

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES

Regular Meeting
June 6, 2018

CALL TO ORDER

Vice Chairman Breslin called the meeting to order at 7:34 PM.

OPEN MEETING STATEMENT

Vice Chairman Breslin read the following statement:

"In accordance with the requirements of the Open Public Meetings Law, notice of this meeting of the Board of Adjustment of the Township of Bernards was posted on the bulletin board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge, New Jersey, was sent to the Bernardsville News, Bernardsville, NJ, and the Courier News, Bridgewater, NJ, and was filed with the Township Clerk all on January 11, 2017 and was electronically mailed to all those people who have requested individual notice."

"The following procedure has been adopted by the Bernards Township Board of Adjustment. There will be no new cases heard after 10:00 PM and no new witnesses or testimony heard after 10:30 PM."

ROLL CALL:

Members Present: Breslin, Genirs, Lane, Kleinert, Mastrangelo, Pozner, Zaidel.
Members Late: NONE
Members Absent: NONE
Also Present: Board Attorney, Steven K. Warner, Esq.; Township Planner, David Schley, PP, AICP;
Board Engineer, Thomas Quinn, PE, CME; Board Traffic Engineer, Joseph A. Fishinger, PE, PP, PTOE; Board Secretary, Cyndi Kiefer.

ELECTION FOR THE OFFICE OF CHAIRMAN OF THE BOARD

Mr. Warner explained that since James Rhatican had resigned his position as Chairman at the last meeting, the office was now vacant. He then called for nominations to fill the position for the remainder of 2018.

A motion was made by Ms. Mastrangelo nominating Mr. Breslin for the position of Chairman of the Board, term to expire December 31, 2018. Ms. Genirs seconded the motion.

Roll Call:

Aye: Breslin, Genirs, Lane, Kleinert, Mastrangelo, Pozner, Zaidel
Nay: NONE

Motion carried.

ELECTION FOR THE OFFICE OF VICE CHAIRMAN OF THE BOARD

Chairman Breslin explained that because he had been elected to fill the position of Chairman, the office of Vice Chairman was now vacant. He then called for nominations to fill that position for the remainder of 2018.

A motion was made by Ms. Genirs nominating Mr. Zaidel for the position of Vice Chairman of the Board, term to expire December 31, 2018. Mr. Lane seconded the motion.

Roll Call:

Aye: Breslin, Genirs, Lane, Kleinert, Mastrangelo, Pozner, Zaidel
Nay: NONE

Motion carried.

ELECTION FOR THE OFFICE OF VICE CHAIRMAN PRO TEMP OF THE BOARD

Chairman Breslin explained that because Mr. Zaidel had been elected to fill the position of Vice Chairman, the office of Vice Chairman Pro Temp was now vacant. He then called for nominations to fill that position for the remainder of 2018.

A motion was made by Mr. Zaidel nominating Ms. Genirs for the position of Vice Chairman Pro Temp, term to expire December 31, 2018. Ms. Pozner seconded the motion.

Roll Call:

Aye: Breslin, Genirs, Lane, Kleinert, Mastrangelo, Pozner, Zaidel

Nay: NONE

Motion carried.

APPROVAL OF MINUTES

[May 9, 2018 - Regular Session](#) - Ms. Genirs moved approval of the minutes as drafted. Mr. Lane seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Zaidel.

Nay: NONE

Motion carried.

APPROVAL OF RESOLUTIONS

[Resolution ZB18-001 - Carney, John J. & Patricia](#); Block 2101, Lot 11; 57 Berkeley Circle; Bulk Variances (approved).

Ms. Mastrangelo moved approval of the resolution as drafted. Ms. Genirs seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Zaidel.

Nay: NONE

Motion carried.

[Resolution ZB18-009 - Surett, Richard & Kimberly](#); Block 5504, Lot 5; 5 Runyon Drive; Bulk Variance (approved).

Ms. Genirs moved approval of the resolution as drafted. Ms. Mastrangelo seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Zaidel.

Nay: NONE

Motion carried.

[Resolution ZB18-010 - Lavoura, Carlos & Liliana](#); Block 706, Lot 8; 14 Glen Avenue.; Bulk Variance (approved).

Mr. Zaidel moved approval of the resolution as drafted. Ms. Genirs seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Zaidel.

Nay: NONE

Motion carried.

[Resolution ZB18-008 - Snyder, Gregory](#); Block 2001, Lot 11; 26 Ash Street; Bulk Variance (approved).

