

MEETING MINTUES OF THE BYRAM TOWNSHIP PLANNING BOARD: July 18, 2024

CALL TO ORDER: Chairman Shivas called the meeting to order at 7:30 p.m.

ROLL CALL: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Smith, Chairman Shivas

Members Absent: Messrs. Morytko, Serrilli, and Walsh

Also Present: Engineer Cory Stoner, Attorney Alyse Hubbard, Planner Paul Gleitz, Secretary Caitlin Phillips

OPENING STATEMENT: Adequate notice of this meeting has been published specifying the time and place in compliance with the provisions of the Open Public Meetings Act.

FLAG SALUTE: led by Chairman Shivas

MINUTES: June 20, 2024. Mr. Proctor motioned to approve the minutes, seconded by Ms. Raffay.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, Smith and Chairman Shivas

Abstaining: Mr. McElroy

Absent: Messrs. Morytko, Serrilli, and Walsh

None opposed. Motion carried.

RESOLUTIONS

Z10-2024 Edward Baumgarten, 387 Springbrook Trail, Block 315 Lot 2143, R-5 Zone

Application for addition to existing home

Mr. Proctor motioned to approve the resolution, seconded by Ms. Raffay.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, Smith and Chairman Shivas

Abstaining: Mr. McElroy

Absent: Messrs. Morytko, Serrilli, and Walsh

None opposed. Motion carried.

SP5-2023 Rudy & Vania LLC, 2 Tamarack Road, Block 216 Lots 3 and 3.07, NC Zone

Amended application for change in outdoor dining location

Mr. Proctor motioned to approve the resolution, seconded by Ms. Raffay.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, Smith and Chairman Shivas

Abstaining: Mr. McElroy

Absent: Messrs. Morytko, Serrilli, and Walsh

None opposed. Motion carried.

SUBCOMMITTEE MEETING

SP6-2023 Tomahawk Lake, 155 Tomahawk Trail, Block 343 Lots 1, 2, and 3, CR Zone

Application for amended site plan and use variance approval to use Lot 3 for additional parking, reconfigure the overflow parking area and employee parking area, construct a slide and merry-go-round, and modify a ticket office for larger square footage

Mr. Stoner said there are still items that need to be provided before the application can be heard by the Board. This includes: confirmation that the septic system and porta-john plan is to the satisfaction of the DEP and in accordance with their treatment works approval, making sure the septic systems on the site agree with the number of patrons and that the number of patrons agree with the parking; environmental features on the site, in particular wetlands and flood hazard areas shown on the plans; an Environmental Impact Statement; structure dimensions and setbacks; a photo log to help identify the buildings that exist and are proposed—they have a copy as a condition of the last approval, but it should be updated and copies be provided to the Board members; an updated site plan with the circulation plan showing dimensions of roadways to verify that one and two way traffic can be maintained throughout the site; and a traffic control plan, showing the location of the ticket booth and queuing lengths, along with directional traffic. He noted the committee's recommendation was to deem it

incomplete until those items are provided. Ms. Raffay motioned to deem the application incomplete, seconded by Mr. McElroy.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Smith, and Chairman Shivas

Absent: Messrs. Morytko, Serrilli, and Walsh

None opposed. Motion carried.

Mayor Rubenstein asked what the next step is. Chairman Shivas said they have to correct all the stated items before they are found complete. Mayor Rubenstein confirmed with Ms. Hubbard this is the second time they've been found incomplete with the amended application. She noted they seemed like they will submit all the necessary documents. Mayor Rubenstein said they've had issues with this application. Mr. McElroy said this is the first time the attorney and applicant were here. The committee made it clear what they're looking for and why, and he thinks they'll come back with a timetable. He said they should give them the opportunity now that they've explicitly told them what they're looking for, to see if they comply with what was asked for. If they have another hearing with the same results it'd likely be appropriate to start talking about it then. Mayor Rubenstein confirmed they did not provide a timeframe for when they'd be back. Mr. McElroy said they were going to talk to their engineer. Mr. Stoner noted all the testimony needs to be shown on the plans. Ms. Hubbard said a key aspect of time will be the DEP approval of the septic, and they need to know what's involved before they can provide an estimate. They have a TWA that needs to be amended.

