

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
OCTOBER 23, 2019**

Meeting called to Order by Chairman Novellino at 7:31 p.m.

Reading of Adequate Notice by Vice-Chairman Barthelmes.

Chairman Novellino read the additional Noticing required by the Township.

Salute to the Flag and observance of a moment of silence for the troops.

Roll Call: Present - Barthelmes, Conoscenti, Frost, Morelli, Mostyn, Novellino,
and Mangano

Absent - Ferrara and Lambros

MEETING MINUTES: September 25, 2019. The Board having reviewed and commented on the Meeting Minutes, Vice-Chairman Barthelmes made a Motion to Approve and Mr. Morelli offered a Second. Roll Call Vote: Barthelmes, Morelli, Conoscenti, Frost, Mangano and Novellino voted yes to approve.

RESOLUTION:

Z1919-04 SIX, GAIL AND CLINTON- Block 43, Lot 4 located at 241 Woodville Road consisting of 0.96 acres located in the RU-P zone. Applicant seeks to construct a single-family dwelling on an undersized lot. Ordinance Section 4-2.2, Undersized Vacant Lots allows the lot to comply with the R-80 Zoning District. Three (3) variances needed. Deemed Complete: 8-16-19. Date of Action 12-14-19. Noticing required.

The Board having reviewed the Resolution, Mr. Frost made a Motion to memorialize and Mr. Conoscenti offered a Second. Roll call Vote: Frost, Conoscenti, Morelli, Mangano, Barthelmes and Novellino voted yes to memorialize the Resolution.

CARRIED APPLICATION:

Z19-03 KALEZIC, ADRIAN - Block 62, Lot 31.11 located at 4 Moonlight Court consisting of 2.6 acres in the R-130 Zoning District. Applicant removed soil, regarded, disturbed steep sloped area and removed approximately 30,000 s.f. of trees without apply for permits or variances. Applicant proposes to restore and stabilize the area by re-grading and planting trees and shrubs. Variance needed for Ord. 11-24-3, disturbance of steep slopes. Deemed Complete 7-22-19. Date of Action 11-19-19. Application heard in part and Carried from 9-25-19 Meeting, no further noticing required.

Attorney Vella announces that Mr. Conoscenti had stepped down for the application.

Attorney Vella announced that this application was heard in part at the Board's September 25, 2019 meeting and is a continuation of that application.

Attorney Vella read the following Exhibits into Evidence:

- A-11 Variance Sketch Plan prepared by Crest Engineering, dated 4-19-19, no revision date on cover sheet
- A-12 Stormwater Management Drainage Narrative for proposed retaining Walls, prepared by Crest Engineering dated 10-11-19
- A-13 Existing Drainage Area Map prepared by Crest Engineering dated 10-11-19
- O-5 Letter from Attorney Rentschler dated 10-21-19

Attorney Peter Klouser of Heilbrunn Pape, representing the applicant.

Mr. Klouser advised that the one plan prepared by Crest Engineering included restoration of a gentle long slope, and the second plan was created in response to the Board's comments at the September Meeting and the Comments of Board Engineer Shafai. This plan was submitted to the neighbor which resulted in the Objector's counsel's letter of 10-21-19.

Attorney Vella advised that Lorali Totten, P.E., P.P. of Crest Engineering is still under oath.

Attorney Vella entered into Evidence, Exhibit A-14, Color Rendering of Landscape and Retaining Wall Plan, dated 10-17-19.

Mr. Klouser offered that this plan is a more fully engineered sketch of the retaining walls designed to handle the slope.

Ms. Totten described the overall stormwater management system as modular block walls 18 inches wide. Behind the walls, stone and pipe handle the water, allowing the water to go into the stone channel and go down to the perforated pipe where two dry wells located at the bottom will assist in the stormwater management.

Ms. Totten advised that swales and berms regulate the influx of water helping to push the storm water away between the property lines. The spread out of the retaining walls are to allow landscaping in between the walls. She explained that the system helps to get the water down the slope so that it does not pond.

Ms. Totten explained that the stone area depicted on Exhibit A-14 only drains to the

circular driveway. They have recreated the draining patterns to be in line with the condition of the property prior to the applicant regrading the steep slope. Ms. Totten felt that with landscaping in place and redirecting water in the direction where it is to flow, it would help it to bring the property back to the 2015 condition prior to regrading. The planting along the terrace of the walls are shrub-like. There are trees below the wall and the western corner of the property.

