

BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Tuesday, February 25, 2014
—MINTUES—

CALL MEETING TO ORDER:

Chairman Vornehm called the meeting to order at 7:30 p.m. 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 15, 2014 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 – **absent**

Pushpavati Amin – present

Bill Vornehm – present

Alan Fross, Alt. #2 – present

James Weideli, Alt. #4 - present

Lee Schapiro – present

Evans Humenick – present

Michael Kirsh, – present

Beth Powers, Alt. #1 – present

Roger Pearly, Alt. #3 – present

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

MINUTES FOR APPROVAL:

November 26, 2013 Regular Meeting (*pending*) - The foregoing minutes will be presented for Board consideration when completed. No action was taken.

December 17, 2013 Regular Meeting (*pending*) - The foregoing minutes will be presented for Board consideration when completed. No action was taken.

January 14, 2014 Reorganization & Regular Meeting (*pending*) - The foregoing minutes will be presented for Board consideration when completed. No action was taken.

January 28, 2014 Regular Meeting (*pending*) - The foregoing minutes will be presented for Board consideration when completed. No action was taken.

MEMORIALIZING RESOLUTIONS:

LO PRESTI HOME, LLC – Chestnut Street
Block 149 Lot 2

#13-027-ZB, Preliminary & Final Major Subdivision w/variances

DECISION: Approved w/conds 2/4/14

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

Mrs. Amin made motion to approve the resolution of memorialization as amended which was seconded by Mr. Schapiro and carried on the following roll call vote:

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

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

HEARING AND DELIBERATIONS:

SUNOCO - 301 Country Club Road

Block 400 Lot 18

13-006-ZB Preliminary & Final Major Site Plan w/Variations

(Existing Sunoco Station Rebuild with Convenience Store)

Time: Extension to 3/1/14

Attorney Tim Prime was present to represent the Applicant. Sworn testimony was presented by Engineer Joe Jaworski, Planner John McDonough, and Sunoco Representative Laurie Pettengill.

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

A-12 2/25/14 Colored Rendering of Site Plan dated 12/13/13

Donna Casagrande, Objector, submitted exhibits which were marked into evidence as follows

O-1 2/25/14 Aerial Photo

O-2 2/25/14 Aerial Photo with other convenience stores: fast food and groceries

Attorney Prime stated that the plan has been revised since 12/3/13 including the propane racks shown on the site plan.

Engineer Joe Jaworski confirmed he remains under oath and he discussed exhibit A-12 noting changes to the 6-ft high board on board fence which is proposed 10-feet from the property line including landscaping on the neighbors side of the fence to screen the fence. The propane tanks are shown in the southeast corner of the property at 40-feet from the property line.

Chairman Vornehm opened the hearing to the Board members for questions.

The Board addressed concerns with a 3,159-sf convenience store with gas station being put in a location which requires 5-acres where only one acre is existing. The retaining wall would no longer be required.

Planner McDonough stated that the convenience store was reduced from 3,159-sf down to 2,955-sf. She stated that there is no functional benefit, but it does meet the need of the application and the intent of the zone plan.

Planner McDonough stated that the required 75-ft buffer with an additional 75-ft from residential properties would leave no building envelope. The thrust of his testimony was that the proposal would upgrade and modernize the site, emphasizing the elimination of the repair facility and improving traffic flow at the site. He also testified that in his opinion the following purposes of the Municipal Land Use Law as set forth in N.J.S.A. 40:55 D-2 would be advanced by the proposal, a, g, h, I and m.

Members of the public were present as follows:

James Paliani, 704 Riverside Ave. in Raritan Borough, expressed concerns regarding the proposed septic existing and grease traps. Engineer Jaworski stated the NJDEP has specific standards for convenience stores and gas stations and he stated that the property would have city water. Mr. Paliani objected to the proposed propane tank storage and sales.

Donna Casagrande, 315 Country Club Road, expressed concerns with safety including no crosswalks are proposed, no space for service truck parking, and dangerous multi street intersection. She submitted exhibits O-1 and O-2. The location of the building has insufficient buffers, lot size is too small which is in conflict with the Township Master Plan, entrance/exit headlight was on housed and the septic tank is proposed near the adjacent home owner's well water. Lastly, she expressed concerns with her quality of life with potential loitering, decrease home values and more potential accidents with the increase traffic and blind spots. She questioned Planner McDonough about other Sunoco's in the area. The Sunoco Ultra Service on Route 22 in Somerville is a smaller store and is not the Sunoco Plus brand as it is a significantly smaller building with no seating.

