

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

January 16, 2020

The Regular Meeting of the Board of Adjustment was called to order at 7:30 PM in the Public Meeting Room.

It was confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted in Town Hall, Board Office, and supplied to the Township Clerk at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

Roll Call:

Members present were Mr. Sullivan, Mr. Siburn, Mr. Boyer, Mr. Delia, Mr. Coviello (7:55), Mr. Sylvester, Mr. Ringwood and Mr. Pereda. Ms. Amanda Wolfe, and Mr. Steve Warner (9:00), Board Attorneys, were also present.

Adoption of Minutes:

December 12, 2019 Regular Meeting
December 12, 2019 Executive Session

A motion was made by Mr. Siburn, seconded by Mr. Boyer, and carried by unanimous voice vote to adopt the minutes of the December 12, 2019 Regular Meeting as presented.

A motion was made by Mr. Ringwood, seconded by Mr. Sylvester, and carried by unanimous voice vote to adopt the minutes of the December 12, 2019 Executive Session as presented.

Applications for Review:

App.#31-19: Luxury Investment Properties, LLC, 27 Wardle Ave., Block 2005, Lot 7.02 (R-15 Zone)

Property owner had received prior approval to construct a new single family dwelling on a vacant lot that was subdivided from lot 7 which fronts Plainfield Avenue. The new lot fronts Wardle Avenue, and the house is currently under construction. A new site plan has been submitted showing additional coverage to

include an expanded driveway, a 10' x 10' x 10'H residential storage shed and a patio in the rear yard. As a result, coverage numbers exceed those allowed in Section 6.1.1B Schedule of General Regulations. Variances are needed for exceeding the permitted 10% "other" coverage and 25% "total" lot coverage.

Ms. Wolfe confirmed that the notice was sufficient and that the Board had jurisdiction to hear this application.

August Santore, attorney for applicant, provided background information regarding the previously approved subdivision.

William Hollows, engineer, was sworn and explained the extension of the road past the property line and the addition of 400 square feet to the impervious coverage.

Mr. Santore noted that there is no parking permitted in the area that was improved because it is reserved for emergency access. He stated that the construction of the house has begun and the people who are interested in the house want to have a patio and a small shed.

Mr. Hollows reviewed the proposed changes including the patio, retaining wall and shed.

Ozzy Yaseen, applicant, was sworn and stated that there will be no fence along the rear of the property and they will be planting about 40 trees along the rear and side.

Mr. Coviello arrived (7:55 pm).

Open to Public

The hearing was opened to the public for questions or comments with regard to the application.

Carolyn Schelhorn expressed concern regarding the water line access for the property and stated that no one has marked the location of the gas line on Wardle. She is concerned about possible accidental damage to the gas line that could result in an explosion.

It was suggested that Mrs. Schelhorn contact the Township Engineer regarding her concerns.

Ann Druffner asked about the trees planted along the property line between the properties and also expressed concern regarding parking on the street once the project is finished.

Mr. Yaseen stated that no vehicles will park on the street after completion of the project.

Ms. Wolfe reviewed the conditions of approval.

A motion was made by Mr. Delia, seconded by Mr. Ringwood, with respect to App. #31-19: Luxury Investment Properties, LLC, 27 Wardle Ave., Bl. 2005, L. 7.02 to approve the application with requested variances, subject to the conditions discussed and subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The roll call vote was 7-0 with Mr. Sullivan, Mr. Siburn, Mr. Boyer, Mr. Delia, Mr. Sylvester, Mr. Ringwood and Mr. Pereda voting in favor and none opposed.

CARRIED FROM OCTOBER 24, 2019 and Renoticed:

App.#22-19 Angad Fuel, LLC, 713 Plainfield Ave., Bl. 3102, L. 33 (R-20 Zone)
Proposed renovation and expansion of an existing gasoline service station which is located in a residential zone. The gas station is considered a prior nonconforming use. The relief requested includes site plan approval, expansion of preexisting nonconforming use pursuant to section 70(d)(2) and amendment to conditions of prior approvals.

Mr. Sullivan was recused from the hearing of this application.

Ms. Wolfe confirmed that the notice was sufficient and that the Board had jurisdiction to hear this application.

August Santore, attorney for the applicant, stated that the Board previously determined that the maintenance garage use of the property has been abandoned.

Tyler Vanderwalk, engineer, was sworn, gave his educational and professional background and was accepted as an expert witness. Mr. Vanderwalk reviewed the existing site conditions for the pre-existing non-conforming gas station. He stated that the applicant is proposing to increase to three underground fuel tanks, construct a pylon sign that is internally lit and reinstitute a third dispenser for a total of six fueling positions. The applicant is also proposing to construct a 4' x 8' kiosk and to replace the existing Delta sign with an internally lit Sunoco sign with pricing that is externally lit. The existing underground storage tanks will be removed and replaced with new tanks.

Vinnie Thakur, manager and operator, was sworn and stated in response to questions from the Board that currently there are approximately five deliveries per month and the deliveries could be made at any time of the day. The applicant has experienced difficulty in obtaining insurance on the existing tanks. The new tanks will have increased safety measures. Mr. Thakur advised that the applicant owns four other gas stations in New Jersey.

In response to questions from the Board, Mr. Vanderwalk stated that there are no improvements proposed for the existing building but the applicant is open to suggestions. The applicant proposes to extend the hours of operation, opening at 7 a.m. rather than 8 a.m. and closing at 9 p.m. rather than 7 p.m.

Keenan Hughes, Township Planner, was sworn. Mr. Hughes asked about the gated areas behind the existing building. He also asked for details on the existing vegetation, fencing, the existing pavement area, the existing and proposed lighting and the proposed signage. He noted that the existing sign is in the right of way of Plainfield Avenue.

Mr. Thakur stated that the gated areas contain the garbage, electrical panels and remediation equipment.

Mr. Vanderwalk described the existing vegetation which provides substantial buffering for the neighboring properties. He stated that the pavement area was previously used for the maintenance garage but now it is infrequently used. He further stated that there are no changes proposed to the existing lighting. Mr. Vanderwalk reviewed the proposed signage and noted that the light adjusts itself according to the ambient light around it. He noted that variances are required for the size of the pricing signs.

In response to further questions from the Board, Mr. Thakur stated the opinion that the addition of diesel fuel will not affect the traffic as it will not be a major part of the business and large trucks will not be able to access the station. He further stated that there is an increase anticipated in use of diesel fuel for passenger cars. The applicant would be willing to stipulate that no trucks or buses will be permitted access to the station.

Mr. Warner arrived (9:00).

In response to questions, Mr. Vanderwalk stated that deliveries would continue as they are today and reviewed the differences between the old sign and the proposed new sign. He stated that the kiosk would be for attendant use only and

there will be no retail sales from the kiosk. The building will be used for electrical systems and equipment.

Michael Pessolano, planner, was sworn, gave his educational and professional background and was accepted as an expert witness. Mr. Pessolano presented Exhibit A-1 – aerial and ground photographs of the property. Copies of the exhibit were distributed to members of the public.

Mr. Thakur discussed the clean-up of the property including removal of some of the pavement and some plantings. He stated that if the proposed signage is approved the existing signs in the windows would be removed.

In response to questions regarding retail sales, Mr. Thakur stated that the only items that will be sold are auto-related items such as gas cans, oil, window washer fluids, etc. Signage is proposed on the front of the building that would list those items for sale. A sign is also needed showing the hours of operation.

Mr. Warner noted that the applicant will have to submit information about the proposed signage for the Board to review.

Mr. Thakur presented Exhibit A-2 – photograph of the applicant's gas station located in Nutley, NJ showing the same dispenser proposed for this location.

Mr. Boyer left the meeting (10:00 pm).

Open to Public

The hearing was opened to the public for questions or comments with regard to the application.

Members of the public including Chris House, Karen Damato, Rohit Dubey, Rao Kandula (Dr. Jagannadha Kandula), and Sunitha Kandula, asked questions regarding the life expectancy of the existing tanks, the prime reason for replacing the tanks, whether a traffic study and plan will be presented, signage, current fuel capacity, number of trucks anticipated to use the station, retail products currently being sold at the station, hours of operation, size of the sign, how the applicant will ensure that there is no parking on Emerson, size of the kiosk, ownership of the property, status of the remediation, how the applicant proposes to prevent trucks from coming to the station and the number of cars that will be serviced at one time.

Mr. Thakur stated that the life expectancy of the tanks is 50 years and they are being replaced because of their age. The current fuel capacity is 18,000 gallons

and the proposal is to have 18,000 gallons of regular and 4,000 diesel. He does not think there will be an increase in the number of trucks. The applicant will stipulate that the retail sales will be limited to car-related items. Mr. Thakur further stated that the applicant will provide a proposal with regard to parking and traffic circulation at the next hearing. The kiosk will be 4' x 8'. Mr. Thakur stated that he owns the property; the remediation is being done by the prior owner and he does not have any information with regard to its status.

Mr. Santore stated that the applicant will provide additional information in response to the questions at the next hearing.

The hearing of the application was carried to February 27, 2020 with no further notice required. The applicant was instructed to provide additional information with regard to traffic, retail sales, signage, landscaping and other issues raised by the Board and by members of the public during the course of the hearing.

The applicant granted an extension of the time for the Board to act on the application.

Adjournment:

A motion was made by Mr. Delia, seconded by Mr. Sylvester, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 11:00 PM.

Regina Giardina, Secretary Pro Tem