

BRIDGEWATER TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
Regular Virtual Online Meeting  
Tuesday, May 4<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 - present  
Dawn Guttschall- present  
Pushpavati Amin-present

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

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:**

February 16<sup>th</sup>, 2021, Virtual Meeting Minutes:

No changes were made.

The Chairman asked the Board for a motion to approve the February 16<sup>th</sup>, 2021 meeting minutes. Motion of approval was made by Mr. Weideli with a second by Mr. Fresco.

**Roll Call Vote:**

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

ABSENT: Mr. La Spisa and Mr. Wrobel.

ABSTAIN: Ms. Guttschall.

DENIAL: None.

**6. 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.

**7. HEARING AND DELIBERATIONS:**

**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**

Mr. Duncan Prime Esq., of law firm Prime & Tuvel, appeared on behalf of the applicant. The applicant proposed to construct eight electric vehicle charging stations that would utilize eight parking spaces. The applicant proposed to add five new parking spaces to the already existing five spaces in the back of the Wawa building. Eight of the ten parking spaces would be for charging stations, two of which would be reserved exclusively for electric vehicle charging only. The facility would include the following: eight illuminated TESLA vehicle charging stations with LED lighting, two "Supercharger" cabinets, a transformer cabinet, a switchboard cabinet, eight six-foot-high TESLA signs at each of the charging stations, one relocated existing air pump, and one new air pump, relocation of trees and underground conduit system. The applicant did not propose any new lighting on the property.

The applicant's proposal was submitted with the following documents: Bridgewater Township's "Appeal or Variance Application" and associated documents, dated January 11, 2021, Preliminary and Final Site Plans titled "TESLA Bridgewater Wawa," prepared by David E. Revette, P.E., of Dewberry Engineers, Inc., dated September 1, 2020, last revised March 16, 2021, Bridgewater Township Zoning Board of Adjustment Resolution 05-11-ZB, for Wawa, Inc., dated July 2, 2011, and Bridgewater Township Zoning Board of Adjustment Resolution 13-010-ZB, for Wawa, Inc., dated August 26, 2014. The Board also considered a Review Memorandum prepared by Scarlett Doyle, P.P., the Board Planner, and William H. Burr, IV, P.E., the Board Engineer, dated April 9, 2021.

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

Mr. Jesse Karp, Deployment Lead for the North East Division of TESLA, the applicant, was duly sworn according to law. Mr. Karp explained that it is Tesla's goal to facilitate the world's transition to sustainable energy. He explained that Tesla proposes installing eight supercharging stations within a reconfigured parking lot on the property. Mr. Karp further testified that Tesla locates supercharging stations along major highways and that the property is well suited for such a station because it is located at the crux of several major thoroughfares.

Mr. Karp testified that the proposed electric vehicle charging stations would provide a location for Tesla owners to fully charge their vehicles, especially on long-distance drives, in twenty to twenty-five minutes, gaining up to seventy-five miles worth of charge within the first five minutes. He testified that the electric vehicle charging station charge silently. While charging, the vehicle's radiator/fan turns on and emits a very low level of sound. Mr. Karp explained that there is very little maintenance necessary because there are no moving parts within the charging stations. He further explained that the charging stations have many layers of safety.

Mr. Karp testified that the charging station is interfaced with each Tesla vehicle. It has an automatic payment method for charging a car without any cash or credit card at the point of sale. Mr. Karp testified that the applicant typically charges by kilowatt per hour and occasionally offers off-peak discounts to drivers to reduce congestion during peak hours.

Mr. Karp testified that the charging stations are built in groups of four stalls, with a minimum of eight stalls, to minimize any congestion. To further aid in reducing congestion, Mr. Karp testified that the applicant charges Tesla owners an "idling" fee for any prolonged stay after their vehicle has finished charging. While Tesla parking stalls are intended for Tesla vehicles only, Mr. Karp testified that the applicant does not have an exclusive deal with Wawa. And other electric vehicle manufacturer or provider, with Wawa's permission, can make an application to the Board to have their own charging stations installed on the property.

Mr. Karp testified that his only experience with charging station congestion is in the California market, which appears to have taken off faster than the electric vehicle market in New Jersey and elsewhere. While Mr. Karp confirmed to seeing some queuing at some local charging stations, congestion has only been related to "Tesla Road Clubs" and is very infrequent. Mr. Karp added that there are no significant queuing issues at any TESLA convenience store charging stations. Mr. Karp confirmed that the lease agreement for the proposed use is for the next ten years. The applicant stipulated that they would remove all the electric vehicle charging stations from this location once Tesla is no longer operating on the property.

With regards to upkeep and maintenance, Mr. Karp testified that there are two levels of maintenance. First, there is the roadside assistance feature, which supports TESLA drivers, both at the station and while out on the road. Second, there is remote monitoring of all TESLA electric vehicle charging stations, which summons a technician to service each charging station when necessary. Mr. Karp testified that the charging stations make very little noise if any, and have internal safety checks, such as shutting off the car's ability to drive if plugged in. The car would also not charge if the vehicle/charging station has been struck, and the vehicle will not charge until the station interfaces with the vehicle. Finally, Mr. Karp testified that TESLA does provide a safety manual for first responders to utilize should there be a response to an incident where a Tesla vehicle or electric vehicle charging station is located.