Ms. Totten had reviewed the letter from the Objector's Attorney, marked into Evidence as Exhibit O-5. She advised that protections will be reviewed with Freehold Soil Conservation District (FSCD) and Engineer Shafai will be monitoring as well. The applicant is proposing 35 trees along with shrubs. The berm does not extend the length of the property line and Ms. Totten explained why. The north corner of property line is an area of non-disturbance and they did not want to disturb more trees.

Mr. Klouser added that the berm is designed to handle the area that was disturbed. The existing drains will be replaced by this more sophisticated system.

Attorney Vella advised that the Board cannot require that the applicant go on someone's property to repair damage they may or may not have caused. The Municipal Court handles this as well as the Construction Department. He explained who has jurisdiction over this. The Board does not have jurisdiction over this. Attorney Vella wants to make sure that the Objector's are notified of any new Court dates.

Mr. Klouser summarized that the plan before them was designed as a result of the Board's comments.

Engineer Shafai asked what the applicant's timeline when this work will be done. Engineer Shafai asked that a bond and inspection fees be in place.

Attorney Vella stated that where this is a substantial violation of the steep slopes there must be some additional protection.

Engineer Shafai asked when the applicant is planning to do the work. Mr. Klouser advised in the spring. Mr. Klouser stated that interim temporary measures will be done immediately and maintained until the work can begin in spring.

The bond was discussed. The Board felt having the bond in place will help expedite restoration and protect the Township should the work not done.

The FSCD approval and Shade Tree Commission approval is needed.

Planner Mertz advised that these are engineering issues and she defers to the Board Engineer. Engineer Shafai agrees with all of the new changes

Mr. Frost had a concern that the pipes that carry the water where it needs to could

ultimately become clogged. Ms. Totten stated that they have taken that into consideration. She explained that there is filter fabric around the stone.

Engineer Shafai stated that if the wall is to be four feet or higher, then a civil engineer must certify the construction.

Engineer Shafai also asked for additional trees shall be planted to the south side of the property.

Chairman Novellino opened the application to the public at 8:09 p.m. Seeing none, Chairman Novellino closed the public portion at the same time.

Mr. Klouser summarized.

Chairman Novellino stated that there is a variance associated with this application and the Board must address it. By granting the variance is one way to address this problem. Putting the property back to the way it was prior to the regarding of the steep slopes is not practical. The proposed plan is the only reasonable choice. He stated that concerns raised at the last meeting have been addressed such as overflow of stormwater and additional flow recharge into the ground are the goals of stormwater management. Chairman Novellino did not see any negatives in granting the variance

Mr. Morelli agreed with the Chairman. The fact that the neighbors are satisfied with the proposed plan makes sense.

Mr. Mostyn felt that the tiered wall system works a lot better.

Attorney Vella read the conditions of approval should the Board vote favorably on this application, including but not limited to: subject to the A-11 Plan that was recently revised, applicant shall post performance bond and inspections fees at the direction of the Board Engineer as well as a Maintenance Bond, removal of the stone area per the Engineer's approval, additional trees shall be planted to the south side of the property, subject to review and approval of Freehold Soil Conservation District and Shade Tree Commission review of the plan, etc.

Board Secretary announced that Mr. Mostyn was absent at the last meeting but has certified that has watched the video of the meeting, reviewed the Exhibits and is now eligible to vote on the matter.

Chairman Novellino asked for a Motion and a Second. Vice-Chairman Barthelmes made a Motion to approve the application as conditioned and Mr. Mostyn offered a Second. Roll Call Vote: Barthelmes, Mostyn, Frost, Morelli, Mangano and Novellino voted yes to approve as conditioned.

NEW APPLICATION:

Z19-05 TESLA, INC. - Block 56, Lot 4 located at 548 Monmouth Road consisting of 5.50 acres located in the Highway Commercial 1 (HC-1) Zoning District. The premises is occupied by a Wawa store. Applicant seeks use variance relief and minor site plan approval to construct a 72 s.f. concrete pad for purposes of installing Tesla electrical charging stations. Deemed Complete 9-13-19. Date of Action 1-11-20. Noticing Required.

Attorney Vella advised that he has read the noticing packet and finds same in order to accept jurisdiction over the application.

