

BRIDGEWATER TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
Regular Virtual Online Meeting  
Tuesday, April 20<sup>th</sup>, 2021  
—MINUTES—

**1. CALL MEETING TO ORDER:**

Chairman Foose called the Virtual Online meeting to order at 7:30 pm.

**2. OPEN PUBLIC MEETING ANNOUNCEMENT:**

Both adequate and electronic notice of this meeting specifying the time, place and manner in which such notice was provided in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6, and recently enacted Emergency Remote Meeting Protocols for Local Public Bodies, N.J.A.C. 5:39-1, et seq. Specifically, on **January 13, 2021** 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 at the Municipal Building. Public meetings are held with participants at remote locations, connected by conferencing software provided by RingCentral.com. Members of the public are invited to attend and participate in live meetings either by using the RingCentral client, which allows audio and video participation, or by phoning into a meeting for audio only participation. The required access information is provided in the notice, as well as set forth on the agenda. The procedures and requirements for making public comment are as follows: Attendees are admitted to meetings via the waiting room and microphones are muted until enabled by the host. Members of the public may participate in meetings at certain designated times as announced by the Board Chair. Members of the public will be allowed to address applicants and their experts, ask questions and/or make comments as appropriate once recognized to do so. Attendees may request to be heard by 'raising a hand', either physically or virtually. Regulation of conduct by members of the public on the remote public meeting shall be consistent with law and practices followed if a member of the public disrupts an in-person meeting. Specifically, if a member of the public becomes disruptive during any period for public comment, the member of the public shall be muted and warned that continued disruption may result in him or her being prevented from speaking during the remote public meeting or removed from the remote public meeting. Disruptive conduct includes sustained inappropriate behaviors, such as, but not necessarily limited to, shouting, interruption, and use of profanity. A member of the public who continues to act in a disruptive manner after receiving a warning may be muted while other members of the public are allowed to proceed with their questions or comments. If time permits, the disruptive individual shall be allowed to speak after all other members of the public have been given the opportunity to make their comment. Should the person remain disruptive, the individual may be muted or kept on mute for the remainder of the remote public meeting, or removed from the remote public meeting. Please be aware of the Zoning Board of Adjustment policy for public hearings: No new applications will be heard after 10:00 pm and no new testimony will be taken after 10:15 pm.

**3. SALUTE TO FLAG:**

**4. ROLL CALL:**

Jeff Foose - present  
James Weideli - present  
John Fallone - **absent**  
Dawn Guttschall- **absent**  
Pushpavati Amin-present

Donald Sweeney -present  
Bruce Bongiorno-**absent**  
Kevin Wrobel - present  
Andrew Fresco -present  
Gary La Spisa - present

Others present: Board Attorney Mr. Steven Warner, Esq., Board Engineer Mr. William Burr, IV, PE., Board Planner Ms. Scarlett Doyle, PP., and Land Use Coordinator Ms. Zuzana Karas.

**5. MINUTE(S) FOR APPROVAL:**

**December 15<sup>th</sup>, 2020 Meeting Minutes:**

No changes were made.

The Chairman asked the Board for a motion to approve the December 15<sup>th</sup>, 2020 meeting minutes. A motion of approval was made by Mr. Weideli with a second by Mr. La Spisa.

**Roll Call Vote:**

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Sweeney, Ms. Amin, Mr. Fresco, and Mr. La Spisa.

ABSENT: Mr. Fallone and Ms. Guttschall.

ABSTAIN: Mr. Wrobel and Mr. Bongiorno.

DENIAL: None.

**January 19<sup>th</sup>, 2021 Meeting Minutes:**

No changes were made.

The Chairman asked the Board for a motion to approve the January 19<sup>th</sup>, 2021 meeting minutes. A motion of approval was made by Mr. Weideli with a second by Mr. La Spisa.

**Roll Call Vote:**

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Sweeney, Ms. Amin, Mr. Fresco, Mr. La Spisa, and Mr. Wrobel.

ABSENT: Mr. Fallone, Ms. Guttschall and Mr. Bongiorno.

ABSTAIN: None.

DENIAL: None.

