

BOARD OF ADJUSTMENT
BOROUGH OF BERNARDSVILLE
Minutes – March 1, 2021
VIRTUAL ONLINE MEETING

1. **O.P.M.A. Statement:** 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, David Greenebaum, at 7:30 pm.
2. **Roll Call:**
Present: Members Carton, English, Greenebaum, Kramer, McDowell, Sailliard and Slocum.
Absent: Messrs. Dello Russo, Sedlak and Traynor.
Board professionals present: Attorney Louis P. Rago, Engineer Robert Brightly and Planner John Szabo.
3. **Meeting Minutes:** Review draft minutes of 2/1/21 meeting.
Upon review, a motion to approve the minutes as drafted was made by Mr. McDowell and seconded by Mr. English.
Voice vote:
All eligible members voted in the affirmative

4. **Communications:** The following communications were noted:
A. 2/26/21 G. Kroculik, Esq and D. Amerikaner, Esq. letter to BOA re Application #20-01 NJAW Fenwick Tank.
B. 2/26/21 B. Slota, PE letter to BOA re response to 2/19/21 Boswell report.

Chair Greenebaum advised objectors' attorneys that any letters sent to the Board they wish to be considered must be introduced during the application's hearing.

5. **Old Business:** Continued App. #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 & initially heard on 11/16/20; Decision required by 3/16/21.

Appearing on behalf of the applicant were attorney Niall O'Brien and engineer Ed DiMond with technical assistant Mike Pullano. Mr. DiMond was sworn and qualified.
Attorneys entering appearances on behalf of objectors were George Kroculik and David Amerikaner (for Paul Savas) and Edward Schkolnick (for Karen Martin). Appearing on behalf of the Board was water engineer consultant Kevin Boswell, P.E.

Exhibits introduced:

- A3 - Aerial Photo Location Plan, undated Google Earth image.
- A4 - Tank Aerial View West Across Mendham Road
- A5 - Site plan set

A5a - Dwg. C0-0, Existing Conditions Plan by Buchart Horn Engineers, Architects, Planners, last revised 11/16/20.

A5b - Dwg. C0-1, Proposed site plan by Buchart Horn Engineers, Architects, Planners, last revised 11/16/20.

A6 - Photo of existing tank from access drive.*

A7 - Photo simulation of proposed tank from access drive, with trees.*

A8 - Photo simulation of proposed tank from access drive, without trees.*

A9 - Photo of existing tank from Mendham Rd. (north) at driveway to rental home.**

A10 - Photo of proposed tank from Mendham Rd. at driveway to rental home.**

A11 - Photo of existing tank from Mendham Rd. (south).***

A12 - Photo of proposed tank from Mendham Rd. (south).***

A13 - Balloon test photo from access drive.*

A14 - Balloon test photo from Mendham Rd. (north) at driveway to rental home.**

A15 - Balloon test photo from Mendham Rd. (south).***

A16 - Balloon test photo from 421 Mendham Rd. (north).

* From location **1** on **A3**.

** From location **2** on **A3**.

*** From location **3** on **A3**.

Mr. O'Brien recapped the status of the application to date and introduced Mr. DiMond.

Displaying **A3**, Mr. DiMond described the site and its environs. The 17,667 S.F. lot was acquired by NJAW from Mendham Borough in 1992 with the existing tank that was built in the 1950's. The tank itself is 29' high. The antenna on top takes the height to 56. The closest structure to the tank is a former caretaker's residence that is currently a rental property. Existing conditions were explained using the site plan on **A5a**. The existing tank is 250,000 gallons and is visited once daily. No chemicals are used on site. While the lot and tank are generally nonconforming, it was stated to be of adequate size operationally. Proposed improvements were described using **A5b**. A 42' diameter pedestal supports a 64' diameter tank/bowl. The pedestal, which houses valves and is used for equipment storage has a garage door. There is a 20' clear area around the pedestal with a retaining wall around part of the base. The construction of the proposed 750,000 gallon tank was explained. 250,000 gallons are reserved for fire protection use. Safeguards are installed for tank overflow. The site has no wetlands or environmentally sensitive areas. A dry well will be installed due to the increase in impervious area created by the bowl. As there is a 24' elevation drop across the site, steep slopes would be disturbed in the area of the retaining wall. 24' from the bowl to the nearest property line is proposed where 28.7 exists. The required variances are listed in a table on **A5b**, they include lot area, minimum lot area, building height, yard setbacks, minimum frontage, steep slope disturbance. All three regulated ranges of steep slopes are impacted in the area between the tank and the retaining wall. The tank is approximately 110' to the nearest residential building. No noise emanates from the tank, which is visited once a day. The pump for the tank will be off site. The applicant agreed to provide the distance from the tank to the driveway for 450 Mendham Road. Displayed photos and photo simulations, **A6** through **A8**, reference location **1** on exhibit **A3**, which is approximately 100' from the tank. The balloon test and related photo exhibits are from 2/25/21. The top of the balloon shown in the photos simulates the top of the proposed tank. Dwg. **C0-0** was displayed to show which trees will be removed and how construction would be staged on site. The tree removal and replacement chart included on **C0-0** was reviewed.