Attorney Vella read the following Exhibits into evidence:

- A-1 Jurisdictional Packet
- A-2 Application dated 4-18-19
- A-3 Website Notice
- A-4 Field Survey prepared by John J. Lanlon of VS Land Date dated 12-13-18, Last Rev.12-19-18
- A-5 Title Report prepared by Fidelity National Title dated 12-31-18
- A-6 Site Plan prepared by Dewberry Engineering dated 7-22-19, Last rev. 7-31-19
- A-7 Color Aerial prepared by Dewberry Engineers, Inc.
- BOA-1 Engineer's Report dated 9-13-19
- BOA-2 Planner's Report dated 10-11-19
- BOA-3 Fire Department Report dated 10-3-19

Attorney Duncan Prime representing the applicant.

Attorney Vella entered into Evidence, Exhibit A-8 Five (5) Page Hand-out of Photo Simulation.

Mr. Prime provided a brief overview of the project. The property is located at 548 Monmouth Road and Pine Drive. On the site is a Wawa store with the sale of fuel. The applicant seeks approval to utilize an 8-vehicle row of parking for a Tesla proprietary electrical supercharging station. Mr. Prime explained that there is a 72 s.f. concrete pad for the equipment.

Board Planner Mertz clarified that the Wawa was originally approved via a use variance for the area. The Wawa was never a conforming use, therefore, any change to the use requires that the applicant come to the Board for D1 variance relief.

Attorney Vella stated that it can be considered an expansion, it can be considered a reduction since the parking is being reduced. The parking is a completely separate use from the Wawa.

Mr. Prime clarified that of the 8 spaces, only 2 spaces are dedicated for Tesla, but they are all spaces for Wawa customers.

Attorney Vella swore in Henry Misas. His position with Tesla is that he is an installation manager with Tesla. He is the lead designer and manager of the project.

In reviewing the Board Planner's Report, the need for this service was addressed.

Mr. Misas stated that Tesla is expanding its network of charging stations. At the supercharging stations it could take 5 to 40 minutes to charge the vehicle. These stations are meant to enable long distance travel. Mr. Misas explained that there is a gap in the Central Jersey area and Tesla is trying to fill that gap. There have a partnership to with many Wawa stores to have these charging stations on their sites. Wawa is open 24/7 and so are the charging stations.

Mr. Misas advised that there are thousands of charging stations all over the world.

Regarding maintenance, a service crew takes care of the maintenance. Mr. Misas explained how Tesla customers locate a supercharging station using an application which provides a heads up if the station lot is being utilized. It monitors the availability of charging stations in real time.

Mr. Misas explained that the electrical installation at the charging station utilizes underground conduit to provide electrical power to the above ground charging stations.. He advised that the adapter at the charging station at this time only works with a Tesla vehicle. Tesla is not installing a generator to provide backup in case of a power outage.

Regarding the fee for using the charging station, Mr. Misas stated that this is an app for Tesla customers and you pay as you go via the app. Fees are charged per kilowatt hour of usage.

Mr. Prime offered that the home is the main charging station for the vehicles. They are charged overnight. Tesla has relationships with many shopping centers and the like where customers can charge their vehicles.

Chairman Novellino asked why 8 charging stations. Mr. Misas advised that is the standard sizes. This allow for growth.

Planner Mertz asked about the number of spaces and if they have an opportunity to expand to other spaces. Mr. Misas advised it varies by site.

Chairman Novellino asked if there were any safety concerns with the supercharger batteries. Mr. Misas advised no. The batteries are lithium ion.

Engineer Shafai asked if any Tesla employees are located on the site and Mr. Misas advised no.

Mr. Misas advised that this is a proprietary site for Tesla vehicles only. Tesla is focusing on their Tesla customers to provide this service for them.

It was discussed that Tesla is designing 8 stations presently. If they want to add more, they would have to come back to the Board for approval.

No more questions presently for the witness.

Attorney Vella swore in Dave Revette, P.E. of Duberry Engineering. Mr. Revette presented his credentials including he has his P.E. in civil engineering. He has been designing the supercharger sites for the past 7 years. He has testified before many Boards in the State of New Jersey but not this Board.

He is accepted as an expert witness.

Attorney Vella entered into evidence, Exhibit A-9, Aerial of the subject property.

Mr. Revette explained the subject property including the location of the Wawa store and 2 gas canopies. The power is brought by the utility along Pine Drive. The power runs underground. Bollards protect the charging station area. The area is 10 x10 feet and 4 foot in height.

Mr. Revette explained he explained the process of electricity going from the source to the superchargers. Fans are located on top of the cabinets to cool the units. Measurements have been taken to reduce noise. Mr. Prime advised the Board that the applicant will comply with all State noise standards.