**6. MEMORIALIZING RESOLUTIONS:**

**DIETER C. & SHARON R. PASEWALDT - 257 HOLLAND CT**

**Block 439 Lot 49**

**21-002-ZB- SIMPLE VARIANCE**

No changes were made.

The Chairman asked the Board for a motion to approve the resolution. A motion of approval was made by Mr. Weideli with a second by Ms. Amin.

**Roll Call Vote:**

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Sweeney, Ms. Amin, and Mr. Fresco.

ABSENT: Mr. Fallone and Ms. Guttschall.

ABSTAIN: Mr. La Spisa, Mr. Wrobel, and Mr. Bongiorno.

DENIAL: None.

**VFV PROPERTIES, INC. - GARFIELD AVENUE**

**Block 458 Lot 23**

**21-009-ZB- C-VARIANCE**

No changes were made.

The Chairman asked the Board for a motion to approve the resolution.

Motion of approval was made by Ms. Amin with a second by Mr. Weideli.

Roll Call Vote:

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Sweeney, Ms. Amin, and Mr. Fresco.

ABSENT: Mr. Fallone and Ms. Guttschall.

ABSTAIN: Mr. La Spisa, Mr. Wrobel, and Mr. Bongiorno.

DENIAL: None.

**7. MEETING OPEN TO THE PUBLIC:**

Members of the public wishing to make a comment to the Board on any matter not listed on the agenda were able to do so at that time. As noted, under the Municipal Land Use Law and case Law, any questions or comments about a pending application would have to be held until the hearing on that specific application.

No member of the public wished to address the Board.

**8. HEARING AND DELIBERATIONS:**

**ROBERT AND JAYNE SPENGLER - 1378 MT. VERNON ROAD**

**Block 652 Lot 33**

**21-006-ZB- BULK VARIANCE - SWIMMING POOL INSTALLATION IN BACK YARD**

Mr. Robert and Mrs. Jayne Spengler appeared before the Board seeking variance relief to construct an in-ground swimming pool and patio area in the rear yard of an existing single-family dwelling. The property in question is Block 652, Lot 33, on Bridgewater's Tax Map, more commonly known as 1378 Mount Vernon Road, Bridgewater, New Jersey. The applicants proposed constructing an in-ground pool with four hundred twenty-nine square feet of impervious coping around the pool and a patio with an additional thirty-two square foot concrete pad for the pool filter pad. There was no exterior lighting planned for the proposal. If any installation lighting occurs, it would only be "landscape" lighting and would not interfere with any neighboring properties.

The application was reviewed with the following documents: A Property Survey, dated September 31, 2015, prepared by Mr. Robert J. Templin, P.E., P.L.S., of Templin Engineering Associates, A Plot Plan, prepared by Mr. Robert J. Templin, P.E., P.L.S., dated August 20, 2020, A Key Map, prepared by Mr. Robert J. Templin, P.E., P.L.S., dated March 11, 2021, Application Form #3E and supporting documents, dated January 29, 2021, a joint report from the Township Planner, Ms. Scarlett Doyle, P.P., and the Township Engineer, Mr. William H. Burr, IV., P.E. dated April 9, 2021, and a memorandum with attachment prepared by Ms. Zuzana Karas, Township Zoning Official dated April 13, 2021.

The Township Planner, Scarlett Doyle, P.P., and the Board Engineer, William H. Burr, IV, P.E., were duly sworn according to law.

Mr. Robert Spengler, Esq., was duly sworn according to law and began his testimony by stating that he and his wife purchased this property in 2015, confirming the dwelling was built around 1954. Upon information and belief, at some point in the 1970s, Bridgewater Township rezoned the property to the R-50 zone, creating the required minimum lot area to be fifty thousand square feet, making this property having a lot area of only seventeen thousand seven square feet, a preexisting nonconforming lot. Before purchasing the property, the previous owners of the property improved the property to include, among other things, a front porch, a patio, walkways, and decking.

The applicants previously made an application to the Board, which was approved, for a mudroom off the rear of the dwelling. The mudroom was constructed in place of a previously existing patio, an impervious surface, which did not cause any increase/change to the amount of impervious coverage on the property.