Questions to Mr. DiMond were posed by members of the Board, Mr. Amerikaner, Mr. Schkolnick and Mr. Boswell. From the discussions on the construction phase, it was requested that that applicant demonstrate that the tank can be staged and constructed solely within the boundaries of its own site. A detailed construction plan is required. Mr. DiMond said that a construction traffic study had not been performed. Construction would be performed over a number of months. He did not know what percentage of surrounding trees are evergreens or deciduous. He said NJAW had not studied documented tank failures of the last decade relative to preventative safety features. He would find out how close the tank is to the nearest seismic fault line. An alternatives analysis whereby the company might otherwise continue to service the community, without enlarging the existing tank or enlarging it less, and how NJAW will compensate for the loss of the current tank's water capacity during construction, will be addressed by other NJAW representatives. The applicant is amenable to planting its excess replacement trees on adjoining properties as buffers and will explore whether evergreens taller than 12' could be utilized. Based on the hydraulic grade line, the proposed height is the shortest the tank can be. Mr. Brightly commented that the setback dimensions provided on the drawings need to be to the nearest tenth of a foot and not rounded to the nearest foot. He added that the conditional use standard of 25% maximum impervious coverage is exceeded.

It was agreed and announced that the hearing would be continued at the 4/5/21 meeting without further notice to the public. Mr. O'Brien agreed to a time of decision extension to that date and will provide same in writing to Mr. Mottola. Mr. Schkolnick asked that Mr. O'Brien provide a list of witnesses and that NJAW provide a representative with knowledge of the status of negotiations with the MCMUA. He also raised the issue of the Board inviting a representative of the MCMUA to testify on the same matter. Mr. O'Brien said that NJAW's Vince Monaco will be available at the next meeting to address this issue.

6. New Business: Review of 3/1/21 Bills List:

Upon review, a motion to pay the listed invoices in the total amount of \$1,012.50 was made by Mr. McDowell and seconded by Mr. English.

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. 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; Waivers granted, deemed complete and previously heard 2/16/21; Decision required by 6/16/21; Scheduled to be continued 4/19/21.

C. 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 & 12/7/20 and 2/16/21; Decision deadline extended to 4/30/21; Scheduled to be continued 4/5/21.

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

D. 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.

E. 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.

F. Application #21-01 PARAGANO – Bulk Variances for Additions and Renovations to Existing Single-family Residence; 40 Flintlock Court; B: 80, L: 33.13, Zone: R-2; Received 2/23/21; Decision required by 6/23/21; Pending completeness review.

G. Application #21-02 ADAMS – Bulk Variance to Rebuild Detached Garage for Single-family Residence; 77 Mullens Lane, B: 59, L: 7, Zone: R-4; Received 2/25/21; Decision required by 6/25/21; Pending completeness review.

8. **Executive Session:** None.

9. **Comments from Members:** None.

10. **Comments from Staff:** None.

11. **Adjournment:**

Motion to adjourn: Mr. McDowell.

Second: Mr. English.

Chair Greenebaum adjourned the meeting at 10:15 pm.

Respectfully submitted,

Frank Mottola,
Planning & Zoning Boards
Administrative Officer

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