

BOARD OF ADJUSTMENT
BOROUGH OF BERNARDSVILLE
Minutes – February 16, 2021
VIRTUAL ONLINE MEETING

1. **Statement of Adequate Meeting Notice & Emergency Protocols:** A statement of adequate meeting notice and adherence to the state mandated emergency remote meetings protocols, as set forth on this meeting's web-posted agenda, was read by Chair Greenebaum at 7:31 pm.
2. **Roll Call:**

Present: Members Carton, English, Greenebaum, Kramer, McDowell, Sailliard, Sedlak, Slocum and Traynor.
Absent: Mr. Dello Russo.
Board professionals present: Attorney Louis P. Rago, Engineer Robert Brightly and Planner Edward Snieckus (from Burgis Assoc., substituting for Board Planner John Szabo).
3. **Meeting Minutes:** Review draft minutes of 1/18/21 meeting.

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

Voice vote:
All eligible members voted in the affirmative
4. **Communications:**
 - A. 1/27/21 J. Szabo email re 2020 Annual Report recommendation on defining pools & patios in zoning ordinance.
Chair Greenebaum noted that this recommendation is carried forward in the 2020 report.
 - B. 2/16/21 Final Draft 2020 Annual Report (re 5A).
 - C. 2/12/21 Draft Resolution #20-04 NJAW- Oak Booster Station. (re 5C).
5. **Old Business:**
 - A. Review/adopt final draft 2020 Board of Adjustment Annual Report.

Seeing that the Board had no further comments on the report, a motion to adopt the latest draft of the 2020 annual report as distributed was made by Mr. McDowell and seconded by Mr. Traynor.

Voice vote:
All members voted in the affirmative.
 - B. Notice of 2/1/21 agenda correction re continued application #20-01 NJ AMERICAN WATER CO., INC. – Fenwick Tower.
Chair Greenebaum clarified that this application had been properly adjourned and carried to 3/1/21 at the 1/18/21 meeting and that it had been incorrectly stated otherwise at the 2/1/21 meeting, due to a misprint on the agenda.

C. Continued Application #20-04 NJ AMERICAN WATER CO., INC. – Oak Booster Station; Preliminary and Final Site Plan with d3 Conditional Use Variance; Oak Ridge Road; B:48, L:5, Zone:R-2; Previously heard 12/7/20, 1/18 & 2/1/21, Scheduled to be continued 2/16/21; Board to consider adoption & memorialization of draft resolution #20-04.

[Eligible to vote: Greenebaum, English, Sailliard, Kramer, Carton, McDowell and Slocum.]

Appearing on behalf of the application were attorney Niall O'Brien and engineer Joe Bongiovanni. Appearing on behalf of the objectors, Kingwood Estates Neighborhood Association (KENA), was attorney Robert Simon.

Exhibits Introduced:

A27 – Dwg. C-202, Landscape Plan, by Jacobs Eng. Group, Inc., revised to 1/21/21

Mr. O'Brien provided an update on the status of the application, stating that the applicant has returned with exhibits showing the additional landscaping requested by the Board at the prior hearing.

Mr. Bongiovanni displayed exhibit A27 and showed that a row of white azaleas had been added in front of and parallel to the building, with additional azaleas added to screen views of the hydrants in the front yard. Per the Board's request, the hydrants will be painted green.

Mr. Brightly noted that foundation plantings have been extended along the NW side of the building and with the removal of the septic system, several trees were saved and an additional four white pine trees were added to infill. He presently emailed copies of his draft resolution markup to Mr. O'Brien and Mr. Simon as he had not done so prior to the meeting.

