

BOARD OF ADJUSTMENT
BOROUGH OF BERNARDSVILLE
Minutes – June 20, 2022
VIRTUAL ONLINE MEETING

1. **Statement of Adequate Meeting Notice:** Read by Chair Greenebaum at 7:30 pm.

2. **Roll Call:**

Present – Members Greenebaum, Kramer Sailliard, Slocum and Traynor.

Absent – Members McDowell, Sedlak, Loeffler and Reynolds

Board professionals present: Attorney Louis P. Rago and Engineer Robert C. Brightly.

3. **Approval of Minutes:**

Review of draft minutes of 4/18/22 meeting.

Upon review, a motion to approve the minutes as presented was made by Mr. Slocum and seconded by Mr. Traynor.

Voice vote:

All eligible members voted in the affirmative.

4. **Communications:** The Chair noted the following correspondence:

A. 6/2/22 Boswell Engineering consulting services proposal re: NJAW Fenwick Tank ongoing appeal litigation (*re #8 - CONFIDENTIAL*).

B. 6/17/22 K. Boswell, PE email re: capped fee qualification to 6/2/22 services proposal. (*re #8 - CONFIDENTIAL*).

C. 6/17/22 L. Rago, Esq. email transmittal of Confidentiality Agreement re: NJAW appeal litigation (*re #8 - CONFIDENTIAL*).

D. The New Jersey Planner – March/April 2022, VOL. 83, No.2.

5. **Old Business:** Memorialize Resolution #21-13 SELLERS – Conditional Use Variance for Detached Caretakers Cottage at 140 Post Kennel Road, B: 27, L: 1, Zone: R-1; Approved 4/18/22.

Chair Greenebaum read on the record the draft resolution that contained the applicant's attorney's (Fredrick Zelle) and the Board's engineer's comments. Upon consideration, it was agreed that the word "*extra*" in condition #6 should be changed to "*additional*". Mr. Zelle, who was in attendance concurred with the amendment. A motion to adopt the resolution as amended was made by Mr. Sailliard and seconded by Mr. Slocum.

Roll call vote:

All in favor: Greenebaum, Sailliard and Slocum.

Those opposed: None. Those abstaining: None.

6. New Business: Review of 6/20/22 Bills List with Invoices:

Upon review, a motion to pay the listed invoices, in the amount of **\$4,365.00** was made by Mr. Traynor and seconded by Mr. Sailliard.

Roll call vote:

All members voted in the affirmative.

7. Pending Applications: The Chair noted the following applications and their status:

A. Application #22-01 DAWNLEIGH LLC – Request for D68 Certificate of Non-conforming Use 1 Dawnleigh Lane, B:67, L:8, Zone R-4; Received 3/8/22; Pending completeness review.

B. Application #22-02 BROWNE – Bulk Variance for Addition to Single-family Residence at 72 Seney Drive; B:40, L:16, Zone: R-3; Received 3/31/22; Pending completeness review.

8. Executive Session: Matter of ongoing litigation re NJAW Fenwick Tank denial appeal.

A motion to close the public meeting and reconvene in executive session was made at 7:50 pm by Ms. Kramer and seconded by Mr. Traynor.

Roll call vote: All members voted in the affirmative.

It is anticipated that the matters discussed in closed session may be disclosed to the public upon determination of the Board that the public interest will no longer be served by such confidentiality.

A motion to close the executive session and reopen the meeting to the public was made at 8:42 pm by Ms. Kramer and seconded by Mr. Traynor.

Voice vote: All members voted in the affirmative.

9. Action on Matters Discussed in Executive Session:

A. A motion to authorize Board Attorney Rago to enter into a cooperative agreement for joint defense of the NJAW Fenwick Tank denial appeal litigation was made by Ms. Kramer and seconded by Mr. Slocum.

Roll call vote:

All members voted in the affirmative.

B. A motion to accept the 6/2/22 capped fee services contract proposal by Boswell Engineering relative to the NJAW Fenwick Tank denial appeal litigation was made by Mr. Slocum and seconded by Ms. Kramer.

Roll call vote:

All members voted in the affirmative.

C. A motion to request an enhanced report from the Bernardsville Historic Preservation Advisory Committee relative to the NJAW Fenwick Tank denial appeal litigation was made by Mr. Slocum and seconded by Ms. Kramer.

Voice vote:

All members voted in the affirmative.

- 10. Comments from Members:** Mr. Slocum noted that the Bank of America ATM on Morristown Road, which had previously come before the Board, had been removed. The Chair acknowledged the passing of long time Board member Ed English at the beginning of May. Several other members added comments about Mr. English. Mr. Mottola was asked to provide a copy of the article on Mr. English that appeared in the Bernardsville News if possible.

11. Comments from Staff: Mr. Mottola informed that the Claremont Manor application, previously before the Board of Adjustment for multiple hearings, was recently submitted to the Planning Board.

12. Adjournment:

Motion to adjourn: Ms. Kramer.

Second: Mr. Slocum.

Chair Greenebaum adjourned the meeting at 8:52 pm.

Respectfully submitted,



Frank Mottola,
Planning & Zoning Boards
Administrative Officer

Keywords: resolution -Sellers-Post-Kennel-Zelley-NJAW-Fenwick-litigation-Boswell-English.