

BRIDGEWATER TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
Regular Meeting  
Tuesday, July 6<sup>th</sup>, 2021  
—MINUTES—

**1. CALL MEETING TO ORDER:**

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

**2. 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 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 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. Accommodation will be made for individuals with a disability, pursuant to the Americans With Disabilities Act (ADA), provided the individual with the disability provides 48 hours advance notice to the Planning Department Secretary before the public meeting." However, if the individual should require special equipment or services, such as a CART transcriber, seven days advance notice, excluding weekends and holidays, may be necessary.

**3. SALUTE TO FLAG:**

**4. ROLL CALL:**

Jeff Foose - present	Donald Sweeney -present
James Weideli - present	Bruce Bongiorno-present
John Fallone - present	Kevin Wrobel - present
Dawn Guttschall- present	Andrew Fresco -present
Pushpavati Amin-absent	Gary La Spisa - absent
John Gayeski-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:**

**March 30<sup>th</sup>, 2021 Meeting Minutes:**

Corrections were made and read into the record. The Chairman asked the Board for a motion to approve the March 30<sup>th</sup>, 2021 meeting minutes with the changes made.

**Roll Call Vote:**

A motion of approval was made by Mr. Fallone with a second by Mr. Weideli.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Fallone, Ms. Guttschall, Mr. Bongiorno, and Mr. Wrobel.

ABSENT: Ms. Amin and Mr. La Spisa.

ABSTAIN: Mr. Sweeney, Mr. Fresco, and Mr. Gayeski.

DENIAL: None.

**April 6<sup>th</sup>, 2021 Meeting Minutes:**

The Board made no changes. The Chairman asked the Board for a motion to approve the April 6<sup>th</sup>, 2021 meeting minutes with no changes.

Roll Call Vote:

A motion of approval was made by Mr. Weideli with a second by Mr. Sweeney.

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

ABSENT: Ms. Amin and Mr. La Spisa.

ABSTAIN: Mr. Wrobel, and Mr. Gayeski.

DENIAL: None.

**6. MEMORIALIZING RESOLUTIONS:**

**PAULO G. CUNHA AND ANABELA BRANDAO - 1065 BROWN ROAD**

**Block 263 Lot 6**

**20-040-ZB- SIMPLE VARIANCE**

Some changes were made. The Chairman asked the Board for a motion to approve the resolution.

Roll Call Vote:

A motion of approval was made by Mr. Weideli with a second by Mr. Sweeney.

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

ABSENT: Ms. Amin and Mr. La Spisa.

ABSTAIN: Mr. Fallone, Mr. Bongiorno and Mr. Gayeski.

DENIAL: None.

**HECTOR AND DEBORAH DE JESUS - 986 CARTERET ROAD**

**Block 629 Lot 6**

**21-017-ZB- BULK VARIANCE**

No changes were made. The Chairman asked the Board for a motion to approve the resolution.

Roll Call Vote:

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

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

ABSENT: Ms. Amin and Mr. La Spisa.

ABSTAIN: Mr. Fallone, Mr. Bongiorno and Mr. Gayeski.

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 this 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:**

**MARC CONOVER - 1262 WASHINGTON VALLEY ROAD**

**Block 648 Lot 8**

**21-007-ZB- SIMPLE VARIANCE**

Mr. Marc Conover, the applicant, submitted an application to the Board for a simple variance related to constructing an addition in the front yard of his existing single-family dwelling. The property designated as Block 648, Lot 8, is more commonly known as 1262 Washington Valley Road. The one-story framed dwelling is on an undersized lot located in the R-50 zone. The proposed front-yard setback of 50 feet was

requested, whereas the existing front-yard setback is currently at 57.5 feet. The zone in which the property is located requires a 75-foot clearance.

The applicant proposed to construct an addition adding a closet and full bath to the current master bedroom suite. The addition would also include a front porch. The existing dwelling currently violates the required 75-foot front yard setback, and the proposed expansion would only further encroach into the front yard, worsening the nonconformity.

The Board reviewed the following in receipt of the application: a joint report from the Township Planner, Ms. Scarlett Doyle, P.P., and Township Engineer, Mr. William H. Burr, IV, P.E., dated June 29, 2021, construction details and sketches prepared by Mr. Jeffrey D. Martin, AIA, LEED, AP, dated September 12, 2020, a Survey prepared by Mr. Robert M. Horvath, N.J.L.S., dated December 13, 2017, (The survey previously submitted to the Board, while older, was confirmed to be up to date and accurate with current conditions on the property.) an existing site information sheet prepared by Mr. Jeffrey D. Martin, AIA, LEED, AP, dated May 2021, a copy of the Form #3E-A, Simple Variance Application with supporting documents, and two undated photographs of the existing dwelling, front and back.

