

**BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Tuesday, November 26, 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	Lee Schapiro – present
Paul Riga – absent	Carl Schulz – absent
Evans Humenick – absent	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, Board Planner Scarlett Doyle, Acting Recording Secretary Patricia Bueno

MINUTES FOR APPROVAL:

November 19, 2013, Regular Meeting– The foregoing minutes will be presented for Board consideration when completed. No action was taken.

MEMORIALIZING RESOLUTIONS:

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
DECISION: Denied 10/1/13

Motion by Mr. Schapiro, second by Mr. Sweeney, the foregoing resolution memorializing the denial on 11/19/13 was adopted as presented on the following roll call vote:

AFFIRMATIVE:	Mr. Sweeney, Mr. Schapiro, Mr. Humenick, Mr. Kirsh, Mrs. Powers
ABSENT:	Mr. Riga, Mr. Schulz

NOT ELIGIBLE: Mrs. Amin, Mr. Fross, Mr. Pearly,
Chairman Vornehm

PEOPLECARE CENTER – 120 FINDERNE AVE.
Block 254, Lot 10
13-023-ZB, – Bulk Variance (Sign Setback and Sign s.f.)
DECISION: Approved w/conds 11/19/13

Motion by Mrs. Amin, second by Mr. Schapiro, the foregoing resolution memorializing the approval on 11/19/13 was adopted as presented on the following roll call vote:

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

HEARING AND DELIBERATIONS:

BOCCANFUSO - 446 Shasta Drive
Block 508 Lot 13.01
#13-019-ZB Bulk Variances (new dwelling/vacant lot)
Carried from 8/20/13, 9/17/13
TIME: 120="11/6/13"

Attorney Robert Foley was present to represent the applicant. Attorney Foley summarized the application providing a description of the property including its location in R-10A zone adding that this specific parcel is an undersized lot. The applicant is requesting Board consideration for several bulk variances to build a house on this lot as well as a F.A.R. variance.

Attorney Foley introduced the applicant's Licensed Appraiser Joseph Baxter to the Board. Appraiser Baxter provided his credentials to the Board under the capacity of Professional Planner, Licensed Appraiser, and Certified Tax Assessor. Professional Baxter's credentials were accepted by the Board and he was sworn in by Chairman Vornehm to provide testimony on his client's behalf.

Appraiser Baxter was requested to appraise the property of 446 Shasta Drive (block 508, Lot 13.0) by the applicant as a ready to go building lot. Mr. Baxter inspected the property by walking it and taking photographs, he reviewed the survey and did work on site to understand this specific property. Mr. Baxter was able to locate three separate sales in the area that he thought were comparable to the applicant's parcel.

Attorney Foley submitted a copy of the appraisal which was marked into evidence and as **Exhibit A-1**.

Mr. Baxter referred to **Exhibit A-1** and provided testimony that three properties in the neighborhood comparable in sales value to the applicant's lot. The lots described in comparison are 93 Pearl Street, 185 Oak Street, and 8 Andover Avenue as referred to in **Exhibit A-1**.

Board member Sweeney mentioned that two out of three of the comparable lots are considerably larger than the lot in question.

Board member Kirsh asked if the Tax Assessor would utilize the same methodology that was utilized for Mr. Baxter's appraisal process. Mr. Baxter agreed that is correct.

Board Attorney Vastola discussed comparison to the Pearl Street process and asked Mr. Baxter to take into consideration the front yard footage since a 50 ft lot cannot be analyzed to a 100 ft. property frontage.

Chairman Vornehm opened this portion of the meeting to the public for questions to this witness.

Attorney John Lanza, his client's the Singh's own the neighboring property. Attorney Lanza asked Appraiser Baxter if during the appraisal process did he notate that the property is on a dead end lot confirming a barrier wall extends the length of the property on the southwest side. Mr. Baxter agreed. Attorney Lanza asked how many of the comparable properties have a barrier wall. Appraiser Baxter stated that no comparable properties have a barrier wall.

Attorney Foley introduced Licensed Professional Planner Peter Vandenkooy as the applicant's Planner. The Board accepted the credentials of Planner Vanderkooy and he was sworn in by Chairman Vornehm. Attorney Foley submitted into evidence **Exhibit A-2** which consisted of four pages, six photos, and one map depicting the applicant's property and neighboring parcels.

Professional Planner Vanderkooy referred to **Exhibit A-2** as including picture number three which was taken from the applicant's property looking north into lot number 11. Planner Vanderkooy stated that the red line refers to the property line between the two properties. Photo number 4 was taken from the same location on the applicant's property slightly facing a northeasterly direction toward lot number 11. Photo number 5 is taken from the northwestern corner of the applicant's property facing a northeasterly direction into adjacent lot 11. Photo number 6 is taken from the eastern portion of the right of way of Shasta Drive, Photo number 7 is from a vantage point from an eastern right of way of Shasta Drive looking easterly into applicants property, Photo 8 is taken from near the easterly location of the applicant's property toward the westerly area of that property.