Ms. Mastrangelo moved approval of the resolution as drafted. Ms. Genirs seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Zaidel.

Nay: NONE

Motion carried.

LANDSCAPING & LIGHTING COMMITTEE

The Silverman Group; Block 801, Lots 4, 5, 6; Morristown Road/North Maple Avenue; Preliminary/Final Site Plan, "D" Variances, Bulk Variances; #ZB14-027.

Mr. Schley gave a brief description of the application and stated that according to the resolution, the installed landscaping and lighting shall be subject to inspection by the Board's landscaping and lighting committee. Chairman Breslin, Ms. Genirs and Mr. Lane volunteered to serve.

COMPLETENESS HEARING

J. Nan Realty; #ZB18-0011; Block 3603, Lot 1; 18 Columbia Road; Preliminary/Final Site Plan Approval, "D-1" Use Variance, Bulk Variances.

Present: Frederick B. Zelle, Esq., Attorney for the Applicant

Frederick B. Zelle, Esq., attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, advised the Board that he would be representing the applicant during this Completeness Hearing.

Mr. Zelle referred to Mr. Schley's Completeness Review memo dated May 31, 2018 and noted that he had just submitted Item #1 (topographic contours within 200' of the subject property).

Mr. Zelle requested a waiver for Item #2 in that same memo (plans and computations for the proposed stormwater management improvements) and Mr. Quinn opined that the recently submitted plans contained sufficient information for him to review the application on that subject.

The final item in Mr. Schley's memo, #3, referred to a fire service plan. Mr. Zelle advised the Board that the applicant had discussed this with the Fire Company. Mr. Schley opined that there was sufficient information on the plans and supported Mr. Zelle's request for a waiver for that checklist item.

Mr. Zaidel moved to grant the two (2) waivers as requested and to deem the application complete. Ms. Pozner seconded and by unanimous Voice Vote, the motion was carried.

COMPLETENESS HEARING

The Pingry Corporation; #ZB18-017; Block 11601, Lot 3.01; 131 Martinsville Road; Preliminary/Final Site Plan, Conditional Use Variance.

Present: Roger Mehner, Esq., Attorney for the Applicant

Roger Mehner, Esq., attorney with *Lindabury, McCormick, Estabrook, Cooper PC*, Summit, NJ advised the Board that he would be representing the applicant during this Completeness Hearing.

Mr. Mehner referred to Mr. Schley's Completeness Review memo dated May 31, 2018 and noted that Item #1 (copy of current deed) and Item #3 (Letter of Interpretation issued by the New Jersey Department of Environmental Protection) had been submitted.

Mr. Mehner stated that the applicant was requesting waivers from Item #2 (locations of existing structures, parking areas, etc. within 200' of the property) and Item #4 (project report/environmental impact assessment). Mr. Schley stated that he agreed with the waiver request for Item #4 however he felt that the 200' area near the project area along Martinsville Road should be shown.

Ms. Mastrangelo moved to grant a checklist waiver for the project report/environmental impact assessment, to grant a *limited* checklist waiver for the 200' location plan and to deem the application incomplete. Ms. Pozner seconded and by unanimous Voice Vote, the motion was carried.

Chairman Breslin advised that Application #ZB18-006, Verizon Corporate Services Group Inc., would be heard first even though it was listed second on the agenda.

Chairman Breslin recused himself from participating in this application and left the room.

PUBLIC HEARING

Verizon Corporate Services Group Inc.; #ZB18-006; Block 803, Lots 2, 3, 5, 6, 23; 300 North Maple Avenue; Bulk Variances.

Present: Steven J. Tripp, Esq., Attorney for the Applicant
Robert C. Moschello, PE, Engineer for the Applicant
Keenan Hughes, PP, AICP, Planner for the Applicant

Steven J. Tripp, Esq., attorney with *Wilentz, Goldman & Spitzer, PA*, Woodbridge, NJ, advised the Board that he would be representing the applicant during this Public Hearing. He explained that the existing hotel now known as The Ridge, a conference center and hotel for Verizon employees and guests, was owned by Verizon. The applicant proposed to replace two (2) existing signs which were illuminated externally by flood lights with two (2) smaller internally illuminated signs. He emphasized that only the logo and text would be internally illuminated, not the entire sign. The signs would be placed in exactly the same locations: one internal to the site and one along North Maple Avenue. Relief was required for internal illumination, setback of the North Maple Avenue sign and for exceeding maximum sign area (for both signs) even though the proposed signs would both be smaller than what existed.