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

Mr. Marc Conover, the applicant, was duly sworn according to law, testified to proposing a 111 square foot addition to the front of the existing dwelling. Mr. Conover confirmed that the existing dwelling is a non-conforming structure on a non-conforming lot. The front of the home is currently setback 56.6 feet from the road, whereas the setback required is 75-feet. The lot is 36,000 square feet, whereas a minimum lot size of 50,000 square feet is required. The entire dwelling would be re-sided with vinyl siding during this project. Due to the property's topography, which includes a downward slope from the front-yard to the rear yard, along with a 15-foot wide sanitary sewer easement in the rear -yard, the front of the dwelling is the only feasible side for this proposed addition. The applicant would regrade the entire property due to standing water in the front yard. Mr. Conover stated that all of the homes in the neighborhood are as close, if not closer, to the road making this addition consistent with the area. The applicant stipulated, as a condition of approval, that the proposed porch would remain open.

One tree would be removed during the construction of this addition, and the applicant did comply with replacing the tree. The applicant confirmed that no additional exterior lighting is being proposed. The expansion would include a crawlspace foundation. As such, the applicant would check for any underground utilities before constructing the proposed addition.

In response to questions from the Board Professionals, Mr. Conover testified that the roof-leaders drain into the rear yard of the property, where no stormwater drainage issues for neighboring properties occur. The applicant stipulated to comply with all the comments and recommendations outlined in the June 29<sup>th</sup>, 2021, Review Memorandum prepared by the Township Planner, Ms. Scarlett Doyle, P.P., and Township Engineer, Mr. William H. Burr, IV, P.E.

No member 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 Mr. Weideli with a second by Mr. Sweeney.

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

ABSENT: Ms. Amin and Mr. La Spisa.

ABSTAIN: Mr. Bongiorno and Mr. Gayeski.

DENIAL: None.

**VOLTA CHARGING LLC - 400-600 COMMONS WAY**

**Block 553 Lot 1.03 & 1.05**

**21-016-ZB- INSTALLATION OF 20 ELECTRIC CHARGING STATIONS IN PARKING LOTS**

Mr. Christopher Erd, Esq., of Norris McLaughlin, P.A., represented the applicant Volta Charging, LLC. He confirmed that the applicant had applied to the Board for minor site plan approval. The application proposed to install 20 Volta branded Electric Vehicle Charging Stations (EVCS) with digital screens. All proposed site improvements would be located on the property designated as Block 553, Lots 1, 1.03, and 1.05, more commonly known as 400-600 Commons Way. The installation of the EVCS is a permitted use, however, the proposed use of digital signage for advertising required variance relief. The applicant sought minor site plan approval and variance relief to install a total of 40 "off-site advertising sign" television screens, two at each of the 20 EVCS locations.

The Board reviewed the following documents in receipt of that application, Bridgewater Township "Appeal or Variance Application" with associated documents, dated February 9, 2021, Plans titled "VOLTA Bridgewater Commons," prepared by Mr. David E. Revette, P.E., of Dewberry Engineers, Inc., dated September 23, 2019, last revised January 22, 2021, Environmental Impact Statement, prepared by Mr. Steven Finch, Senior Wetland Scientist, of Dewberry Engineers, Inc., dated May 12, 2021, Information package titled "VOLTA – Drive Forward", undated, "55" UltraView UHD Outdoor TV" information package, prepared by Peerless – AV, undated, Structural Design for Charging Station Anchorage, Generic Calculation for California Location, prepared by Mr. Noel Z. Herrera, P.E., of Black & Veatch, dated January 10, 2010, Overall Plan, prepared by F. Mitchel Ardman, P.E., of The Reynolds Group, Inc., dated March 6, 2015, ALTA/NSPS Land Title Survey, Bridgewater Commons Mall, prepared by Mr. Richard C. Mathews, of Stires Associates, P.A., dated August 21, 2019, Site Details, prepared by VOLTA, undated, Memorandum by Ms. Elizabeth McManus, PP, AICP, LEED AP, of Kyle & McManus Associates, dated April 14, 2021, and Review Memorandum of the County of Somerset Planning Board, by Mr. James P. Ruggieri, AICP, P.P., dated April 29, 2021. The Board also considered a joint Review Memorandum prepared by Ms. Scarlett Doyle, P.P., the Board Planner, and Mr. William H. Burr, IV, P.E., the Board Engineer, dated June 14, 2021, same consisting of five pages.