Attorney Foley asked the Planner to discuss the variances being requested of the Board by the applicant. Planner Vanderkooy stated that there are four variances that are required which are two C-1 hardship Variances, third a C-2 variance for side yard setback and the fourth being a D-4 which is a floor area ratio (F.A.R.). He discussed positive criteria supporting the applicant's request for the F.A.R. variance and added that the site has a Rte. 287 sound wall and a sewer easement. These two

items hinder the applicant's ability to comply since the two items cannot be relocated. The two constraints are significant and create a hardship to the applicant regarding building a new home.

Planner Mr. Vanderkooy stated that this proposal continue the pattern of the land use discussed in the 2008 re-examination report and maintains the established scale. The proposal maintains the character of the neighborhood. Planner Vanderkooy stated that the 2011 re-examination report provides a basis for this application.

Township Planner Doyle discussed maintaining character in the neighborhood and asked that Planner Vandekooy refer to the certified owner list regarding lot sizes. Properties discussed included the Home for Temporarily Displaced Children which may have fourteen units increasing the density in the neighborhood. Lots 5, 6, & 7 were used as comparison and are owned by a family that lives in Eastern Pennsylvania. The testimony confirmed that the subject property is not located in a strict residential only style neighborhood.

Attorney Lanza the attorney for the adjoining neighbor, discussed the lot adjacent and to the north of the applicant's property on the corner of Fourth Street and Shasta Drive, the Singh's property complies with the F.A.R. and the applicant's property with the proposed building does not comply with F.A.R. Attorney Lanza discussed the sideline setback and stated that if the building was smaller the applicant can bring the plans into compliance with the side yard setback. Applicant's Planner Vanderkooy agreed this to be correct.

The applicant, Brian Boccanfuso discussed the adjustments made to the site plan were done to be proactive, prior to the second meeting with the Board, to bring the site plan closer to or in compliance with the required setbacks. The applicant stated that he met with the Bridgewater Township Tax Assessor to confirm that the measurement is done from the exterior of the exterior walls.

Applicant Boccanfuso stated that they also added a swale to the northerly side of the property to ensure the water runoff would be toward the front (westerly side) of property line which is consistent with the existing conditions.

Chairman Vornehm opened the meeting to the Board for questions to this witness. There were no further questions at this time.

Board Attorney Vastola stated the law for an isolated vacant lot is that the applicant has to offer the adjoining property owner a lot for sale at a fair market price as a building lot or to request a portion of the neighboring lot in order to make the lot conforming. Board Attorney Vastola said this principle does not apply as it pertains to a vacant lot because the owner of the adjoining property is already developed. Board Attorney Vastola referenced the case of Davies vs. Karpf in which he added that in all his years of being the Township Zoning Board Attorney, he has never seen this specific situation. Board Attorney Vastola stated the Board cannot base its decision on whether an agreement of sale is met. The element of proof, as there was no transaction of a portion of the property met, may support in proving hardship for the client.

Mr. & Mrs. Singh's Attorney, John R. Lanza addresses the primary objection is the floor ratio, the variance, and the sideline variance. Mr. Lanza's clients concern is that a 1700 sq. ft. house would be in the character of the neighborhood. Mr. Lanza states that there are small lots and there are only two properties in this location. Mr. Lanza requests that the Board take into consideration the laws put into place by the Township and now he wants to make the house larger rather than taking into consideration buffering the Singh's property as the applicant is requesting a house that is oversized for the lot that he has.

Attorney Foley is requesting on behalf of the applicant the Board allow for his client to build a house that is slightly larger adding that in this day and age it would be easily outgrown. He refers to a couple of the houses in the neighborhood being only 800 to 1000 sq. ft. adding that the size of the house does not look out of place in the neighborhood.

The Board deliberated.

Motion by Mr. Sweeney, second by Mrs. Amin, the Boccanfuso F.A.R. application, Block 508, Lot13.01 was approved with conditions as discussed on 11/26/13 was adopted as presented on the following roll call vote:

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

Motion by Mr. Sweeney, second by Mrs. Amin, the foregoing site plan aspects of the Boccanfuso application, block 508, Lot13.01 application was approved as presented on 11/26/13 was adopted with conditions as discussed on the following roll call vote:

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

CIFELLI – 459 Milltown Road
Block 168 Lots 28 & 29
#13-011-ZB, Prelim & Final Site Plan w/d-variance & c-variances
(Storage building to enclose construction equipment)
Time: 120=1/10/14

Attorney Paul Sant'Ambrogio was present to represent the applicant, Rosario and Anthony Cifelli. He provided a description of the locations as being a one family home and has been used by the Cifelli's

since they purchased the property for their business asserting the property has been used as a legal non-conforming use which lies in a P-2 zone. The applicant intends to erect a steel storage building on the property.