Mr. Moschello, Mr. Hughes, Mr. Quinn and Mr. Schley were duly sworn by Mr. Warner.

Exhibit A-1, a paper copy of the power point presentation, was entered into evidence by Mr. Tripp.

Robert C. Moschello, PE, engineer with *Gladstone Design Inc.*, Gladstone, NJ, was accepted by the Board as an expert in the field of engineering. He testified that he had prepared the power point presentation and using a 2015 aerial photo, described the site noting that the subject property was comprised of five (5) lots and was heavily constrained by wetlands. Delineation of the wetlands transition areas and riparian zones were also shown on the aerial.

The first sign, located near the driveway from North Maple Avenue leading to the hotel, would be replaced with a single sided sign. The sign would be smaller but higher than the existing sign and would not be visible from North Maple Avenue. He noted that Verizon had a branding package for The Ridge and that the size of the lettering was smaller than what was allowed by ordinance therefore requiring relief. The logo would be the identifying feature, not the wording. Mr. Moschello opined that since only the logo and the words "The Ridge" would be internally illuminated, the glare caused by the flood lights that lit the current sign would be reduced. He confirmed that the flood lights would be removed.

Mr. Moschello testified that the second sign, this time for Verizon, was currently located close to the right-of-way along North Maple Avenue. The proposed sign would match the sign on the other side of North Maple Avenue which had been approved by this Board last year. Again, this sign would be slightly smaller than the existing sign and he emphasized that only the lettering/logo would be internally illuminated, not the entire box. He opined that if the sign were moved back to a conforming location, it would not be as visible from the road and confirmed that the Somerset County Planning Board had granted approval.

Finally, Mr. Moschello testified any comments in Mr. Schley's memo dated May 25, 2018 not addressed during testimony would be stipulated to as conditions of approval.

Vice Chairman Zaidel opened the meeting to the public for questions. Hearing none, he closed that portion of the meeting.

Keenan Hughes, PP, AICP, principal with *Phillips, Preiss, Grygiel LLC*, Hoboken, NJ, was accepted by the Board as an expert in planning. Mr. Hughes presented testimony for the positive criteria for the "c(2)" or "Flexible C" variances requested by the applicant and also to satisfy the negative criteria.

Vice Chairman Zaidel opened the meeting to the public for questions or comments. Hearing none, he closed that portion of the meeting.

Mr. Tripp presented a brief summary of the application.

After deliberating, the board members felt that the applicant had satisfied the positive criteria required for "c(2)" or "flexible c" variances. They also felt that the applicant had satisfied the negative criteria.

Ms. Mastrangelo moved to direct the Board Attorney to draft a Resolution memorializing the Board's decision to grant the application for variance relief requested by the applicant subject to the conditions stipulated to by the applicant and as stated during deliberations. Ms. Pozner seconded.

Roll Call:

Aye: Genirs, Lane, Kleinert, Mastrangelo, Pozner, Zaidel.
Nay: NONE

Motion carried.

Vice Chairman Zaidel requested a brief recess at 8:46 PM.

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The Open Session of the Regular Meeting was reconvened at 8:57 PM. Chairman Breslin returned to the room.

PUBLIC HEARING

Verizon Corporate Services Group Inc.; #ZB18-007; Block 804, Lots 2.01 & 16; 295 North Maple Avenue; Bulk Variances, Amended Preliminary/Final Site Plan.

Present: Steven J. Tripp, Esq., Attorney for the Applicant
Robert C. Moschello, PE, Engineer for the Applicant
Keenan Hughes, PP, AICP, Planner for the Applicant
Kenneth Mackiewicz, PE, Traffic Engineer for the Applicant

Mr. Moschello, Mr. Hughes, Mr. Markiewicz, Mr. Quinn, Mr. Fishinger and Mr. Schley were duly sworn by Mr. Warner.

Steven J. Tripp, Esq., attorney with *Wilentz, Goldman & Spitzer, PA*, Woodbridge, NJ, advised the Board that he would be representing the applicant during this Public Hearing. He stated that the applicant sought to amend a prior approval (#ZB16-026) granted in 2017 and to modify a condition which dealt with temporary parking. The original approval granted relief to construct a four-level parking deck and allowed temporary parking on existing ball fields until construction was complete. Now the applicant sought to convert 132 of the temporary parking spaces into permanent ones however the site would still require relief for the total number of spaces. The remainder of the temporary parking area would be restored to ball fields as required in the previous application. In addition, the applicant sought to construct a basketball court with a 10 foot high fence requiring relief for height and for an exception for maximum average illumination for non-residential uses.