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. 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. Referencing the engineering plans previously submitted to the Board, he testified to the existing conditions and layout of the three lots. Mr. Revette testified that EVCS #1 through #8's would be installed throughout Lots 1, 1.03, and 1.05. He continued to explain the details of each EVCS, which includes two 55-inch television screens projecting in opposite directions and focusing on pedestrians. Mr. Revette testified that the parking lot striping would include each EVCS, providing drivers with the necessary space to open car doors. He continued to testify to the size and additional detail of each EVCS, including height, width, and the wrap-around electric cord for charging. Mr. Revette provided testimony on how and where the EVCS would receive necessary electric power and how each EVCS runs off standard on-site utilities and does not require any trenching or transformer cabinets.

Questions from the Board members were raised following his testimony which included clarification on reducing the size of the EVCS, expected accidents, landscaping, and more.

Mr. John Stuckey, Director of Site Development for the New York Metropolitan area for the applicant, was duly sworn according to law and testified as a fact witness. He testified that the applicant's goal is to provide free, commerce-based electric vehicle charging stations to the public across the country. He explained that Volta currently has over 1,800 EVCS available nationwide, with at least two times as many in the "pipeline." Mr. Stuckey testified that Volta intends to target malls, shopping centers, and downtown areas, providing free charging services to all types of electric vehicles.

Mr. Stuckey testified that the EVCS are designed for a minimal level of maintenance, with projected upkeep to occur approximately once every quarter, constant remote monitoring, and telephonic support, available 24 hours a day, seven days per week.

In response to an inquiry from the Board, Mr. Stuckey testified that the EVCS are tall due to the charging equipment housing and advertising screens. Mr. Stuckey further testified that the height and size of the EVCS itself is a deterrent for drivers, negating the need for bollards for protection. In Mr. Stuckey's experience, the collision rate between vehicles and an EVCS is less than 1% per year. Nevertheless, Mr. Stuckey confirmed specific plug-in, collision, and communication protocols between the EVCS and the electric vehicle being charged. Once there is an accident, the EVCS would no longer charge like a power fault.

Mr. Stuckey testified to the applicant's business model, including having EVCS placed in locations with heavy pedestrian traffic. He explained it fuels the media value of their product while allowing the applicant free charging services. Concerning the proposed "free" charging at the EVCS, Mr. Stuckey testified that he could not bind the applicant to continue "free" charging for the coming future. Still, he stipulated that the applicant would return to the Board for an amended site plan should they decide to commence charging money for the use.

In response to the Board's concerns regarding the 55-inch screens for advertising, Ms. Doyle explained the history of the so-called "billboard ordinance" and its purpose to protect people from distractions while driving on highways, not necessarily parking lots within which speeds are much slower.

As the mall is a family destination, Mr. Stuckey stipulated that advertising on the EVCS would be monitored and content restricted. In addition, Mr. Stuckey confirmed providing timeslots for public service and other community-based announcements on the EVCS advertising screens. The Township would be allotted a base minimum of 38 seconds per day on each EVCS of such free community-based advertising and/or public service announcements.

In response to the June 14<sup>th</sup>, 2021, joint review memorandum of the Board Professionals, Mr. Stuckey testified that the applicant was not proposing any new parking lot lighting. The EVCS lights would be, dimmable LED, that shut off when the mall is no longer open. The EVCS would remain available with the ability to charge vehicles. The parking lot lights around the entire mall would be dimmed at approximately 10:30 pm. The EVCS parking stalls are available to those seeking to charge any type of electric vehicle and are not exclusive to parking for electric cars only.

Mr. Stuckey acknowledged that the applicant is seeking the best available parking stalls to install each of these EVCS. Ideally, these spaces would be those nearest the mall entrance where the most pedestrian traffic is present. As to EVCS availability, Mr. Stuckey stated that people tend to police themselves in parking lots therefore, an EVCS is typically always available. While ADA parking stalls are not required for EVCS parking stalls, the applicant stipulated that they would be sized to meet ADA requirements. Mr. Stuckey specified that the applicant would provide two ADA-compliant EVCS parking stalls with appropriate signage.