The applicants proposed to reduce the area of their driveway and parking area, thus reducing the current impervious coverage on the lot from 41.13% to 36.02%, lessening the magnitude of the impervious coverage exceedance. This proposal is still above the 18% permitted impervious coverage as per ordinance.

Mr. Spengler informed the Board that he did speak with the neighboring property owners, Mr. Pedro and Mrs. Lisa Salgado, residing at 5 Rosewood Court, regarding the possibility of the applicants acquiring a portion of the Salgado property to create a more fully conforming lot.

Mr. Spengler stated that there is an existing retaining wall along the property line, approximately thirty-two feet long. With regards to stormwater drainage, Mr. Spengler advised the property does not have a problem with stormwater drainage. Upon Mr. Spengler's belief, the rear neighbor has installed a french drain to alleviate any potential stormwater drainage issues across the rear properties. Stormwater roof runoff from the roof of the dwelling drains underground. The brick patio that may currently encroach into the side yard setback would be remediated to be fully in compliance if it has not already been done.

In response to the Board's questions, Mr. Spengler confirmed they currently have well water and that the proposed pool filter would be near the already existing shed. If the pool filter should drip, it will flow into the drain in the back yard, not causing any stormwater impact on neighboring properties.

The applicants' engineer, Mr. Robert Templin, P.E., P.L.S., was duly sworn according to law and provided his qualifications, being accepted by the Board as an expert in civil engineering and a professional land surveyor. Mr. Templin testified that the area drains from the Washington Valley Road region in the northeast area of the property and across without causing any negative impact on the property or neighboring properties.

The applicants' proposal to remove part of the driveway/parking area would reduce the impervious surface on the property, which would ultimately benefit the neighborhood. The proposed pool would ultimately improve the property and would not be visible from either the street or neighboring properties. The applicants would provide a drainage plan and a variance compliance report if approved.

The applicants' professional planner, Jefferey Baldwin, P.P., was duly sworn according to law and provided his qualifications, being accepted by the Board as an expert in the field of professional planning. Mr. Baldwin testified to the unique characteristics of the property and the privacy of the backyard, which is currently surrounded by trees, fencing, and other vegetation. He confirmed that he did not see any signs of erosion based upon the property's inspection. Mr. Baldwin also testified that the reduction in impervious coverage on the property is an improvement, and the application does not substantially impair the intent and purpose of the Township's Master Plan and land development ordinances.

The Board, following deliberation, approved the application, subject to terms and conditions stipulated during the hearing.

Roll Call Vote:

Motion of approval was made by Mr. Weideli with a second by Ms. Amin.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Sweeney, Ms. Amin, Mr. Fresco, Mr. La Spisa, and Mr. Wrobel.

ABSENT: Mr. Fallone, Mr. Guttschall, and Mr. Bongiorno.

ABSTAIN: None

DENIAL: None

**TERRENO MIDDLEBROOK LLC - CHIMNEY ROCK ROAD AND ROUTE 22 (Carried from 3-16-21)**

**Block 356 Lot 1 & 3**  
**20-039-ZB- USE VARIANCE**

Mr. Osterman Esq., advised that, since the last hearing, he had discovered that the applicant had, indeed, satisfied all conditions of the 2017 approval. This included having to submit all required tenant change forms for the nine tenant changes that had taken place since the adoption of the 2017 approval. He further advised that they had recorded a copy of the 2017 approval with the Somerset County Clerk's Office, under the conditions of approval set forth. During questioning, Mr. Osterman confirmed that all tenant change forms had been reviewed and approved by both the prior and current Zoning Officer. The current Zoning Officer, Ms. Zuzana Karas, having been duly sworn according to law, confirmed that Mr. Osterman's statement was accurate.

Mr. Osterman further advised the Board that, since the prior hearing, the applicant was able to secure a new conforming tenant, Kaprica United Fencing Academy, to occupy a 5,324 square foot tenant space previously occupied a nonconforming use. He explained that, as such, the initial request for an increase of 22,000 square feet of a nonconforming use tenant space results in, effectively, only a net 16,676 square feet of additional nonconforming use space.