Mr. Karp provided information regarding TESLA's remote customer service available for individuals having problems with their vehicle. Should there be a problem with a vehicle, customer service can remotely advise and aid Tesla vehicle owners to do certain things such as restart their system.

Mr. Karp addressed Board's concerns with the proposed signage. Mr. Karp stated that the applicant could stipulate a decreased number of signs. As to why the applicant has not requested a highway advertising sign

for the Wawa's electric vehicle charging station, Mr. Karp responded that the charging stations have an interface with the vehicles guiding drivers to locations where vehicles can "refuel," eliminating the need for highway signs. However, if the Board approved a highway sign, Mr. Karp stated that the applicant would be open to the idea. Regarding the signage on the property, Mr. Karp testified that the "T" logo is not on the charging stations, but it is TELSAs logo. The internal illumination is always turned on, as long as the station is ready for charging. As to the site lighting, Mr. Karp explained that each charging station would be internally illuminated and read "Tesla" in red. He opined that the lighting on the stations would be less bright than the overall site lighting.

Mr. John Kulak, residing at 13 Ramsey Street, questioned why Tesla was filing the application instead of Wawa. Mr. Karp responded that Tesla has a lease agreement with Wawa, as a tenant, and has been given permission to submit this application with Wawa's consent as the owner. Mr. Kulak questioned Tesla's monitoring of the site. Mr. Karp testified that it is not the intent of Tesla to have people park in the electric car charging spaces all day, nor is that the intent of Wawa. While there would be eight electric vehicle charging stalls in the Wawa parking lot, six of these spaces would not be dedicated solely to charging of electric vehicles.

Mr. Kulak continued to express his concerns about safety protocols at the proposed site since hearing about a Tesla charging station had spontaneously combusted and that this could happen again. Mr. Karp stated that it was his understanding that, in the past, the applicant has provided safety training to local first responders with regards to cutting electric power to the equipment. Mr. Kulak questioned whether or not introducing a power source for a supercharger increases safety concerns. Mr. Karp stated, it does not. He explained that Tesla's design and equipment meets all public service standards, and the equipment is adequately protected.

Mr. Kulak explained his concerns with the property which is an active site and, by adding these charging stations would overcrowd the site, especially during breakfast, lunch, and dinner. In response to Mr. Kulak's concerns, Mr. Karp testified that the charging stations would primarily serve customers already going to Wawa. The applicant reiterated that it is adding five parking spaces, only two of which would be solely dedicated to the charging of TESLA electric vehicles.

Mr. David Revette, P.E., of Dewberry Engineers, Inc., was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of civil engineering. Mr. Revette, described the property, and summarized the proposal including a revamped rear parking lot with newly designed safer walkways, ten new parking spaces, eight of which will be charging stalls, a relocated air pump stall, and a tree which would be removed and relocated.

The proposed bollards in front of the charging stations protect the stations from damage while also indicating the curb line after heavy snow, and allowing adequate snow clearing. Mr. Revette testified that the existing lighting is adequate and creates a safe environment. While the applicant stipulated to certain conditions related to specific improvements for amended preliminary and final site plan approval, the applicant cannot stipulate to complying with all the prior conditions in the Previous Approvals granted to the owner of Wawa.

Mr. Revette having been to the property, witnessed how busy the site gets, stating that there is a lot of turnover and that, in his opinion, the five additional parking spaces, even with two stalls dedicated to electric vehicle parking and charging only, are adequate to handle the increased intensity of the use on the property. In addition to turnover, Mr. Revette observed site circulation. He stated that, in his expert opinion, the site circulation is adequate to handle the extra intensity for both pedestrians and vehicles. Regarding the stormwater management system, even with the increased impervious coverage, which is minimal, the system would handle any increase in stormwater runoff adequately. Several inlets throughout the property, including the area in question, lead to the stormwater basin. Regarding the Americans with Disabilities Act, the applicant

stated that there is an ADA-accessible charging stall proposed, but it does not provide ADA accessibility to the food mart, as it is not required to do so.

The construction timetable should not take more than a week or two weeks. After that, all construction, including the electric work, would be behind the curb line, and the property would not be disrupted.

Mr. Kulak questioned the applicant again regarding queuing, and if this matter rises to the level of necessitating a traffic study. Mr. Karp stated that it does not, in his opinion, and that the applicant has had only one occasion to have a traffic study done previously, but that was regarding a much larger project in the parking lot of a "shopping mall" in Woodcliff Lake, New Jersey, with satisfactory results.