Regarding landscaping, Mr. Stuckey stated that the applicant intends to install each EVCS in a location where trees are not currently located. However, if removing a tree is necessary for installation, Mr. Stuckey stipulated to replace such trees of like kind. Concerning first responders, Mr. Stuckey specified that the applicant would provide all materials, manuals and/or safety protocols to local first responders regarding fire suppression and safety in the event of an emergency.

Ms. Elizabeth McManus, P.P., of Kyle and McManus, was duly sworn according to law, 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 both Subsection "d(1) use," and Subsection "c(2) bulk," variance relief. She opined that the applicant had satisfied the positive criteria for the requested relief since the applicant had demonstrated that the EVCS "off-site advertising signs" promote the general welfare. The site, in addition, is particularly well suited for the same. Ms. McManus testified that the advertising is visible almost exclusively to those pedestrians going in and coming out of the shopping mall, directly targeting pedestrians and parking vehicles rather than those individuals on surrounding roads.

Similarly, Ms. McManus testified that providing free electric vehicle charging reduces pollution and promotes renewable energy resources. She further testified that, within the Township's 2006 Master Plan and the 2018 Master Plan Re-examination Report, the Township recognizes the benefits of encouraging the protection of natural resources and the creation of a healthy and sustainable economy and society. Ms. McManus noted that the Master Plan endorses alternative energy and low emission vehicles, the charging for which the applicant proposes to provide for free. Ms. McManus reiterated that the property is particularly suitable for the proposed EVCS with free charging capabilities. The property is located between two major thoroughfares and proximate to State Highway Routes 202 and 206.

Ms. McManus testified that, while not a purpose of the MLUL, this type of proposal supports the State's 2019 Master Plan by attracting private capital to develop electric vehicle charging stations. Ms. McManus testified that supporting the State's Master Plan meets the definition of positive criteria under the MLUL, by reducing energy consumption and emissions, decarbonizing transportation, and supporting the purchase and deployment of electric vehicles, all of which are a "step in the right direction."

As to the negative criteria for the requested variance relief, 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 Master Plan. Ms. McManus testified that the only negative impact associated with the proposal relates to the advertising on the EVCS, which, in her opinion, will be nominal. Ms. McManus opined that the proposed off-site advertising signs and the digital copy would not significantly impact the neighboring properties, as all of the advertising is geared toward pedestrian traffic, which is further lessened by the size of the Site and location of the EVCS therein.

In response to further inquiry from the Board, Ms. Doyle, the Township Planner, testified that "billboard type" advertising signs are not permitted anywhere in the Township. Ms. Doyle testified that, notwithstanding the same, actual billboards are generally associated with the traveling public along busy highways, not pedestrian traffic. Ms. Doyle testified that the same analysis applies to the ordinance prohibiting flashing or non-static advertising signs. Mr. Stuckey testified that the eight-second interval between advertisements on the proposed EVCS is an institutional durational standard, if not safety protocol, that the New Jersey Department of Transportation has adopted.

On questioning as to the need for a developer's agreement, the Board determined, on the advice of the Board Planner, that same would not be necessary.

No 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 Mr. Weideli with a second by Mr. Sweeney.

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

ABSENT: Ms. Amin and Mr. La Spisa.

ABSTAIN: Mr. Bongiorno and Mr. Gayeski.

DENIAL: None.

**9. OTHER BOARD BUSINESS:**

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

**10. EXECUTIVE SESSION:**

**LITIGATION - SKYMANOR PROPERTIES, LLC - 5 SKY HIGH TERRACE**

**Block 904 Lot 5**

**#20-007-ZB - VARIANCE DENIAL -CONSTRUCT NEW HOME ON A LOT**

The Board went into an executive session at 10:32 pm.

Roll Call Vote:

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

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

ABSENT: Mr. La Spisa and Ms. Amin.

ABSTAIN: Mr. Bongiorno and Mr. Gayeski.

DENIAL: None.

The Board came back from the executive session at 11 pm.

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, Ms. Guttschall, Mr. Bongiorno, and Mr. Fresco.

RECUSED: Mr. Wrobel

ABSENT: Mr. La Spisa and Ms. Amin.

ABSTAIN: Mr. Gayeski.

DENIAL: None.

**11. ADJOURNMENT**

The meeting was adjourned at approximately 11:10 pm with a motion made by Mr. Weideli and a second by Mr. Gayeski.





BRIDGEWATER TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
Regular Meeting  
Tuesday, March 16, 2021  
-Minutes-



ADJUSTMENT

BRIDGEWATER TOWNSHIP  
ZONING BOARD OF

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