Mr. O'Brien summarized the application. There were no comments from the general public. Mr. Simon thanked NJAW and the Board for their cooperation in allowing his client's input during the course of the application. Ms. Kramer lauded the collaborative effort on the part of KENA and NJAW. The Board and Mr. Rago agreed with Mr. O'Brien that a variance should be included for the building's floor area being less than 1,200 S.F., even though Mr. Szabo did not find it to be necessary since it is not a residence. Mr. Rago had prepared and distributed a draft resolution prior to the meeting. It was noted that the applicant's renderings he had attached would be solely for the building and paved areas as they were not updated to reflect the latest landscape plan or hydrants in the front yard. The floor area of the building will be corrected to 1,038 S.F., and language regarding below ground pump stations will be removed per Mr. O'Brien's request. The latest landscape plan will be attached to the resolution, which will be amended to include Mr. Brightly's markups and Mr. O'Brien's input.

A motion to approve the application was made by Ms. Kramer and seconded by Mr. McDowell.

Roll call vote:

All in favor: Members English, Greenebaum, Kramer, Sailliard, McDowell and Slocum.
Those opposed: None. Those abstaining: None.

Chair Greenebaum read on the record the amended resolution as discussed above. A motion to adopt the resolution as amended was made by Mr. English and seconded by Mr. Slocum.

Roll call vote:

All in favor: Members English, Greenebaum, Kramer, Sailliard, McDowell and Slocum.
Those opposed: None. Those abstaining: None.

D. Continued Application #20-07 BANK OF AMERICA (ATM) – Amended Site Plan w/ Dimensional Variances; 37 Morristown Rd.; B:125, L:8, Zone: C-1; Rec'd 8/12/20; Previously heard 11/2/20 and 12/7/20; Scheduled to be continued 2/16/21.

Appearing on behalf of the application were attorney Scott Collins and engineer Gerald "Jake" Modestow.

Mr. Collins summarized the changes made since the last hearing stating that they reduced the overall lighting on the site, reduced the spillage over the property line and upgraded the lighting fixtures' aesthetics.

Mr. Modestow displayed plan drawings by Stonefield Engineering & Design, dated 2/5/21. He restated the purpose of the application being to upgrade the lighting fixtures to LED for energy savings and to meet NJ lighting standards where the site is currently deficient. He cited the state standards and reviewed how the lighting plan has been revised for compliance and to achieve a reduced level of lighting overall. The plan incorporates both new and upgraded existing bollards and new 10' pole lights. There will be an average at grade lighting level across the property of 1.86 F.C. with a maximum of 2.5 F.C. at any one point. All fixtures will be shielded against spillage and will be "dark sky" compliant. He responded to the engineer's review letter of 2/10/21 stating that the landscape trees and shrubs can be trimmed to avoid interference with the light fixtures. Responding to Mr. Carton he stated that the current fence along three sides of the property is planned to be reconstructed (repaired or replaced as needed), as it contributes to reducing spillage over the property lines. Damaged shrubs will also be replaced. The 10' pole lights are mounted atop 31" bases making the fixtures almost 13' tall. Three existing canopy lights will remain unchanged. The lighting level is comparable with that of Chase Bank across Rt. 202.

The Board discussed with Mr. Modestow whether the lamps mounted on the poles can be smaller; whether the lights will be visible to residents in surrounding neighborhoods; why the former approval was not compliant with state requirements; if there have been any complaints of insufficient lighting levels from customer or by the police; whether the bank's proposal is compliant with the design standards of the newly adopted downtown zoning ordinance; the use of motion sensors; the comparative lighting level with other banks in the area; the number of other standalone ATM's in New Jersey; number of/what percentage of banks in NJ do not meet state standards; and, how sites are picked for lighting upgrades.

It was asked that Mr. Szabo check this proposal for compliance with the new Bernardsville design standards. The Board requested illustrative renderings of the existing and proposed site lighting schemes for visualization purposes. The Board also asked the applicant to provide comparative lighting levels at other area banks and to document on the drawings that the perimeter fence will be repaired or replaced as needed. Mr. Collins stated the bank's willingness to provide the requested information and reiterated that the purposes for the lighting changes are to bring the ATM's lighting levels into compliance with the state standard and to reduce the facility's carbon footprint as part of a nationwide program. Relative to the town's downtown revitalization efforts, Mr. Sedlak stressed the importance of fitting in with its nature and character and working to future-proof the facility.

