

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

February 27, 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. Siburn, Mr. Boyer, Mr. Delia, Mr. Coviello (7:40), Mr. Sylvester, Mr. Ringwood and Mr. Pereda. Mr. Steve Warner, Board Attorney, Daniel Lee, Board Engineer, and Keenan Hughes, Township Planner, were also present.

Adoption of Minutes:

January 9, 2020

January 16, 2020

A motion was made by Mr. Sylvester, seconded by Mr. Ringwood, and carried by unanimous voice vote to adopt the minutes of the January 9, 2020 Reorganization and Regular Meeting as presented.

A motion was made by Mr. Sylvester, seconded by Mr. Boyer, and carried by unanimous voice vote to adopt the minutes of the January 16, 2020 Regular Meeting as presented.

Mr. Coviello arrived (7:40).

Adoption of Resolution:

Resolution designating Neglia Engineering Associates as the consulting engineer for Application #22-19: Angad Fuel, LLC, which is on the agenda for this evening, February 27, 2020.

A motion was made by Mr. Boyer, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was unanimous with Mr. Siburn, Mr. Boyer, Mr. Delia, Mr. Coviello, Mr. Sylvester, Mr. Ringwood and Mr. Pereda voting in favor.

Adoption of Revised Resolution:

Revision to Resolution – Case No. 10-19: Susan and Peter Pangis, 144 Rutgers Ave., Block 1705, Lot 2 – which was adopted by the Board on October 24, 2019

Peter Pangis, applicant, raised questions regarding the conditions relating to pedestrian access to the property. Mr. Warner reviewed the changes that were made to the resolution and responded with respect to Mr. Pangis' questions.

A motion was made by Mr. Coviello, seconded by Mr. Sylvester, to adopt the above Resolution. The voice vote was 4-0 with Mr. Siburn, Mr. Delia, Mr. Coviello and Mr. Sylvester voting in favor.

Adoption of Resolution:

App.#31-19: Luxury Investment Properties, LLC, 27 Wardle Ave., BI. 2005, L. 7.02 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 Ave. The new lot fronts Wardle Ave. The house is currently under construction. A new site plan was submitted showing additional coverage to include an expanded driveway, a residential storage shed, and a patio in the rear yard. As a result, coverage numbers exceed those allowed by ordinance. Variances are needed for exceeding the permitted 10% "other" coverage and 25% "total" lot coverage.

A motion was made by Mr. Ringwood, seconded by Mr. Delia, to adopt the above Resolution. The voice vote was 6-0 with Mr. Siburn, Mr. Boyer, Mr. Delia, Mr. Sylvester, Mr. Ringwood and Mr. Pereda voting in favor and none opposed.

Application for Review:

CARRIED FROM JANUARY 16, 2020 with no further Notice Required:
App.#22-19 Angad Fuel, LLC, 713 Plainfield Ave., BI. 3102, L. 33 (R-20 Zone)
Proposed renovation and expansion of an existing gasoline service station 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.

Daniel Lee, Nelgia Engineering, was sworn and accepted as an expert witness.

August Santore, attorney for the applicant, stated that revised plans have been submitted.

Tyler Vanderwalk, engineer, previously sworn, presented Exhibit A-3 – color rendering of the site plan showing additional proposed landscaping, and reviewed the changes made in an effort to provide additional green space on the property. Mr. Vanderwalk also reviewed the changes in access and circulation for traffic and pedestrians and presented Exhibit A-4 – vehicle turning exhibit.

In response to questions, Mr. Vanderwalk stated that a submission will be made to the DOT regarding the request to move the stop sign and he indicated how deliveries will be made to the site.

Mr. Vanderwalk further stated that diesel has been removed from the application in response to concerns expressed about truck traffic and the signage will be reduced to eliminate the reference to diesel. The revised plans provide details for the kiosk, bollards and concrete pad and the applicant has agreed to remove all window signage except for two “open” sign and hours of operation sign. The pricing signs over the gas pumps are required but they will not be lit. The proposed Sunoco sign is located in the right of way. It was already existing when the County widened the road and it will be up to the County to decide if it will be allowed to remain.

Discussion took place regarding the Sunoco sign. Mr. Lee suggested that the sign have better protection. Mr. Hughes stated that although the County has jurisdiction over the location of the sign the Board has the right to weigh in on the issue. It was noted that the sign has been in that location for over 50 years. Mr. Hughes advised that if the County wants it to be moved the applicant will have to come back to the Board for approval of the relocation.

With respect to lighting, Mr. Vanderwalk stated that the signs will only be lit during business hours and the existing lighting will remain on the site.

Vinnie Thakur, manager and operator, previously sworn, presented Exhibit A-5 – photograph showing the site as it presently exists and the location of the sign. He also presented Exhibit A-6 – list of items that will be for sale.

Mr. Vanderwalk stated that he reviewed the Neglia Engineering report and there are no outstanding issues. With regard to parking, he stated that a space will be striped for the employee parking and there will be three other spaces, one of which will be ADA compliant.

Open to Public

The hearing was opened to the public for questions or with regard to Mr. Vanderwalk's testimony.

Members of the public including Greg Fevola, Karen Damato, Rohit Dubey, Sarah Miller, Sunitha Kandula and Jagannadha Kandula asked questions regarding the condition of the masonry wall on the property, evaluation of the current drainage including the hose in the back of the property, how long the proposed new landscaping is required to be maintained, size of the branding on the signs, status of the ongoing environmental clean-up of the property, relocation of the sign on County property, current problem with the lighting over the bathrooms, one-way access and traffic flow in and out of the property, whether there will be items for sale or a vending machine on display outside of the building, whether a traffic study has been done, the amount of asphalt to be removed, what will happen with the three bays that are currently vacant, and whether the trees proposed to be planted will have any impact on the wall.

Mr. Vanderwalk stated that there are no plans to replace the masonry wall, the amount of run off will be reduced because of the reduction in impervious coverage, the current clean-up of the property is being done by a company that was contracted by the previous owner of the property, there will be no change in the lighting on the property, the sign will be relocated if it is required, the applicant will agree to address the concerns about the lighting over the bathroom and there will not be a vending machine outside the station. Mr. Vanderwalk indicated the location of the asphalt that is proposed to be removed and stated that the three bays will remain vacant.

Greg Fevola was sworn and presented Exhibits O-1 and O-2 – photographs of the wall depicting its current condition. Mr. Fevola expressed concern regarding the condition of the wall and regarding possible contamination of the soil.

The applicant agreed to ensure the structural integrity of the wall and to take reasonable measures to repair it subject to review and approval of the building department.

Karen Damato was sworn and presented Exhibit O-3 – photographs showing the business activity that was taking place. She asked if what is shown in the exhibit will continue.

Mr. Santore stated that the vehicles shown in the photos will not be there and the use will not be expanded. In response to a question from another member of the public, Mr. Santore stated that the applicant wants to have three pumps rather than two as a benefit to his business.

Discussion took place regarding whether to continue with the hearing or adjourn. The consensus of the Board was in favor of continuing until 11:15 p.m. to allow for further testimony and public questions.

Mr. Boyer left the meeting (10:30).

Michael Pessolano, planner, previously sworn, stated that he has visited the site and reviewed the application, the township requirements and the comments from the Board's professionals. This is a pre-existing non-conforming use and the applicant is proposing to add a third dispenser. This will be an overall improvement of the property and changes will not result in substantial harm to the neighborhood or the ordinance. There is a benefit to the public of extending the hours of operation and the proposal will result in an improvement of the appearance of the property. There will not be any additional noise generated from the site because of the absence of repair services. The proposal will promote the general welfare, free flow of traffic and better air quality. There will be no negative impact and no impact on the zoning plan or ordinance.

Open to Public

The hearing was opened to the public for questions or with regard to Mr. Pessolano's testimony.

Karen Damato submitted Exhibits O-4 and O-5 –photographs showing the station open on Thanksgiving and Christmas. She asked if the applicant is planning to be open on major holidays.

Mr. Santore stated that people want gas on holidays and the applicant would propose to have reduced hours, such as 9-5, on major holidays.

Sunitha Kandula and Jagannadha Kandula raised questions regarding the school bus schedule and the need for expanded hours.

Mr. Pessalano stated that he did not consider the school bus schedule and the expanded hours will benefit the public and enhance the applicant's business operation.

The hearing of the application was carried to April 23, 2020 with no further notice required. Mr. Santore stated that the applicant would grant an extension of the time for the Board to act on the application through end of April.

Adjournment:

A motion was made by Mr. Ringwood, seconded by Mr. Delia, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 11:15 PM.

Regina Giardina, Secretary Pro Tem