NEW BUSINESS

Z11-2024, Michael Menduni, 40 Lynn Drive, Block 337.01 Lot 22, R-3 Zone

Application for 6-foot fence in the front yard

Michael Menduni was sworn in. He wants to construct a 6' fence to keep his dog in and to keep neighborhood dogs out that tend to roam and that can hop a 4-foot fence. Chairman Shivas said he doesn't have a back yard, he has two front yards and two side yards. Ms. Raffay asked about the variances and how far back from the property line he's setting the fence. Mr. Menduni said it could be two feet from the property line. Mr. Proctor reviewed the code, noting that the fence can't be closer than 2 feet from the right-of-way if in the front yard. Mr. Menduni said the fence will be white vinyl. Ms. Hubbard asked about the deck; Mr. Menduni said it's on the ground. Ms. Raffay confirmed the fence will go all the way to the house, not stopping at the deck. Ms. Hubbard confirmed he's getting rid of the walkway portion of the deck. Ms. Raffay asked about the shed in the back. Mr. Stoner confirmed the shed was there when he bought the house, and that Mr. Menduni would like to memorialize it while here. Ms. Hubbard reviewed the variances for the shed. She noted the shed is dimensioned by the surveyor.

Chairman Shivas opened to the public. Mike Givone was sworn in at 2 Carlisle Drive. He noted the Board answered most of his questions, and he was wondering about the type of material. He's the direct neighbor so was concerned about what the fence would look like. He said there's a ten-foot easement off of Lynn Drive. Mayor Rubenstein said it's not an easement, it's the edge of the right-of-way, which presumably comes into his lawn a little bit. Chairman Shivas said the applicant will need to put the fence two feet back from the property line. Mr. Givone confirmed that's between the surveyor and the person installing the fence. He said the property line between him and the applicant is full of shrubbery and trees. Mayor Rubenstein confirmed the trees are on the applicant's property, and confirmed he's not planning to take any trees down and the fence will be on the applicant's side of those trees. Mr. Stoner confirmed that means the shed side of the trees. Mr. Menduni said the shed is in the corner and on the property line there are shrubs and trees. The fence will run between two trees and in front of the shrubs on his side. There's about a six foot space behind the shed with overgrowth. Mr. Stoner confirmed he can fit the fence without taking trees down. Mr. Givone said he will probably need to clear an area to put the fence in. Mr. Menduni said he's not taking the shrubs down. Mr. Givone said he's not sure a six-foot fence is necessary because he doesn't think their dog can jump over a four-foot fence, but doesn't care about the

height of the fence. He noted if the people working on the fence need to come in his yard it's okay, but asked that beforehand they provide him certificates of insurance. Chairman Shivas closed to the public.

Mayor Rubenstein motioned to approve the application as presented, seconded by Mr. Proctor.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Smith, Chairman Shivas

Absent: Messrs. Morytko, Serrilli, and Walsh

Motion carried. Mss. Hubbard and Phillips explained the appeal period.

Z03-2024 Charles Cirella 10 Hawthorne Trail, Block 210 Lot 17, R-5 Zone

Application for carport in the front yard

Charles Cirella was sworn in. He submitted Exhibit A1, a packet of four property photos. He has lived in the area his whole life and has been working to make the house look nice. They've used that piece of property for as long as he can remember; it used to be gravel and they parked their boat there. He got the driveway and the section at the top of the walkway paved. He put a carport there and got a zoning violation. He didn't know any better, and figured that's part of the property. He wanted a carport there because he doesn't have any room in his garage, which has equipment. Mayor Rubenstein asked how long the driveway area has been there. Mr. Cirella said since his parents moved there in 1996. Mr. Smith confirmed it's paved under the carport, and it was river rock before. Mayor Rubenstein confirmed he didn't change the dimensions. Ms. Raffay asked if the carport was always there. Mr. Cirella said he put it there last year, and didn't realize he needs a permit. It has tubing with a tarp over it—it's nothing permanent. Mayor Rubenstein said they have to discuss the carport as an accessory structure and then also consider UCC requirements.