It was agreed and announced that this application will be continued at the 4/5/21 meeting with no further notice to the public. Mr. Collins agreed to extend the time of decision to the end of April and will provide a letter stating same to Mr. Mottola.

6. New Business:

A. Application #20-02 BV Two, LLC - Preliminary & Final Major Site Plan w/ Use and Bulk Variances for storage structures with outdoor storage; Old Quarry Road; B:100, L:2.41, Zone I; Received 3/25/20; Deemed incomplete 10/1/20; Revised application submitted 10/23/20; Waiver requests, completeness determination and hearing scheduled for 2/16/21.

Appearing on behalf of the application were attorney Fredrick Zelley, managing member of the applicant Foy Colley and engineer Catherine Mueller. Mr. Carton recused himself from the application as he has ownership in Bernardsville Self Storage.

Mr. Zelley introduced the application stating the owner has a multi-story building storage facility in the area nearby. Multiple single-story buildings are proposed for this lot. They will be non-electrified and unlit cold storage units with exterior garage door type accesses. Proposed are 56 storage units of various sizes and 23 outdoor rental parking spaces, which require a "d" variance from this Board.

After being sworn, Mr. Snieckus listed the requested waivers identified in Board planner John Szabo's 10/1/20 planning report. Mr. Zelley addressed the waivers and provided justifications for each. Mr. Mottola certified that adequate notice had been provided. A motion to approve the requested waivers and deem the application complete was made by Mr. Traynor and seconded by Mr. McDowell.

Voice vote:

All members voted in the affirmative.

Ms. Cooley was sworn and provided her background, indicating knowledge of self-storage facilities as CEO of Access Self Storage, Inc., dba Access Management Co., which has been developing and managing self-storage facilities for over 40 years. One of the company's existing facilities is at 3 Old Quarry Rd. She contrasted the use differences between the two facilities, with the existing being mostly for residential storage and the proposed being for commercial use by small businesses and contractors. Open air rented parking spaces will be available for commercial vehicles. The property will be fenced and well lighted, with keyed access to staff and renters, security cameras and remote monitoring. All vacant units will be locked. All will be single storage units, accessed from the exterior, and will be accessible 24/7. The rental office for the new facility will be remote at the existing facility, which operates from 8 am to 8 pm, Mondays through Fridays; 8 am to 5 pm on Saturdays and 11 am to 5 pm on Sundays. No truck rental business will be conducted from the site. Nothing may be left on site when tenants leave and no dumpsters will be on site. A list of prohibited storage materials will be posted in every unit. All leases will be month to month. Parked vehicles must be insured and operable. While the units are modular in construction, they are not temporary and will not be moved. Due to the shared office function, Mr. Zelley stipulated the applicant's agreement to return to the Board should the existing facility that has the rental office be sold off.

There were no questions from the public for Ms. Cooley.

Ms. Mueller was sworn and qualified. Displaying previously submitted application drawings, last revised 10/21/20, she described the site and its environs. Storage units and parking spaces will be available in several different sizes, with 24 rental parking spaces proposed. Asphalt pavement will be installed around the storage units; the site is currently all gravel paved. The perimeter fence will be 8' high small mesh and will be located on the street side of the 15' wide

