currently has an ILC of 90% which is being reduced to 64.5% where a maximum of 60% is permitted in the M-1A zone. Adequate parking for Wawa is needed especially during peak periods.

Kevin McFarland, business owner at 555 Union Avenue, confirmed that he is not being represented by Attorney Wetzel. He addressed concerns with the increase in the size of the building from 5,025-sf in the concept plan to the 5,585-sf proposed in this site plan and he address concerns regarding the number of proposed parking spaces in relation to the variance required for improved lot coverage.

Attorney Prime urged the Board to vote in favor of the application. He stated that Municipal Land Use Law allows for conditional approvals and if the NJDOT restricts the left out onto Route 28, then the Application would have to return to the Board; however, if the NJDOT does not restrict the left out, it would be a done deal.

The Board deliberated and decided to hold off on closing the public portion of the hearing and wait until the Applicant obtains outside agency approval for access permits from the NJDOT and County. Attorney Prime reserved the right to present additional testimony.

Mr. Schapiro made motion to table/continue the official vote on the application to a date uncertain, with new notice required, until the Applicant receives NJDOT and Somerset County approvals for access permits to Route 28 and Chimney Rock Road, which was seconded by Mrs. Amin and carried on the following roll call vote:

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

Attorney Tim Prime granted the Board an extension for time to act through 3/31/14. In addition, Attorney Prime stated that he would provide the extension of time in writing and provide it to Land Use Administrator Marie L. Broughman next business day.

PEOPLECARE CENTER - 120 Finderne Ave.
Block 254, Lot 10
13-023-ZB, – Bulk Variance (Free Standing Sign Setback and Size of Sign)
Time: 120=2/14/13

Attorney Marsha Polgar Zalewski was present to represent the Applicant. Sworn testimony was presented by Executive Director Marie Hughes.

The Applicant did not submit any exhibits.

Applicant Marie Hughes summarized the application stating that the property is known as Lot 10 in Block 254 of the Tax Map, located on the easterly side of FINDERNE Avenue in the R-10 Single-Family Zone and commonly known as 120 FINDERNE Avenue. The subject property consists of a tract of land having an area of 180,805 S.F. It is fully improved and functions as the site of applicant's activities. The existing use is not permitted in the R-10 Zone. The Applicant has previously received variances allowing the current use. This matter involves only a freestanding sign proposed by the Applicant. The proposed sign would be an expansion of this nonconforming use requiring a variance. In addition to the requested variances for the use and size of the sign, applicant also appealed a determination of the Zoning Officer. This appeal, however, was abandoned at the hearing.

Applicant Marie Hughes testified that the proposed sign will be 8 feet by 4 feet located between two pillars constructed of brick. The height of the sign will be 6 feet. The sign is proposed to be located 10 feet from the easterly sideline of FINDERNE Avenue. She stated that the sign is needed to aid in directing drivers to the site. Her experience is that drivers coming to the site identify it too late to make a safe entry. The ordinance limits sign area to 30 S.F. with a setback of 25 feet. The Applicant proposes a total of 40.2 S.F, which includes the pillars. While the sign is proposed to be located 10 feet from the front line of the property it will be 21 feet from the curb line. The building at the location of the proposed sign is set back 35 feet from the front line of the property. FINDERNE Avenue is a heavily traveled roadway and for safety reasons there should be a sign to clearly identify the property.

The Board deliberated and is satisfied that the proposed sign meets this requirement and that the proposed location is best suited. While the proposal is the expansion of a nonconforming use, it is justified and necessary for the proper identification of this site. The Board concludes that the requested variances shall be granted and that the granting thereof will not substantially impair the zone plan or land use ordinance or be a substantial detriment to the welfare of the residents of the Township of Bridgewater. Conditions include:

- Applicant to revise plans to include the sign and supports totaling 40.2-sf
- Applicant shall submit a Compliance Report prior to the plans being signed and issuance of construction permits

Motion by Mrs. Amin, second by Mr. Kirsh, the PEOPLECARE CENTER - 120 FINDERNE Ave. Block 254, Lot 10, # 13-023-ZB, – Bulk Variance (Free Standing Sign Setback and Size of Sign) application was APPROVED with conditions on the following roll call vote:

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

ABSENT: Mr. Sweeney, Mr. Schulz

NOT ELIGIBLE: Mr. Fross, Mr. Pearly

MEETING OPEN TO THE PUBLIC:

A member of the public addressed the Board on a matter not listed on the agenda:
Lucy Singura, 536 Union Ave., stated that Route 28 which is in Somerset and Union Counties is listed as the 10th most dangerous road in New Jersey as per the Bridgewater Patch. Ms. Singura stated that she has been a resident in Bridgewater for over 30-years and has seen many changes to the traffic patterns as a result of development projects in Bridgewater including the Promenade, which does not allow a left turn onto Route 28. She stated that the Board is responsible to the residents and for the public good. She urged the Board to enhance traffic safety in the Finderne community.

OTHER BOARD BUSINESS:

There was no other business discussed.

ADJOURNMENT:

It was the consensus of the Board to adjourn the meeting at approximately 10:00 pm.

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