Ms. Raffay said this is a temporary accessory structure. But if they were to approve an accessory structure in that spot, does that mean a permanent feature can go there later? Mr. Gleitz said they've been treating carports as structures—once the building footprint is approved for an accessory structure, it can be there. Mr. Stoner said the testimony is for a garage in the front yard. Mayor Rubenstein said with this type of structure, if it's up for a certain amount of time, it has to meet certain criteria in the Construction code. He noted this would not conform to the code; the Board doesn't regulate that but the Construction office will have an issue. Mr. Cirella said it's a metal frame with steel tubing, bolted to the pavement, with a tarp over it which is fastened to the tubes.

Mayor Rubenstein said in the septic records, it doesn't show the gravel area. He asked if there is any testimony of it actually being there, because it's not apparent on the plans. Mr. Cirella said he could get old pictures. Jeanine Colligan was sworn in. She is Mr. Cirella's aunt; her sister bought the house in 1996. She testified that the gravel driveway has been there since the house was bought. There was a boat parked there from the time she bought it. Ms. Colligan grew up in Cranberry Lake and has lived there 45 years; she's familiar with the property. Chairman Shivas said the structure looks to be sideways. Mr. Cirella said it's on a slight angle. He cut the structure back from what it was supposed to be to fit in the spot, and turned it at an angle so it wouldn't be on the street. Mayor Rubenstein said he drove past in earlier that day and it's at about a 45-degree angle. Ms. Raffay confirmed it's not like how it is on the plan. Chairman Shivas asked how far from the sideline it is. He noted it may need a side yard variance because it doesn't look to be far enough from the sideline. Mr. Walsh entered the meeting at this time. Mayor Rubenstein noted the property line looks to be in the pavement.

Ms. Raffay asked what Mr. Cirella is using the structure for. Mr. Cirella said to park one of his vehicles. His garage is full of his tools and equipment. Ms. Raffay asked how many cars can fit on the driveway; Mr. Cirella said four would be packed. Ms. Raffay asked where else a car can be parked on the property. Mr. Cirella said nowhere; it's all on a mountain. The front yard is on a higher level than the rest of the property. Mr. Proctor said cars can't be parked on lawns. Ms. Raffay noted widening the driveway; Mr. Smith asked about a shed in the back yard to

clean out the garage. Mr. Cirella said the septic takes up the entire back yard. He can't widen the driveway because there are multiple boulders. Ms. Hubbard asked if he has four vehicles. Ms. Colligan said he likes to work on people's cars. Mr. Cirella said he's a diesel mechanic. Mayor Rubenstein confirmed the lot to the left is vacant. Chairman Shivas asked about the one going around the property. Ms. Colligan said that's a driveway that goes to a house behind his.

Chairman Shivas opened to the public. Joe Toto was sworn in. He owns the empty lot near the applicant. His sister-in-law has the empty lot nearby and none of them have an issue with the application. Mr. Cirella has been an upstanding neighbor and has maintained the house. Chairman Shivas closed to the public.

Ms. Raffay said she's okay with the driveway portion, but doesn't like the accessory structure. It might be better if it was permanent, because the tarp may be an issue. Mr. Proctor asked what kind of car is kept in the carport. Mr. Cirella said one of his trucks. Mayor Rubenstein said the driveway doesn't bother him. He doesn't see that any neighbors have an issue with the carport. It still bothers him because it doesn't look great and it's right in the front. He'd like it to be a permanent structure. Mr. Smith agreed, saying he'd like it more if it were a permanent structure. Chairman Shivas said he doesn't think the Building Department would approve what he has there now, even if the Board approves it. It doesn't look like it would withstand wind and snow, so thinks a permanent structure would be better. Mr. Cirella said he's willing to work with the Construction Office on this. Mr. Gleitz said if the Board is in favor of the application, they could approve the driveway, and the applicant could come in with plans for a permanent structure for the Board to review. He suggested granting the structure but not the setbacks so that he could come back for more review. Mr. Walsh said this benefits the applicant too because then he's not restricted by the current dimensions. Mr. Stoner noted he doesn't want to close the application and then Mr. Cirella needs to re-apply. Mr. McElroy said he doesn't have an issue with the driveway or a permanent structure. Mayor Rubenstein confirmed Mr. Cirella is okay with working on a permanent structure rather than the carport. He suggested they could carry the application and he would come in with an updated plan, and recommended finding out how far from the property line it is. Mr. Cirella said he can't do that in a timely fashion; he's about a year or two away. Mayor Rubenstein said this is to supply plans, not build the structure. Mr. Cirella said he can do the plans pretty quickly but would need time to build it. Mr. Stoner said if he receives approval for another structure, in order to get rid of the violation, the tent structures needs to come down. The Board discussed timeframes.