Jim Zakkour, 309 Country Club Road, stated that nobody asked him where his well is located. He addressed concerns regarding the building height, the number of proposed doors and the public restroom which will be located inside of the convenience store.

Sunoco Representative Laurie Pettengill stated that the fire hydrant will be installed. The CO2 tanks for the soda will be stored outside.

Karl Schwarz, 325 Country Club Road, expressed concerns regarding the proposed propane tank sale and exchange on the site.

Grace Latosky, 702 Riverside Rd of Raritan Borough, addressed concerns regarding the proposed propane tank sale and storage on the site. Ms. Pettengill stated that the rack will be locked and the employee will unlock and exchange the tanks.

Chairman Vornehm opened the meeting to the public, which no one spoke in favor of. Those who spoke in opposition were as follows:

James J. Paliani, 704 Riverside Ave Raritan Borough, stated that the size, 35-years ago, service it purpose and questioned how many conveniences stores are needed in the area. He stated they are shoving 5-lbs in a 1-lb envelope. Currently, the lights are on until 10:00 pm. He addressed concerns with the proposed size of the store and agreed a smaller store would be okay.

Grace Lotaski, 702 Riverside Ave Raritan Borough, spoke in opposition to the application. He addressed concerns with the absence of sidewalks leading to the site and the additional traffic to and from the site which is located at a dangerous intersection.

Dona Casagrande spoke in opposition to the application and addressed concerns regarding the dangerous intersection where the convenience store is proposed to be located.

Gary Casagrande, 315 Country Club Road, spoke in opposition to the application stating that the Sunoco folks did not ask the adjacent neighbor where his well is located. In addition he addressed concerns regarding his quality of life and possible loitering at convenience store. He referenced exhibit O-2 and discussed a recent accident at the intersection with an overturned car.

Jim Zakkour, 309 Country Club Road, spoke in opposition and address concerns of his house being reduced in price, Benzine fumes from the gas station which can cause cancer.

Carol DelAcruc, 1091 First Ave. Raritan Borough, spoke in opposition and she stated the property is located in a residential zone. She stated that the gas station is grandfathered; however, the Applicant should not be allowed to construct a convenience store which will encourage residents to hang out and the crime will increase in the area.\

Karl Schwarz, 325 Country Club Road, spoke in opposition. He stated that if one person is killed it will be on the Applicant's shoulders.

Janice DeVito, 710 Columbus Raritan Borough, spoke in opposition to the Application as it does not in keeping with the Township Master Plan.

Joe DeVito, 710 Columbus Raritan Borough, spoke in opposition to the application.

With no further comments from the public, Chairman Vornehm closed the public portion of the hearing.

Attorney Prim summarized the application urged the Board to approved the application. He stated the proposed signage was reduced 25%, the two fueling canopies were reduce to one, the building height is proposed at 18-ft while an office building can be four stories. Additionally he stated the site is particularly well suited and the negative criterion is without substantial detriment to the public good and zone plan. The property would be updated and modernize the facilities on the site. He said it does not make economic sense with the convenience store.

Board Attorney Vastola mentioned several legal cases and the Board deliberated. In the Board's view none of the purposes support the grant of a variance for a convenience store at this site. The ordinance has as its purpose stated by the applicant to lessen the impact of the nonresidential use on the residential zone. Allowing 15 feet where 150 feet is required is on its face unacceptable.

The denial of this variance will not deprive the residents of a convenience store, as further to the west on Route 28 there is a center which contains such a store. A convenience store does not promote the general welfare and the noise and traffic which it will produce will, in fact, be a substantial detriment to the public good. Sec. 126-332 clearly expresses the intent and purpose of the zone plan and zoning ordinance and the deviation requested by the applicant will substantially impair this intent and purpose.

Given the fact that the application for the required use variance is not being granted, the Board for the reason previously stated does not address the issues raised by the request for preliminary and final site plan approval.

Mr. Sweeney made motion to deny the d-variance, which was seconded by Mr. Schapiro and carried on the following roll call vote:

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

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:

Attorney Vastola mentioned that he is available on Saturday, March 1, 2014 for Board Members to update them on new case law. He will send an email to confirm.

Chairman Vornehm canceled the Zoning Board of Adjustment meeting for 3/4/14 due to lack of business and confirmed the next meeting is scheduled for 3/18/14.

ADJOURNMENT:

It was the consensus of the Board to adjourn the meeting at approximately 9:45 pm.

Respectfully submitted,
Marie L. Broughman
Land Use Administrator/Board Clerk