drainage and utility easement. She said there are no drainage facilities or utilities located within the easement. The stand-alone pylon sign will not impede sight distance at the intersection of Quarry Rd. and Rip Rap Rd. In addition to the use variance for outside storage of vehicles, a review of the zoning requirements indicated that a number of variances and design waivers were required as set forth in Mr. Zelle's rider to the application. Justifications were provided for each. Having previously been a cement manufacturing facility the gravel covered site is almost completely impervious at 94.2% coverage, this will remain unchanged. The hard compaction of the site hinders establishment of landscape planting and use of dry wells. Designated parking spaces are not needed for storage units since tenants drive vehicles up to the units' garage-type doors for loading and unloading, and then leave the site. The proposed grading plan will maintain the existing surface drainage patterns; no impervious coverage will be added. The owner maintains the site for snow and ice removal in the winter. Lighting Plan, page 4 of 4, was used to describe the types and locations of light fixtures. There will be five, 15' high, pole-mounted lights around the site perimeter. All but one will remain lighted 24/7 for security. The remaining site lighting consists of two types of building lights, mounted about 8.5' high. Fixtures mounted at the ends of buildings will have higher lumen bulbs. A design waiver is requested for having 0.8 F.C. at the property line along Rip Rap Road, where 0.5 F.C. is required. Comments from Mr. Brightly's 11/10/20 report have already been or will be addressed. Responding to his question, she said some of the rental parking spaces may be double parked. Painted lines to delineate parking spaces are not proposed. The applicant will explore options for remote fire detection at the site and will discuss same with the fire department. Ms. Mueller confirmed that extensive excavation would be required to create vegetative landscaping where none currently exists. She did not know of any deed restrictions that prohibit vehicle encroachment into the drainage easement. The applicant is amenable to installing wheel stops in the future should they be deemed necessary. Refueling of vehicles on site will be prohibited. The applicant affirmed that tenants will be required to comply with the Borough's construction noise ordinance.

There were no questions from the public for Ms. Mueller.

It was agreed and announced that the application will be continued at the 4/19/21 meeting with no further notice to the public.

B. Review of 2/16/21 Bills List:

Upon review, a motion to pay the listed invoices in the total amount of \$2,925.00 was made by Mr. Sedlak and seconded by Mr. Sailliard.

Roll call vote:

All member voted in the affirmative except for Mr. Sedlak who abstained.

7. Pending Applications: The Board acknowledged these applications and their respective status:

A. Continued Application #19-09 OCHS – Bulk variances for residential addition and retaining wall; 180 Round Top Road, B: 81, L: 24, Zone: R-1A; Received 9/24/19; Decision required by 2/29/20. Previously heard 12/2/19 & 11/16/20; Hearing deadline extended to 5/31/21; Scheduled to be continued 5/17/21.

[Eligible to vote: Greenebaum, Sailliard, Kramer, Traynor, McDowell and Slocum.]

B. Continued Application #20-01 NJ AMERICAN WATER CO., INC. – Fenwick Tower; Preliminary and Final Major Site Plan with Conditional Use & Bulk Variances for replacement water tank at Mendham Road; B: 5, L: 5, Zone: R-1; Deemed complete & hearing commenced on 11/16/20; Decision required by 3/16/21; Scheduled to be continued 3/1/21.

[Eligible to vote: Greenebaum, English, Sailliard, Kramer, Carton, McDowell and Slocum.].

C. Application #20-08 MANNING – Bulk Variances for Relocation and Additions to Existing Single-family Residence, 13 Orchard Street; B: 131, L: 4, Zone: R-4; Received 10/8/20; Deemed complete 2/5/21; Decision required by 6/5/21; Scheduled to be heard 3/15/21.

D. Application #20-09 SOMERSET HILLS COUNTRY CLUB - Preliminary & Final Major Site Plan w/ Use Variance for Patio Addition; 180 Mine Mount Road; B:30, L:11, Zone: R-1; Received 12/21/20; Per 2/4/21 Planning Report: waiver requests, completeness determination and hearing scheduled for 3/15/21..

8. **Executive Session:** None.
9. **Comments from Members:** None.
10. **Comments from Staff:** None.
11. **Adjournment:**
Motion to adjourn: Mr. McDowell.
Second: Mr. Slocum.
Chair Greenebaum adjourned the meeting at 11:01 pm.

Respectfully submitted,



Frank Mottola,
Planning & Zoning Boards
Administrative Officer

Keywords: Bank-America-ATM-Collins-Oak-booster-O'Brien-BV-Two-storage-Zelley-Cooley