Mr. Cirella asked if it would be easier to take the carport down and leave the pavement there. Ms. Phillips said if he'd like to pursue the permanent structure with a new application, the noticing will need to be done again.

Chairman Shivas opened to the public and no one spoke so he closed to the public

Mayor Rubenstein motioned to approve the application for the second driveway and the paving of it, seconded by Mr. Proctor.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Smith, Chairman Shivas

Abstaining: Mr. Walsh

Absent: Messrs. Morytko, Serrilli

Motion carried.

Mayor Rubenstein reminded Mr. Cirella that the violation is still standing. Mr. Cirella asked when he needs to take the carport down. Mayor Rubenstein said the hearing is now closed, so the sooner the better.

Application for tank painting and temporary tank set-up

Mark Peck of the Florio Perrucci Steinhardt law firm represented Veolia. They are seeking approval for the temporary installation of two 8,500 gallon storage tanks and associated piping. The temporary tanks are so Veolia can paint the existing tank for the operation and maintenance of the facility. The applicant is a public utility. He reviewed the variances. The lot is irregularly shaped and small, and there are significant topographical challenges. It's already developed for the existing facility. The temporary nature of the improvement mitigates any significant detriment to neighboring properties. This proposal advances public safety and welfare because there's an interest in the provision of continued safe and clean drinking water.

Tony Vincente, the director of engineering for Veolia Water NJ, at 200 Lakeshore Drive in Haworth NJ 07641, was sworn in. Mr. Vicente is a project manager that's been overseeing the preparation work and the temporary improvements. He's been involved with the planning and technical meetings. Mr. Peck asked why the tanks need to be painted. Mr. Vicente said it's a steel tank, which are painted about every 20 years depending on how long the coating system lasts. This tank is way overdue for a tank painting. At some point they suspect the tank was leaking, so they decided to put a liner in, and are planning to rehabilitate the tank. They will paint the inside and outside of the tank. They usually have an outside consultant do an inspection. They made recommendations that the painting system is failing and is overdue for replacement. There are proposed improvements, and they're waiting to finish the PFAS project, which proposes a new treatment plant. When completed, they would implement the temporary improvements. Two temporary tanks will go in, which are needed to maintain water supply while the tank is taken offline. Mr. Peck confirmed this project won't interfere with the construction that's happening now, because they will wait for that project to be completed. Mr. Vicente plans to finish the PFAS project, get through the winter season, and then around February of next year, they would have one contractor start the temporary improvements. They'll be on site for about a month between the preparation and installation. Then another contractor will start the painting, which is anticipated to be about 3 months, and then the existing tank will be back in service in June. They anticipate 3-4 weeks to remove the temporary tanks. Mayor Rubenstein asked the color of the tank. Mr. Vicente said they're planning to match the dark green color there now. Typically they're green to blend into the background. He noted if the Board wants a different color they'd be open to it.