Ms. Elizabeth McManus, P.P., of Kyle and McManus, provided her qualifications and was accepted by the Board as an expert in the field of professional planning. Ms. McManus testified that the applicant is seeking the requested relief due to the proposed intensification of the previously approved use variance to allow a retail establishment in the M-1A Zone. Ms. McManus testified that the applicant was seeking an amended subsection d(1) use variance, along with three subsection c(2) bulk variances. She explained that the bulk variance relief associated with the charging stations are both rear-yard and side-yard setback variances, along with a variance for an increase in the previously approved excessive impervious coverage deviation.

Ms. McManus opined that the applicant had satisfied the positive criteria for the requested relief because the applicant had demonstrated that the use promotes the general welfare and the site is particularly well suited for the use. She testified that, the addition of electric "fueling" of vehicles to an already existing fueling station establishes that the use promotes general welfare, in that it not only provides an alternative fuel source but also a clean-burning source of energy. Ms. McManus noted that the Township conditionally permits fueling stations in the M-1A Manufacturing Zone. She testified that the property is not used for residential purposes and is used by Wawa for its food mart and fuel station services.

Ms. McManus continued to testify that electric vehicles reduce pollution and promote the utilization of renewable energy resources. She referenced the Township's 2006 Master Plan and the 2018 Master Plan Re-examination Report stating the Township recognizes the benefits of encouraging the protection of natural resources and creating a healthy and sustainable economy and society. Ms. McManus noted that the Master Plan endorses alternative energy and low emission vehicles. Ms. McManus reiterated that the property is particularly suitable for the proposed charging station because the property is located between two major thoroughfares. The eight charging stations located behind WAWA would be substantially buffered by the existing and proposed landscaping and visually set back from most offsite locations.

As to the negative criteria, Ms. McManus opined that the applicant demonstrated that the proposal would not result in either substantial detriment to the public good or significant impairment of the Zone Plan. As to the first prong of the negative criteria analysis, the impact on the public interest, Ms. McManus testified that the proposal would not have a detrimental effect because the eight parking spaces necessary for the electric vehicle charging stations will be located in the rear of the property and would continue to serve as parking spaces. Moreover, the proposal would not negatively impact the property's aesthetics since the proposed charging stations are located in the rear and are largely obscured by the existing and proposed vegetation and food mart building. As to the second prong of the negative criteria, Ms. McManus opined that the proposal is consistent with the Master Plan and ordinance because they promote sustainability and preserve natural resources. Ms. McManus testified that the proposal sits within an area with a nice balance of commercial, residential and recreational uses and serves as a complementary use.

As to the bulk variance relief for the side-yard and rear-yard setback, impervious lot coverage and signage deviations, Ms. McManus opined that the applicant has demonstrated that purposes of the MLUL would be

advanced by the requested deviations from the zoning requirements and that the benefits to be derived therefrom would substantially outweigh any detriments associated with.

Mr. Karp joined Ms. McMannus and responded to questions from Board members. Mr. Karp stated that the applicant has entered into a lease with Wawa, which stipulates to be a minimum of ten years, Mr. Karp reiterated that the lease is not exclusive. Any other electric vehicle manufacturer can install its charging station at the Wawa Site. Mr. Karp stated that while TESLA currently dominates the electric vehicle market, it is not the only exclusive provider of electric vehicles.

Mr. Karp reiterated that, while it is projected that there would be between forty and seventy vehicles charging on the property per day, most patrons charging their cars would have been on the property anyway to patronize the Wawa food market.

Concerning peak usage, Mr. Karp testified that aside from the Friday before a holiday weekend or the day before a holiday, there is no actual peak usage of its charging stations. The intensity of the use of the electric charging station spikes daily at different times.

Public member, Mr. John Kulak, questioned Ms. McManus again as to the visual impact of the proposal and the reduction in setbacks. Ms. McManus stated that setbacks are not solely for removing the visual effects but also to ensure adequate light, air, and space. Mr. Kulak, expressed his concern of the intensity of the site and the proposed intensification of the same and his general opposition to the proposal.

No other members of the public commented on or objected to, the application.

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 Ms. Amin with a second by Mr. Weideli.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Fallone, Mr. Sweeney, Mr. Guttschall, and Ms. Amin

OPPOSE: Mr. Fresco.

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

ABSTAIN: None

DENIAL: None

**8. EXECUTIVE SESSION:**

Pending Litigation - Skymanor Properties, LLC v. The Zoning Board of Adjustment of the Township of Bridgewater and the Township of Bridgewater, docketed in the Superior Court of New Jersey, Law Division, Somerset County as Docket No. SOM-L-000569-21. (Application No. 20-007-ZB)

The chairman asked for a motion and a second to approve the resolution going into executive session.

Roll Call Vote:

Motion to go into executive session was made by Mr. Weideli with a second by Ms. Guttschall.

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

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

ABSTAIN: None

DENIAL: None

The meeting went into executive session at 10:40 pm.

The chairman asked for a motion and second to come out of executive session.

Roll Call Vote:

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

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

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

ABSTAIN: None

DENIAL: None

The meeting came back to public session at 10:55 pm.

**9. OTHER BOARD BUSINESS:**

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

**10. ADJOURNMENT**

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