Mr. Tripp advised the Board that although not initially a part of the application, the applicant was also seeking approval to install LED parking monitors at the 10 portals to the existing under-building parking facilities which would indicate whether there were open parking stalls available. He asked the Board to interpret whether these

monitors constituted signs and if so, required relief. Finally, Mr. Tripp asked the Board to make an interpretation as to whether the 15 foot high backstops constituted fences which would then require relief.

Robert C. Moschello, PE, engineer with *Gladstone Design Inc.*, Gladstone, NJ, was accepted by the Board as an expert in the field of engineering. Referring to a 2015 aerial photo which was part of a Power Point presentation (a paper copy of which was entered into evidence as **Exhibit A-1**), he gave a brief description of the three (3) lots that comprised the subject property noting that it was heavily constrained with wetlands and riparian zones. He also testified as to the improvements made on that property along with those that were proposed.

Referring to the proposed new permanent parking spaces, Mr. Moschello stated that they would be located on the southern portion of the property and meant for employees only. He noted that although there were three (3) access points to service the proposed lot, there was no direct route from that lot to the main building. He then described the proposed ball fields which were located to the west of the proposed parking lot adding that these fields too were for the employees' use only.

In response to a question from a board member, Mr. Schley opined that the backstops were accessory structures which are part of the ball fields in much the same way that a fence around a tennis court was considered part of to the court itself. The maximum height permitted under the ordinance for accessory structures is 20 feet so no relief would be required for height. The backstops however were located in the front yard and had been so in the past so they would be considered pre-existing nonconforming structures.

Referring to Site Plan Comment #1 in Mr. Fishinger's memo dated May 30, 2018, Mr. Moschello testified that ADA compliant parking was provided in the proposed lot but emphasized that they would service the ball fields not the main building. He also addressed Comments #2, #3 and #4 to the satisfaction of Mr. Fishinger.

Mr. Quinn confirmed that the drainage calculations were correct even though there was a discrepancy in the overall impervious coverage percentage because the proposed parking lot was counted twice in error.

Mr. Moschello testified that the applicant proposed to install an internally illuminated LED monitor at each of the 10 entrances to the parking facilities. These monitors would show the number of open parking spots so that employees would be able to clearly see from the ring road where there was parking availability. He opined that they would provide a more efficient use of the existing parking and noted that the monitors would be used primarily during the morning rush hours.

At the request of Chairman Breslin, Mr. Schley opined that these monitors fell into a class of unregulated directional wayfinding signs found commonly on nonresidential properties, however they were still governed by the general sign regulations that apply to all signs in all zones. If not for the internal illumination, these signs would only require a zoning permit.

Mr. Moschello stated that the applicant proposed to install a basketball court with a surrounding 10 foot fence and to have it lit at night at higher average illumination than permitted by ordinance. Only employees would be allowed to use the court and the lights would be turned on only when the court was in use. The court would not be visible outside the campus since it was shielded by the parking garage and the building itself. It would be down lit by four (4) lights attached to those buildings with an automatic shut off.

Mr. Moschello testified that a stormwater management system is proposed for the proposed parking lot however none was proposed for the basketball court since that had been included in prior calculations. He added that more trees and evergreens would be planted to provide further buffering for the ball fields and they would be consistent with the other trees on the campus. The number of security lights in the proposed parking lot would be adjusted to conform to the Board's prior condition of approval. The ball fields and parking lot were scheduled to be completed this year. The basketball court and other small improvements were planned for the following year.

Referring to the Environmental Commission's memo dated April 9, 2018, Mr. Moschello stated that the applicant preferred to pave the parking lot as opposed to using other materials such as gravel.

Ms. Mastrangelo asked Mr. Moschello to respond to concerns about car service vehicles parked along North Maple Avenue as noted in Mr. Schley's memo (Specific Comment #17). Mr. Moschello testified that if an employee arranged to be picked up by a car service, Verizon would make provisions for those vehicles however it was a police enforcement issue if cars not hired by Verizon were just waiting along North Maple Avenue.