Mr. O' Laughlin, Vice President of Terreno Realty, having been previously sworn, provided an overview of the improvements made to the property since the applicant purchased it in 2010. He introduced into evidence a compendium of ten sheets consisting of photographs of the property taken in connection with the applicant's purchase of same.

Referencing Exhibit A-1, Mr. O'Laughlin testified that, since acquiring the property in 2010, the applicant had spent approximately eleven million dollars in capital improvements. He explained that the prior owners allowed the buildings to fall into disrepair and that the applicant had replaced leaking roofs, repaired potholes, removed old heating oil tanks, fixed the concrete block foundations that had cracked, repaired/replaced the loading docks, and replaced some of the existing HVAC equipment. Mr. O' Laughlin testified that the applicant spent over \$2.8 million to do the roof replacements, including the installation of insulation, and over \$2 million to improve the existing parking lot and provide an additional forty spaces. He further testified that the applicant had also upgraded the property by painting almost all of the buildings at a cost of more than \$300,000. Mr. O' Laughlin explained that the applicant had also put together a new signage program at a cost of more than \$125,000 to improve the property's imagine and make an attraction to potential conforming use tenants.

During questioning, Mr. O' Laughlin testified that the reason the applicant had made such significant investments into the property was to improve the functionality and attract new primarily conforming use tenants. He explained that the applicant had also worked with the existing tenants to improve their spaces. For example, the applicant had spent approximately \$300,000 to modify the height of the roof trusses in the space used by Hoop Heaven to conform with tournament requirements. He explained that the applicant had also refinished the parking area near Hoop Heaven's tenant space to allow the tenant to use the outdoor space during the pandemic.

During questioning as to what improvements had been made specifically to attract conforming use tenants, rather than nonconforming tenants, Mr. O' Laughlin testified that the parking lot expansion was done primarily because tenants with conforming uses require more parking than other uses. He explained that the applicant constructed a large parking area on the southern portion of the property to accommodate any increased parking demand. Mr. O' Laughlin further explained that the applicant had also improved the parking lot lighting by replacing the outdated dim lighting with new LED fixtures.

During questioning on the current conforming use tenants, Mr. O' Laughlin reminded the Board of the Hoop Heaven tenant space improvements. He explained that the applicant had made significant efforts to retain the existing five conforming recreation-use tenants, particularly since three of those tenants were having issues making rent payments during the pandemic. Mr. O' Laughlin testified that the applicant had deferred approximately \$160,000 of tenants' rent payments.

Mr. O' Laughlin testified that the applicant also makes significant improvements to tenant spaces once a tenant vacates the property. He introduced into evidence, as Exhibit A-2, photographs taken of the Hardcore Paintball tenant space in April of 2020. Referencing Exhibit A-2, Mr. O' Laughlin testified that the applicant had to repair significant damage to the back office, restrooms, kitchen/party spaces, floors, roof/ceiling, windows, and HVAC units caused by the prior use as a paintball arena. He explained that the repairs and renovations cost the applicant approximately \$60,000. Mr. O' Laughlin noted that the upgrades and improvements to the party spaces, bathrooms, and waiting areas were explicitly done to make the site more attractive to potential tenants.

Mr. O' Laughlin testified that the newest tenant, Kaprica United Fencing Academy, would reduce the total nonconforming use tenant space by 5,324 square feet. He explained that the applicant had also expanded the existing food bank tenant use by 3,600 square feet, which came from a nonconforming use tenant space. Mr. O' Laughlin did acknowledge that the food bank receives a discount on its rent.

During questioning, Mr. O' Laughlin testified that the applicant intends to continue working to attract conforming use tenants by making additional improvements and utilizing a targeted marketing campaign. He reminded the Board that the applicant also has an economic incentive to lease to conforming use tenants because conforming tenants are willing to pay more for the space per square foot. As to future improvements, Mr. O' Laughlin testified that the applicant intends to replace the roofs on two more buildings and paint the remaining four buildings. He further testified that the applicant is considering installing solar panels to reduce its overall impact on the environment.

Mr. O' Laughlin stipulated, on behalf of the applicant, to comply with all prior conditions of approval. He specifically stipulated to submitting a copy of the "rent roll" to the Township each January so that the Zoning Officer can reconcile with the tenant change forms ensuring that the applicant has complied with its requirements. During questioning as to the maintenance of the property, Mr. O' Laughlin testified that the applicant has a team of five employees that assist with the management of the property and that these employees are responsible for assisting tenants with maintenance, billing, and improvements.

Mr. O' Laughlin confirmed that the outdoor space provided by the applicant to Hoops Heaven was not included in the conforming use square footage. He further testified that the applicant has holdings aside from industrial parks, including office parks with innovative manufacturing, breweries, office and retail uses. Mr. O'Laughlin testified that the only vacant space on the property is the 22,000 square foot space associated with Building #2E that Hardcore Paintball had previously occupied. During questioning as to the landscaping, Mr. O' Laughlin testified that the applicant would ensure they were complying with the planting requirements outlined in the ordinance and the landscape comments outlined in the 2017 Approval.

Mr. Jeffrey Furey, former Managing Director at Transwestern, and now a Partner at Lee & Associates LLC was duly sworn according to law. Mr. Furey testified that he is the applicant's leasing agent and has been since September of 2010. He further testified that he has an office at the property and spends approximately thirty to forty hours per week marketing the site. Mr. Furey described his marketing techniques are geared toward obtaining conforming use tenants. He explained the requirements for a prospective tenant to be considered a "qualified" tenant, including the prospective tenant who has successfully run a business before, has a detailed business plan, and has sufficient financial resources. He also explained the applicant's desire for a single user

for Building 2E and a desire for a long lease term. Mr. Furey described some of the marketing materials he has prepared to attract new conforming tenants to the property.

During questioning, Mr. Furey testified that the applicant has made significant improvements to the property and opined that such modifications are necessary to attract the desired tenants. He explained that several potential tenants appreciate being able to move into the space without needing variance relief and making substantial renovations. Mr. Furey confirmed that the only interest in the available space from qualified prospective tenants has been from nonconforming uses, such as warehousing and manufacturing. Mr. Furey explained that Building #2E is 100 feet by 220 feet, and that the bathrooms and other amenities are located on one long end of the Building and the loading docks on the other long end, such that no tenant would lease a 50 foot by 220 foot space with offices and bathrooms 220 feet away from the loading docks. Mr. Furey again confirmed that he had not received any interest in the available space from any qualified conforming-use prospective tenants.

Having been previously sworn, Mr. Keenan Hughes, P.P., testified that, having heard the testimony, his professional planning opinion is that the applicant had demonstrated the positive and negative criteria for the requested use variance relief. He opined that the applicant had made significant efforts to improve and market the property to make it more attractive to conforming use prospective tenants. Mr. Hughes reminded the Board that the applicant had increased the overall conforming tenant use space by 5,324 square feet by leasing space to Kaprica United Fencing Academy. He further reminded the Board that the applicant had stipulated, as a condition of approval, to submitting a rent roll every January and opined that same would allow the Township to more easily monitor compliance.

The Board, following deliberation, approved the application, subject to terms and conditions stipulated during the hearing.

Roll Call Vote:

Motion of approval was made by Mr. Weideli with a second by Ms. Amin.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Sweeney, Ms. Amin, Mr. Fresco, Mr. La Spisa, and Mr. Wrobel.

ABSENT: Mr. Fallone, Mr. Guttschall, and Mr. Bongiorno.

ABSTAIN: None

DENIAL: None

**TESLA, INC - 582 UNION AVENUE (Carried from 3-02-21)**

**Block 257 Lot 3.01**

**20-035-ZB- AMENDED SITE PLAN APPROVAL SUBMISSION/ AS SUPPLEMENTED**

The application was carried to the Board's May 4<sup>th</sup> meeting due to the late hour.

**9. OTHER BOARD BUSINESS:**

The Board discussed the next upcoming meeting dates and applications scheduled.

**10. EXECUTIVE SESSION:**

There was no need for an Executive Session.

**11. ADJOURNMENT**

The meeting was adjourned at approximately 11 pm with a motion made by Mr. Weideli and a second by Ms. Amin.