Attorney Sant' Ambrogio introduced the applicant Anthony Cifelli. Mr. Cifelli was sworn in by Chairman Vornehm to provide testimony to the Board. Mr. Cifelli provided information to the Board describing the traffic light installation business that he and his father operated for approximately twenty years. Mr. Cifelli stated that the property was purchased in 2006 from DL Hunt and prior to the purchase of the property he made inquiry with the Township Zoning Officer, Mr. Jones. Attorney Sant' Ambrogio refers to the letter provided to the applicant by Mr. Jones which was included in the package to the Board. Mr. Cifelli agreed with Attorney Sant' Ambrogio that because of the information provided in the letter that he received from the Township Zoning Officer regarding use, Mr. Cifelli moved forward to purchase the property located at 459 Milltown Road.

Mr. Cifelli's business consists of four employees. General operation includes the employees arrive on location in the morning to pick up tools and equipment for the day's work. At the end of that day they return to the location to return items. Mr. Cifelli added that deliveries are received once a month.

Attorney Sant' Ambrogio summarized that Mr. Cifelli would like to build a 45 x 70 steel storage unit. Mr. Cifelli added that this would be to house a larger portion of the equipment. He stated that the equipment is expensive and I would keep it safe as well as keep it from the elements.

Chairman Vornehm opened to the Board questions to the applicant.

Mr. Sweeney discussed the shed and the trailers behind the garage which as agreed by the applicant will be removed if necessary to move forward to erect the 45 x 70 steel storage unit.

Township Planner Doyle suggested the applicant bring to the Board Aerials from a site called www.historicaerials.com and suggested the applicant go to this site since the aerials go back in time to 1938.

Attorney Sant' Ambrogio referred to Mr. Fleischer's letter which was presented to the Board as **Exhibit A-1**. Attorney Sant' Ambrogio offered to have Mr. Fleischer come to the meeting to provide testimony should it be necessary. Mr. Fleischer's letter states that the previous owner utilized the property back in 1960 for the same use.

Attorney Sant' Ambrogio introduced the applicant's Licensed Professional Engineer, Licensed Professional Planner, and Licensed Land Surveyor Anthony Marucci. Mr. Marucci provided his credentials to the Board. Engineer Marucci's credentials were accepted by the Board. Chairman Vornehm swore in the Engineer Marucci to provide testimony on his client's behalf.

Engineer Marucci presented **Exhibit A-3** to the Board which consisted of a series of fourteen photos. The photographs depict what the site is currently used for today. The pictures depicted a triangular shaped parcel that fronts Milltown Road with the railroad located on westerly side. He added that the road itself makes a right angle turn which then turns to a single one lane under the railroad bridge.

Engineer Marucci referred to the property record card in the Tax Assessor's Office which indicates the dwelling was built in 1820 which was prior to zoning requirements. Engineer Marucci referred to a copy of the deed as well which showed the transfer which the previous owner's, the Hunts owned the property since 1962. The property record card was placed into evidence and marked at **Exhibit A-4**.

Engineer Marucci referred to the historic aerials he presented from 1979 and 1987.

Both aerials show the dwelling, the two car garage, and also the swimming pool. A number of vehicles are shown in the aerial map which indicates that the property has been used for this construction purpose since 1979.

Engineer Marucci discussed the layout of the proposed steels storage unit supporting the possibility to store about 5 trucks as well as some additional work materials. Engineer Marucci discussed the Township Engineer's report and discussed the Township working with the applicant regarding the proposed color.

The Engineer's report was discussed which included storm water management discussion in which Engineer Marucci stated that the applicant expects to use roof leaders and gutters around the building which will be directed toward the swale located in the rear of the property. Parking spaces will be included on the plan to clarify where parking is available on the lot. Engineer Marucci will be in contact with the Township Engineer to rectify any open items in his report. Engineer Marucci added that the site is buffered around all sides except the front of the property. Engineer Marucci stated that the plastics company across the street does not appear to be an acceptable P2 use, as well.

Planner Doyle discussed items related to unkempt properties in town and how the applicant would suggest the town approach this subject with future applications.

Attorney Sant' Ambrogio discussed the Planner's report. The applicant agreed to utilize the existing evergreen tree buffer along the property frontage to screen the trucks from passersby. Regarding outside storage, Engineer Marucci stated that there should be minimal outdoor storage. Engineer Marucci agreed that outside storage would be curtailed and stated that if the applicant is allowed to build the garage he believes there should be no need for outdoor storage of construction.

Board Attorney Vastola addressed the Board regarding the difficulty in proving validity of an existing non-conforming use.

Chairman Vornehm suggested to the applicant; that the Board will not be able to vote on this application tonight due to time constraint.

Chairman Vornehm recommended the topics of standard storm water management issues regarding leaders and gutters as well as the typical standard operating procedures regarding storm water management be addressed directly between the applicant and the Township Engineer.

Chairman Vornehm carried the hearing to 1/14/2014 with no further notice required.

MEETING OPEN TO THE PUBLIC:

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

OTHER BOARD BUSINESS:

There was no other business discussed.

ADJOURNMENT:

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

Respectfully submitted,
Patricia Bueno
Acting Board Recording Secretary