Chairman Shivas opened to the public. John Hebble of 7 Mountain Avenue was sworn in. Mr. Hebble asked how the tank will be painted. Mr. Vicente said there is lead paint on the outside. They will encapsulate the tank with a canopy, that way removing the lead is contained. Mr. Hebble said they dug rocks and put everything on his property. He tried calling Veolia when the project started and no one has called back. He was told he'd be put on a priority list; he asked the workers and they don't know. If people go on his property and get hurt who is liable? Tractor trailers come down the road and the parking is horrendous. There is a tree that's been dug around, and if it comes down and hits his property, who is responsible? Mr. Vicente said he will give Mr. Hebble his contact information and will personally go on site. Mayor Rubenstein said he remembers Mr. Hebble at the last hearing, and this was a concern brought up about the construction impact on his property. Veolia represented that they would not go on his property. Mr. Stoner said he and the Veolia representative can meet on site to get this addressed. Mr. Peck said they'll accept a condition where this is cleaned up. Mayor Rubenstein asked if Mr. Stoner has been inspecting the site. Mr. Stoner said his inspectors have been on site but he hasn't. He knows it's tight and hard to construct on. He was not aware of the rocks but will check it out. Mr. Hebble said it would have been out of courtesy to ask him. The other day he and his wife had a nail and screw in their tires. Mayor Rubenstein said when there's active construction, he should let the town know so that they can let the engineer know. Mr. Hebble noted he's concerned about the spray from the painting. Pam Hebble was sworn in. She said the street is tiny and they're the last house. She has to leave half an hour earlier to get to work. The people will move the trucks when they can, but they have big equipment coming in and there are times they can't get there. She

works at a medical facility and has to be there for patients and can't be late. She was told this would take four months and it's going on for eight. They had to call the town in the winter because they couldn't get a plow through because they left big construction vehicles on the street. Mayor Rubenstein said there is an ordinance to not park on the street when there's snow. Mr. Stoner said that was an issue during a snowstorm where they had to make the contractor move the equipment. Ms. Hebble noted they've parked on both sides. She asked about the construction materials parked on the road; they're parallel to her driveway, making it hard to back out. Mr. Vicente said they'll try to move whatever is obstructing the driveway.

Glenn Rametta of 65 Oak Street in Norwood, 07648, was sworn in. He is a civil engineer and has worked at his current firm since 1990. He's testified at Boards in New Jersey; his license is still valid. He was deemed an expert. Mr. Rametta said the property doesn't have much usable area. There is a water-supply well and 70,000-gallon storage tank. There is a pump station and temporary treatment shed. There is a permanent treatment facility being constructed. As part of the painting project, the pumping station and temporary treatment will come out, and the functions will be taken by the new treatment facility. Mr. Rametta reviewed sheet 2 of 4 and the placement of the tanks. They tried to minimize the disturbance—the only soil disturbance is two stretches of piping that will be in a trench. Everything else will be above-grade. They're putting the temporary tanks on crushed stone. There is an existing concrete pad that will be excavated and demoed. Filter fabric and gravel will be put down. They looked into stormwater runoff, and they're using the crushed gravel. They're not planning on a flow change for the stormwater. The tanks are standardized so they need a certain height to get the storage they need. Since the site is tight they can't make the diameter bigger. If it was wider they may need to cut into the slope which they don't want to do. They're keeping the tanks close together to keep things compact. Mr. Peck noted a section of fence needs to be removed. Mr. Rametta said there will be temporary fencing around the temporary tanks, and anything disturbed will be replaced in kind. Mr. Peck asked how equipment will be staged. Mr. Rametta said they will try to only bring things on site right before they need them since there's not much storage. They plan deliveries between 9 and 3, and work times are 7 to 4. The first month or so would be set up with piping, tanks, and demoing. Three months is expected for tank painting, and a week or so to take everything down. Chairman Shivas confirmed the temporary fencing will be a permanent type material but with a smaller footprint. Mr. Stoner noted construction fencing.

Mayor Rubenstein asked about how to protect the public. Mr. Vicente said they put scaffolding on the outside of the canopy so everything is self-contained. The workers exposed to the lead have PPE. The soil will be tested before and after to make sure everything was contained. Mayor Rubenstein confirmed they will share the results. Mr. Vicente said they'll use the same canopy to paint the tank. Mayor Rubenstein confirmed all the items they're asking for relief on are going away eventually. He's more concerned on the public impact. He asked what they'll do to make sure their impact is minimal, and how to make sure communication stays open. Mr. Peck asked what if they provide contact information for a contractor representative and a Veolia representative to the property owners on the road. Mr. Vicente said there are two contractors involved. Mr. Peck said they'll also include the site inspector. Mr. Stoner said his only concern is when the tank painting takes place that the drainage doesn't change. He recommended a pre-construction meeting. He asked how they'll set the tanks. Mr. Vicente said there will be equipment brought in to drop the tanks. They will need to work in front of the existing tanks. Mr. Stoner said it's a tight site, so they'll likely need a crane to lower them. Mayor Rubenstein noted they should also be obligated to notify the neighbors when a crane or something similar is brought on the street. Mr. Gleitz noted the variances run with the land and this is a temporary improvement. He noted they should put something in the condition of approval that when the temporary work is complete, and the permanent site plan improvements are completed, this approval is null and void and we revert back to the previous approval for the permanent structures. Mr. Vicente said they have landscaping obligations, and since they're proposing the tank painting, they want to delay the landscaping until the painting is done.

Chairman Shivas opened to the public and no one spoke so he closed to the public.

Mr. McElroy motioned to approve the variances as submitted with the conditions outlined, seconded by Mr. Walsh. Ms. Raffay said the temporary stone sounds good, but if there are runoff issues, they need to remediate that. Mr. Stoner said the condition should be that any work doesn't increase the runoff to the neighbors.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Smith, Walsh, Chairman Shivas

Absent Messrs. Morytko, Serrilli

Motion carried. The Board took a five-minute recess.

SP4-2024 Cartridge Actuated Devices (CAD), 40 Old Indian Spring Road, Block 362 Lot 4, Block 226 Lot 8.01, R1 Zone

Application for bringing site into conformance including trailer removal, addition of a new two-story building, and replacement of a building

Ms. Hubbard said this is a D2 variance, so the Mayor and Council need to step down, and there are only five voting members available. Mr. Greenbaum said they believe this application is a less-intense use than what was already approved, and the improvements are minor in nature and don't affect any homeowners, so they are willing to proceed. They understand they need all five affirmative votes. Robert Greenbaum from Budd Lake represented the applicant. He has been in front of this Board for CAD three times. He noted every time CAD needs to do something they need a use variance because of the nature of what they do. They are asking for two new buildings and to remove trailers, and make the site more usable.

Chris Seyfarth of 5 Patridge Drive in Blairstown was sworn in. He is a process improvement manager with CAD. They build energetic actuaries for different companies, mainly the government and military, and make products for fire suppression. They have been at that site since 1963. He's been with the company 16 years and understands the proposed project. One building will be used to house equipment used to produce actuaries for the military. Another is to replace trailers, which will have office space and light assembly.

James Glasson from Civil Engineering in Budd Lake was sworn in. His license is in good standing and he was deemed an expert. He submitted Exhibit A1, a colorized version of sheet 2 of 7. He noted there's been pyrotechnics here for over 50 years, for military, industrial, and scientific uses. In 2016, they were approved for four buildings. One replaced a building that had a fire, but it was not constructed. There was a building meant to replace building 5, which was not constructed. There were two buildings proposed to replace three trailers, which were not constructed. There were also parking lot improvements and lighting proposed. The parking lot was improved and paved, and the circular driveway was paved. There are magazines on site that house some products that go into making actuators. A septic system was put in in 2018, designed to handle four buildings but only handles one currently. There are two wells, and three buildings have water supply. One is a production building that has an eye wash. There's a boiler in another, and the other water supply building is for the restroom. Mr. Greenbaum confirmed the septic is appropriate for the proposed improvements. He noted they received County approval for this; he submitted this as Exhibit A2. Mr. Glasson submitted Exhibit A3, a blowup of sheet 4 of 7. Regarding the area where they wanted to replace a building burned in a fire; it is proposed to be one story. Mr. Greenbaum confirmed this doesn't impact any residents. Mr. Glasson said the area is completely wooded. The closest residences are at the entrance near Old Indian Spring Road. The proposed is slightly further away than the original. The building is for production, which will have automated equipment for assembly. There will be two small offices. The second building is going in the trailer area; one trailer is going away and two are moving. This area was previously approved for two buildings. The proposed is one two-story building. The first floor is for assembly and the second floor is for office space and work benches for more assembly. They added some parking spaces for the leadership and maintained two handicap spaces. Mr. Stoner confirmed this is building 27, the other

building discussed was number 28. Mr. Glasson said there are also storage containers and they want to move trailers to that area. They need an area for the stock of their shipping materials. The smaller trailer is for document storage. There are two shipping containers and two trailers. They are re-striping the parking lot. The lighting was not put in through the site. The lighting is for employee safety. Mr. Glasson said their impervious coverage is less than what was originally approved; they're adding a gravel area. Mr. Greenbaum submitted Exhibit A4, the soil conservation district approval. Mr. Glasson reviewed the variances. He noted the use is considered the principal, so there is no principal structure.

Architect Raymond O'Brien of O'Brien Architects at 101 Route 94 in Blairstown was sworn in. They appeared in front of this Board as well as Boards in Sussex, Warren, Hunterdon, Monmouth, and Mercer. They are licensed and in good standing. He was deemed an expert. He submitted Exhibit A5, colorized drawings of sheets A-1 through A-3. For the exterior, they're planning something like a hardiplank with earth-tones. Three sides will have a stone veneer at the first 2.5 feet and the rest will be siding until the gable areas, where they'll do vertical siding. They're planning asphalt shingles on the roof, and the stonework being a darker brown, with the siding being a cream tone. These buildings will fit in with the existing site, and he sees these as an improvement to the existing, since it's replacing trailers with stick-built structures. Mr. Stoner asked about the heights since these are all accessory structures. The one-story will be 14.2 feet, and the two-story will be 26.3. Chairman Shivas asked why they don't make the two-story building with the office their primary building, and make the other buildings accessory. Mr. Gleitz said there's different uses around the site; they may need a building that ends up being bigger than the office building or need more assembly space.

Planner Alison Kopsco from 145 Spring Street in Newton was sworn in. She is a licensed planner in good standing and had testified in front of other Boards in Warren, Sussex, Morris, and Hunterdon, including Stillwater, Raritan, Vernon, Newton, and Oxford. She was deemed an expert. She noted in Pullen V. the Township of South Plainfield, the court found the Board can consider the benefits of the entire application rather than each individual variance, and said that applies here because of the unique nature of this use. Appearance, aesthetics, and compatibility with the surrounding area are focused on. For non-inherently beneficial uses like this, reducing a non-conformity can constitute these special reasons. They are proposing changes that will result in slightly more conforming uses. They're removing structures that weren't approved by the Board, seeking approval for all the structures proposed, restriping the parking lot for accuracy, and having slightly less impervious coverage than approved. The minimum lot area in the zone is ten acres and this property has 97; there's dense natural buffering that helps for the utilization of the land. Mr. Gleitz noted he concurred with the analysis.

Chairman Shivas opened to the public and no one spoke so he closed to the public.

Mr. Greenbaum confirmed with Mr. Seyfarth that there are no issues with parking and that some buildings contain fire suppression and the two buildings proposed will not have it. Mr. Seyfarth said they have fire extinguishers mounted as required, some dry chemical fire suppression in some areas, and the water dog, photos and specifications of which were submitted. It's primed and ready for use. The site is monitored by an alarm company, and security is most important. Hours of operation are 7-5:30pm Monday through Thursday, and there is no on-site activity after 5:30pm.

Chairman Shivas opened to the public and no one spoke so he closed to the public.

Mr. Smith motioned to approve the application, seconded by Mr. Walsh.

Ayes: Ms. Raffay, Messrs. McElroy, Smith, Walsh, Chairman Shivas

Abstaining: Mayor Rubenstein, Mr. Proctor

Absent: Messrs. Morytko, Serrilli

Motion carried.

Mr. Greenbaum said with the nature of what his client does with the military and the amount of need for their product, he'd like to move forward with them obtaining building permits, waiving the appeal process, and proceeding at their own risk. Ms. Hubbard confirmed they'll waive receipt of the resolution. Chairman Shivas said they're building at their own risk, but they still have to follow the regular appeal system. Mayor Rubenstein and Mr. Proctor re-entered the meeting.

OLD BUSINESS

Z27-2023 Nicco Brancaccio, 22 Adair Street, Block 17 Lot 19, R-5 Zone

Application for shed in the front yard

Chairman Shivas reminded the Board the applicant was here before and the Board tried to have him move the shed somewhere else on the property. Ms. Hubbard said there was a notice of violation in November of 2023, and the application was submitted shortly after. Another notice of violation was issued in February of 2024, and summonses have not been issued. The applicant was scheduled for April and that was carried, and he was heard in May. The Board didn't want to approve the shed in that location and Mr. Brancaccio was going to come back with revised plans, so was carried to June 6th, and he wasn't heard so was carried to the 18th. Ms. Hubbard, Ms. Phillips, and the Zoning Officer have been communicating via email asking for revised plans and additional information. They have a plan that shows the shed where it was originally proposed. Ms. Phillips said the day he was scheduled in June, this revised plan was sent, with a note about proposed plantings which are not on the survey. The Board couldn't review it at the hearing because the applicant wasn't present. Ms. Hubbard said he was scheduled for this meeting but after multiple communications he reached out saying he is sick and unable to come. They asked for a letter requesting an extension and adjournment to carry his notice and to extend the time to act. Ms. Phillips confirmed that was not received. Mr. McElroy said the revised plan is the same plan as the original, which the Board didn't like. There were communications on what's needed and it seems he's been non-responsive. His thought is to deny the application and let the courts handle it. Mayor Rubenstein said there is an outstanding notice of violation. Having an NOV allows the opportunity to come to the Board to correct the situation; he had numerous opportunities to do that and hasn't. He agrees with Mr. McElroy but is not sure if it is a dismissal or denial. Ms. Hubbard said if they deny the application, he has to come back with a new plan; if it's dismissed without prejudice he can come back with this plan. Mr. Walsh said he's more comfortable with what the applicant seems to be trying to propose now, but in order for him to be comfortable with an application, he doesn't need a dramatically different application Mr. McElroy said his issue is not just the application itself but also the lack of responsiveness. The Board told him they were not comfortable with the plan and nothing was done. Ms. Raffay agreed; what he came back with right before the last hearing is substantially similar, and she didn't like the first plan— she doesn't think it needs to be in the front yard. Mr. Stoner asked if they can carry it for him being ill. Ms. Hubbard said we didn't receive a request for extension. Ms. Phillips said she reached out this morning to remind Mr. Brancaccio of the meeting and that he's expected to attend, and was told he's sick. She then said they need an email or letter that requests the adjournment but didn't receive anything. Mr. Walsh confirmed the request for extension could have been him writing an email. Ms. Phillips noted she also sent the consent form over to be signed via email. Ms. Raffay said everything was given to him to move the meeting. She noted they keep taking up space on a packed agenda.

Chairman Shivas opened to the public and no one spoke so he closed to the public.

Mayor Rubenstein motioned to deny the application, seconded by Mr. Smith.

Ayes: Mayor Rubenstein, Ms. Raffay, Messrs. Proctor, McElroy, Smith, Walsh, Chairman Shivas

Absent: Messrs. Morytko, Serrilli

Motion carried.

REPORTS FROM COMMITTEES

Architectural Review Committee: Ms. Phillips confirmed the Council has not talked about this.

Environmental Commission: Mr. McElroy said they had a meeting but he wasn't there.

Open Space: Ms. Phillips said the next meeting is in August.

Township Council: Mayor Rubenstein said they passed a noise ordinance. They discussed the Board's annual report and they want a representative or two from the Board to come to an upcoming Council meeting and go through it with the Council, to find out what's important. Ms. Phillips noted with Mr. Proctor and him on the Council and Board, they could only have two Board members. Ms. Hubbard said they could notice the meeting. Ms. Raffay said two people sounds like enough. Mayor Rubenstein said they are proceeding to finalize plans for CO field 8 reconstruction, and then go out to bid. Mr. Stoner said they reviewed the flood damage prevention ordinance, to make sure any development near a flood hazard area is monitored and coordinated with Construction Official. Mayor Rubenstein said the Historical Society presented their scholarship to Edward Church. They had a lake management presentation. Mr. Stoner said they're redoing the tennis courts here. Mayor Rubenstein said the gas project is adding the Little Paint Way community.

Zoning Report: Everyone has a copy.

OPEN TO THE PUBLIC

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ADJOURNMENT

A motion to adjourn the meeting was made at 10:37 by Mr. McElroy, seconded by Mr. Proctor. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted by Caitlin Phillips