Engineer Shafai asked if trees would be taken down. Mr. Prime advised that smaller pine trees would be removed. Engineer Shafai voiced his concern that underground electricity to the charging station area would destroy the roots of the established trees. The applicant should keep away from the center trunk and go around the tree. Mr. Prime advised that they will work with Engineer Shafai as to the landscaping.

Buffering of the cabinets was discussed.

When asked about the electricity going to the pole, Engineer Shafai advised that the electric company has made this choice.

Mr. Revette advised that the cars back into the stalls to charge.

The signage was discussed.

Regarding the parking spaces, Engineer Shafai stated that Wawa has installed 16 spaces over what the Ordinance dictates so there is no parking variance connected with this application.

Attorney Vella swore in James Kyle, P.P. Mr. Kyle presented his credentials including he has a B.S. in environmental planning and design from Rutgers. He has appeared before over 200 Boards through the State..

Chairman Novellino advises that the Board accepts him as an expert witness

Mr. Kyle offered that he has reviewed the Master Plan and the Zoning Ordinances as well as the Board Professionals' reports. He stated that the applicant does require a D1 variance. There are no other variances needed.

Mr. Kyle went through the positive reasons to approve the application including the site promotes public welfare and is particularly suited for this use of the Tesla supercharging stations to assist customers in long travels located on the interstate. This is what Tesla is trying to achieve.

Mr. Kyle stated this is a good location for the stations. He stated that there are some stations located off of the turnpike. This site has additional parking so the site can handle the designated parking for the Tesla stations. Mr. Kyle stated that the site has sufficient are to install the equipment.

Mr. Kyle stated that Tesla has 75% of the electric vehicles in the State.

Mr. Kyle addressed the negative criteria. He stated that this site is fairly isolated from residential uses and is fairly wooded. The stations will be located at the back of the site and not visible from Monmouth Road. Mr. Kyle feels that there will not be a problem with noise, odor or glare and the applicant will comply with the State standards. The parking supply will not be impacted.

Mr. Kyle stated that Tesla has been co-locating with Wawa facilities. He feels the zoning district is intended for these purposes. He stated that electric vehicle charging stations were not widespread and at the time the zoning map was prepared so we may not have been aware of the need for them. Mr. Kyle stated that this use had not been anticipated and he has only seen two towns that have this use in their ordinance.

Mr. Frost offered that there are no fumes related to the engine idling with electric vehicles that can never happen.

Board Planner Mertz agreed with what Mr. Kyle has testified to. She stated that most of the State is behind on their ordinances. She stated that even in 2016 we were not

seeing the volume of these applications. Planner Mertz stated that the applicant is providing 8 stations and while this is not an LEED project, it is a sustainable project. She stated that it is beneficial and appropriate in this area, utilizing spaces farthest away from the store.

Chairman Novellino stated that Six Flags is a huge traffic generator in the area.

Mr. Mostyn asked about illumination of the station area. Mr. Kyle advised that the charging stations are lit.

Chairman Novellino opened the application to the public at 9:40 p.m. Seeing no public comments, he closed the public portion at the same time.

Vice-Chairman Barthelmes feels that traffic will not be impacted in any way from the installation of the stations

Chairman Novellino looked at the positive and negative criteria. It is a great location for this use as it is close to interstate 195. No tail pipe emissions from electric cars is a positive environmental benefit assuming the generation of the electricity produces less pollution. The lithium ion batteries are safe per the applicant's testimony. The area is zoned commercial with residential adjoining on Pine drive. It is a strictly a Tesla charging station which limits the public benefit to Tesla customers.

Attorney Vella went through the conditions of approval should the Board vote positively on the application, including but not limited to: compliance with the Fire Department approval, replace the pine trees being removed, remove conduit away from the trees to prevent the conduit to go through the tree roots, etc.

Mr. Conoscenti made a Motion to approve and Mr. Frost offered a Second. Roll Call Vote: Conoscenti, Frost, Morelli, Mostyn, Mangano, Barthelmes and Novellino voted yes to approve the application.

There will not be a November 27th meeting. The next Meeting of the Board will be on Thursday, December 12, 2019 beginning at 7:30 p.m.

Seeing no further old or new business, Chairman Novellino asked for a Motion to Adjourn. Mr. Conoscenti made the Motion and Mr. Morelli offered a Second and by unanimous vote, the Meeting adjourned at 10:00 p.m.

Respectfully submitted,

Pamela D'Andrea