Chairman Breslin opened the meeting for questions from the public. Hearing none, he closed that portion of the meeting.

Kenneth Mackiewicz, PE, partner/principal with *Provident Design Engineering*, Hawthorne, NY, was accepted by the Board as an expert in Traffic Engineering.

Exhibit A-2 (Response to Fishinger letter from Mr. Mackiewicz to Board Secretary Cyndi Kiefer dated June 4, 2018), **Exhibit A-3** (Letter and attachments from Mr. Mackiewicz to Board Secretary Cyndi Kiefer dated May 25, 2018) and **Exhibit A-4** (Letter from Mr. Fishinger to Board Secretary Cyndi Kiefer dated May 30, 2018) were entered into evidence.

Mr. Mackiewicz testified that as required by Condition #17 of the Memorialized Resolution for Application #ZB16-026, he reviewed the traffic light timing at the intersection of Madisonville Road and North Maple Avenue to determine if the construction of the parking deck had affected levels of service. He found that there was no significant change in the level of service during both the morning and afternoon peak hours and stated that that level was considered acceptable. Mr. Fishinger advised the Board that he would review Mr. Mackiewicz's report and recommend any traffic light timing changes to the Township to take under advisement. He noted that this aspect was independent of this application.

Mr. Tripp advised the Board that the site was now fully occupied with no plans for expansion. After looking at the parking demand, it was determined that at the busiest part of the day (mid afternoon), the parking facilities were very close to capacity. The proposed additional parking would help to accommodate fluctuations in parking caused by such things as summer intern programs and corporate conferences. Mr. Tripp opined that there would be no increase in traffic since there was no increase in employees.

Chairman Breslin asked if employees could be shuttled from the hotel site and Mr. Mackiewicz responded that that site was fairly well filled already.

Chairman Breslin opened the meeting to questions from the public. Hearing none, he closed that portion of the meeting.

Keenan Hughes, PP, AICP, principal with *Phillips, Preiss, Grygiel LLC*, Hoboken, NJ, was accepted by the Board as an expert in planning. Mr. Hughes presented testimony as to the positive criteria for "c(2)" or "Flexible C" variances and relief requested by the applicant as well as to satisfy the negative criteria.

Chairman Breslin opened the meeting to questions from the public. Hearing none, he closed that portion of the meeting.

Mr. Moschello addressed the comments contained in an email dated June 5, 2018 from Township Fire Official, Andrew Buterbaugh which expressed concern that Verizon had yet to present an evacuation plan as required by the previous application (#ZB16-026). He testified that a meeting had been held on site with Mr. Buterbaugh and that they would finalize a major comprehensive evacuation plan within the next few weeks.

Mr. Moschello advised the Board that the driveway that serviced the former location of the chauffeur's house was to remain so that Verizon personnel could access the outer areas of the property for maintenance purposes.

Mr. Moschello stated that the applicant would stipulate to the comments in Mr. Schley's memo and all the comments in Mr. Quinn's memo that had not been addressed during testimony.

Chairman Breslin opened the meeting to questions or comments from the public. Hearing none, he closed that portion of the meeting.

Mr. Tripp presented a brief summary which outlined the relief sought by the applicant.

During deliberations, Mr. Zaidel objected to the fact that no demonstrable evidence had been presented to show that there was no increase in light pollution from the basketball court. A straw poll was taken and the consensus was that the lighting on the basketball court shall be limited to dusk to 10:00 PM.

After completing deliberations, the board members felt that the applicant had satisfied the positive criteria required for "c(2)" or "flexible c" variances. They also felt that the applicant had satisfied the negative criteria.

Ms. Mastrangelo moved to direct the Board Attorney to draft a Resolution memorializing the Board's decision to grant the application for all relief requested by the applicant subject to the conditions stipulated to by the applicant and as stated during deliberations. Ms. Pozner seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Kleinert, Mastrangelo, Pozner, Zaidel.

Nay: NONE

Motion carried.

COMMENTS FROM MEMBERS OR STAFF

After confirming with Ms. Kiefer that there was no business scheduled on June 14, 2018, Chairman Breslin cancelled that meeting.

Ms. Kiefer reminded the board members that they had to complete the stormwater management online training class before the June 30, 2018 deadline. She noted that a laptop computer would be set up at the 277 South Maple Avenue facility for those who were unable to access the site on their personal computers.

ADJOURNMENT

By unanimous Voice Vote, the meeting was adjourned at 10:55 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment