

**TOWNSHIP OF MONROE
ZONING BOARD OF ADJUSTMENT
SEPTEMBER 27, 2016**

The meeting was called to order at 7:00 pm by Chairwoman Carol Damiani who led the Salute to the Flag.

Chair Damiani read the Sunshine Law as follows: In accordance with the Open Public Meetings Act, it is hereby announced and shall be entered into the minutes that adequate notice of the meeting has been provided by the following: Posted on January 8, 2016 on the bulletin board of the Office of the Township Clerk, Municipal Complex and remains on file at that location; Communicated to the Home News and Tribune on January 8, 2016 and the Cranbury Press on January 8, 2016; filed on January 8, 2016 with the Deputy Municipal Clerk at the Monroe Township Offices and remains on file for public inspection. Posted on the Monroe Township web site and sent to those individuals who have requested personal notice.

MEMBERS PRESENT: Vincent Lafata, Marino Lupo, Dhaval Patel, Mark Klein, Joseph Gurney, Henry Sloan, Jennifer Hluchy and Chairwoman Carol Damiani. Also present for the board were Mark Rasimowicz Engineer, Karl Kemm Attorney and Mark Remsa Planning Administrator.

MEMBERS ABSENT: Stanley Teller, Louis Masters and John Carroll.

A motion to accept the minutes from July 26, 2016 is made by Mr. Klein, seconded by Mr. LaFata and approved by all board members present.

A motion to accept the minutes from August 23, 2016 is made by Mark Klein, seconded by Mr. LaFata and approved by all board members present.

BA-5120-16

KEVIN KOWALESKI

Kenneth Pape representing the applicant Kevin Kowaleski (KTK construction) who is requesting a use variance and minor site plan.

Kemm: notice has been properly provided and the board has jurisdiction.

Pape: this property that we present to you is in a residential zone and is approximately 164 feet by hundred and 20 feet and is improved by one single family residence that the applicant currently on and friends to an employee of the business. We are presenting a second use on the property, the business has been there for a number of years but when our clients realize it was out of zone they came forward and filed the application.

Sharif Aly is sworn in and accepted as an expert witness in the field of engineering. We are talking about a .64 parcel of property on McKnight Avenue. Marking into evidence (A-1) which is sheet one of two, and marking into evidence (A-2) which issued two of two of the plans you previously received removing some of the markings on the sides. This application is lot 1.02 in block 87 and is about about 20,000 ft.² in the R-10 zone. There is a lot of commercial in the area with a mix of residential. The site is located at the end of McKnight and the intersection of Hunka. So we are talking about a site that has an existing dwelling and an outdoor shed. 4/5 of the site has gravel out there and the site does have city water and septic. So the requirement is 100 foot frontage, hundred foot depth for residential but we are being compared to the R 60 so we are asking for a technical variance. The site is not in great condition, cracked pavement and gravel. The existing condition of the site is described on sheet 1 of 2. The dwelling sits at the

corner of the site and there is an existing variance for front yard setback and the side yard setback. Behind the home is the backyard and the septic. As I said 4/5 of the site a gravel condition. The improvements that will be taken place on site are very very minimal. We will construct a 6 foot high chain link fence around the perimeter of the property. Two storage bins, about 15 x 15 made of concrete block will be 10 feet high. In addition to that they are not changing anything on site except requesting some of the dead landscaping be removed with regard to the additional improvement that was requested of us to do, the applicant agreed to pave part of the Township right-of-way out yet. The gravel area will be the area that will have the 6 foot high chain link fence with the exception of the area closest to the floodplain. There will be a gate at the front that will be secured. The landscaping on site that needs to be replaced will be replaced. There are some areas that were unnecessary impervious surfaces that we have agreed to remove. We will move the fence to run along the property line 50 feet from the existing ditch as shown on the flood map. There will be no gravel within that area. We will restore it with topsoil grass. There is no signage at all requested. There is no lighting requested or needed. We will be reducing the storm water runoff by removing some of the gravel area. With regard to the reports by the professionals, we are able to comply with all of the recommendations in Mr. Rasimowicz's report with the exception of item number 3D requesting an EIS we would like to get a waiver for that. If it is required by the environmental commission we would do it. Item 3 I with regard to the compacted gravel - if it is regarded as impervious coverage than we will request a waiver on that. Just keep in mind that the gravel has been there and it is an existing condition. Item 3L; no parking permitted in the front yard. Since we are on the corner we have Township right-of-way all the way around the site so parking in the front yard is unavoidable. We would like to keep the parking area has gravel and we would like to ask for a waiver on putting curbing around the site. Item 3Z - refuse storage. We do not create any garbage on site so we are proposing typical residential cans on site for the residence. That would be a variance.

Rasimowicz: the site does exist so having to do with that EIS I would defer to the environmental commission for determination. I agree with the waiver for curbing and sidewalk. With regard to impervious coverage, it is an existing site and it is a variance that exists today. They are removing some of the gravel which will provide some pervious area which will help. I have no objection to the waiver four 9 x 18 parking space for the residence. No curbing and the parking area I also agree with that waiver. With regard to fencing, will it have slats and it to provide privacy?

Pape: that is the testimony

Rasimowicz: I was request that a survey be done out there and stakes be posted so that the fence is put in the proper place. With regard to security lighting?

Pape: we proposed a 6 foot secured fence with the locked gate and a night watchman. They did not propose lighting the we could added if it is required.

Rasimowicz: typically in the winter the workday goes into the darkness of night.

Pape: lighting can be introduced to the site if it is your requirement. There are two sets of work hours, this is a family business, there are three members of the family and one additional employee. They work from 7 AM to 4:30 PM Monday through Friday and occasionally on Saturday where the hours would be no earlier than nine and no later than three.

Rasimowicz: my concern is security if they are working until 430 and we have no light for safety.

Pape: we could introduce a shielded light on site, low intensity in a shoebox fixture.

Rasimowicz: I would recommend that be provided. With regard to the bulk storage, it is an existing site and I have no problem with that. With regard to the garbage, workers come in possibly the garbage other needs to be a trash bin. If it is adjacent to the home where the security guard lives, you can have a trash bin for the employees that goes out with the residential pickup. I went out to the site and was disturbed by what I saw in the floodplain. There was lumber out there, there was a dumpster so having discussed this issue with a dumpster not sure why they have a dumpster out there and there was a pile of dirt on the other side of the ditch.

Pape: the pile of dirt was clearing off the right-of-way to see if there was gravel out there. My observation was that there was a lot of trees that need to be removed there is a construction trailer that will be removed.

Rasimowicz: will it be restored?

Pape: yes

Rasimowicz: I'm sure Mr. Remsa will also talk about the buffer there are other residents out there aside from the night watchman thing on the property. I would recommend some additional buffering for those areas and may be it will be discussed further as the hearing goes on.

Pape: that is acceptable

Patel: was there a waiver for know parking in the front area?

Aly: yes

Rasimowicz: yes I'm sorry if I missed that one.

Remsa: in my report dated August 6, 2016; item 7- do you agree to satisfy A through E?

Aly: we will be able to satisfy all of the items a through I.

Remsa: McKnight Avenue, are you going to pave it all the way to the end your property?

Aly: no we will be short 50 feet from the end of the property.

Remsa: there is a lot of gravel out there that extends be on the property line to the street. I am requesting that the applicant removed back gravel and get it back to a natural state of grass and Street trees. I am glad that Mr. Rasimowicz brought up the landscape buffer and I am glad the applicant is going to work with us on that. We need to have some larger evergreens to help buffer the residences. That is all I have.

Klein: you mentioned 8 foot high block dividers, for those dividers between the trucks?

Aly: no there concrete bins, you see in typical construction areas.

Klein: are there wetlands?

Aly: we have a letter from environmental saying that this area (using a map) has no wetland. We have a map showing that there wetlands on adjoining area so out of respect for that we will have a 50 foot buffer.

Klein: are they going to be doing repairs on the trucks out there? Are they going to store diesel?

Aly: no repairs and no diesel.

Lupo: Fisher applicant intends to doing plowing or snow removal in the winter?

Pape: my client has told me that they do not plow they make that commitment that they will not do that.

Tom Kowaleski is sworn in as the applicant and operator of the business.

Pape: the board is asking what the nature of the businesses and sometimes it is more easily answered by describing with the business is not? You are requesting a single family residence that exists and a construction yard and the storage of construction materials limited to gravel and the storage of our vehicles. This list of vehicles used in their business.

Kowaleski: we are just a small family construction company. General construction; we do landscaping, a little concrete work, a small a little bit of everything business. We don't to any maintenance of our vehicles or equipment on site. We are willing to put that in the resolution. We bring everything to a mechanic and he handles it. We don't store anything other than gravel in the bins. We have an employee residing in the residential home on the site and he will serve as the night watchman. The hours of operation are 7 AM to 4:30 PM and they through Friday and limited Saturday hours which would be very rare but occasionally if we have to come in it would not be before 9 AM and not after 3 PM. Emergency would constitute a storm coming up and people need cleanup.

Lafata: that could happen after hours Monday through Friday also?

Kowaleski: I guess it could, rarely.

Pape: the general public is not invited to these?

Kowaleski: no, it is just for business.

LaFata: I understand that there is nothing stored on the property, how about storing anything in the trucks overnight?

Kowaleski: we don't store anything in the trucks.

LaFata: like debris from the job you're working on?

Kowaleski: no we don't bring anything from the jumps back to our site.

LaFata: you have a lot of vehicles for three or four employees. I count 17 items?

Kowaleski: that is what we own but they don't work every day.

Pape: so you, your dad and your brother come to work in the morning, park your cars on site and take a vehicle and some equipment and go to a job site. Do you come back during the day?

Kowaleski: no

Pape: so you come home at the end of the day. So 3 trips in and out all day - that is your business traffic pattern?

Kowaleski: yes

Klein: I can understand you have parking for cars. In your testimony it was said you have pickup trucks, dump trucks. Do you do any paving where you would have strippers and steam rollers?

Kowaleski: yes we do

Remsa: would you be willing to stipulate that the arrangement with the employee who is the night watchman, that the dwelling will always be associated with this business and that the resident of that building will always be the night watchman/employee?

Kowaleski: yes

Remsa: one of the pieces of equipment you have is a wood chipper: to store a woodchips on the property?

Kowaleski: no is only used on job sites if we needed.

Rasimowicz: for the camper trailer be removed?

Kowaleski: that is for storage it is gutted out inside in its stores handtools and things like that. It is going to remain on-site, we could remove it if necessary.

Rasimowicz: it needs to be located on the plan.

Pape: so you would like to keep that there permanently as storage?

Kowaleski: yes

Rasimowicz: you to have snowplows on site so the reality is you may plow?

Kowaleski: they are stored there for now because they are our snowplows the we will sell them. On site we will be storing gravel and only gravel.

Rasimowicz: the remainder of the North East corner of the property, what will that be used for? Will that be used for overflow parking?

Kowaleski: equipment parking

Kemm: Mr. Pape you would mind, the board professionals had asked for a list of the employee hours and the equipment. Would you go through those.

Pape: the inventory is read into the record. The smaller equipment is also read into the record. You chose to leave the residence there for buffer to the rest of the residential community by having home in between?

Kowaleski: yes

James Higgins is sworn in and accepted as an expert witness in the field of planning. I reviewed the application of visited the site and looked at Mr. Remsa's report. I reviewed the ordinance or master plan. I think what the applicant is proposing has been explained so I won't go through that again. The site is .46 acres and has frontage improved on McKnight Avenue. There is frontage on and on improved Street in an alley on the other side, so basically streets on three of the four sides. There is an existing residence on the site in the area of mixed uses. The site is not have sewer and that is a significant aspect of this application. Even though it is an R-10 zone you have to have 60,000 ft.² and because of the nature of the area I think it is unrealistic to expect someone to build a house on a 60,000 ft.² lot. Because of the fact that this site is in a mixed use area with a small group of homes on undersized lot you have a site that is basically isolated, I believe the site is particularly suited for the proposed use. They are proposing buffers that I believe will help to screen the neighbors and the proposed use is a benign use really. There is no activity at the site and nobody at the site with the exception of coming in to get the equipment and then returning it in the afternoon. For the most part during the day there is no activity on the site so it is not a substantial impact to the surrounding residences. I think when you look at the isolation and the nature of the character in the area and the fact that the site as proposed can be adequately buffered from the residences that to exist in conjunction with the fact that the site is not suitable to be developed as zoned, I think the variance can be granted without substantial negative impact to the public good. The site exists now without any screening in the applicant is proposing to put a fence up with lots to screen the site and they will be adding additional vegetation. There will be Street improvements which I think will also be positive impact. There will be no permanent buildings on the site. There is nothing being done on this site that would impede the development of the site in the future should conditions change. I think it is a benefit to leave the residential use which does add to a buffer and additionally provides for a person associated with the business to be on that site overnight to provide a measure of security. I think it is a definite benefit.

Remsa: Mr. Higgins, the proposed enclosure and landscaping that your applicant has on the plans and then will enhance, is that an improvement over what is there today?

Higgins: it is a substantial improvement over what is there today.

Remsa: both Mr. Rasimowicz and I have expressed concerns over security lighting but the type of lighting we are proposing will back create enough of a glow to bother the neighbors?

Higgins: based on what I am hearing I don't think there will be any negative impact. The hours of operation I feel will have little impact on the neighborhood. This is a unique situation where you have construction storage yard with the residence this is granted I agree with Mr. Remsa that the residence should remains tied to the business. That also provides an additional level of security. That proposed increased screening will be a positive impact to the neighborhood.

Klein: the 6 foot fence; I prefer to see an 8 foot fence.

Pape: the applicant is willing to do that if that is the pleasure of the board.

Patel: my question is for the applicant; are the vehicles on the property all owned by your business?

Kowaleski: only ours

Patel: will you be renting out any space on your property to other businesses?

Kowaleski: no

Patel: can we put the name of the business on the resolution so other businesses to not start operating on that site?

Kemm: yes I will clarify that in the resolution.

Rasimowicz: is the shed going to remain also?

Pape: is in good condition so yes. It is like one of those sheds that sits on the gravel but if it needs a permit for the construction office we will take care of that.

LaFata: is there electric to the trailer? What is being stored in a shed?

Kowaleski: the trailer has no electric and miscellaneous handtools in the shed.

LaFata: is there a generator that you will be running?

Kowaleski: we own one yes, a small one for the job sites.

PUBLIC:

Robert Clayton - 137 McKnight Avenue. Just wanted to make sure that they were going to clean up that ditch in the area and other than that I have no problem with the application.

Dayna Manfre - 24 Sheridan Street. My property line is adjacent to their business and the two homes that they on over there. Testified in favor of the application.

There being no one further from the public wishing to be heard on this application a motion to close the public portion is made by Mr. LaFata, seconded by Mr. Patel and approved by all board members present.

A motion to approve the application is made by Mr. Klein, seconded by Mr. LaFata and approved by all board members present.

BA-5127-16 311 SPOTSWOOD-ENGLISHTOWN REALTORS REALTY

Represented by Walter Toto - we are here tonight to ask for a simple amendment to an existing approval from 2013. We received use variance and site variance to permit a medical facility at the subject property. Tonight we are asking the board to add abasement solely for storage to this approved facility. This is borne of the fact that we were originally going to utilize the existing structure but found that it would be easier and more financially feasible to not down the structure and start from scratch. This led us to think that we should perhaps add a basement for storing things such as knee wraps and ice packs that would be used for the patients. The basement itself would be 8 foot high. We can comply with everything in both Mr. Rasimowicz and Mr. Remsa's reports. All other elements of the site plan remain unchanged we are only adding a

basement.

William Obera is sworn in and accepted as an expert witness in the field of engineering and planning. You seeking amended site plan approval to add a basement for storage of medical equipment only. Everything else remains unchanged and identical to the original site plan. With the inclusion of this basement the floor area ratio variance will be increased to 0.67 changing the original variance modestly. There is no additional detriment to surrounding public or additional intensity to the site. The entire project continues to advance the public good.

Rasimowicz: with regard to my letter, do you agree to the couple of comments?

Obera: yes

Remsa: I agree this application changes nothing to the site plan. The one request that I have is with the applicant be willing to restrict the basement for only storage and mechanicals?

Toto: absolutely

Remsa: if the zoning officer had a complaint that he would be able to go in?

Toto: absolutely. There is one clarification of the original resolution it talks about the hours of operation which states Monday through Friday 8 AM to 8 PM and Monday through Friday from 9 AM to 6 PM. I'm thinking that second part is supposed to say Saturday and Sunday the hours would be 9 AM to 6 PM.

Kemm: you are correct and thank you for the clarification I will make the change in the new resolution.

PUBLIC:

Let the record show that there is no one from the public wishing to be heard on the application. A motion to close the application is made by Mr. Klein, seconded by Mr. LaFata and approved by all board members present.

A motion to approve the application is made by Mr. LaFata, seconded by Mr. Klein and approved by all board members present.

MEMORIALIZATION:

BA-5117-16 (Parker at Monroe, Inc.) was approved by all board members present with the exception of Mr. Patel and Mr. Klein who abstained.

BA-5126-16 (Matrix Realty, Inc.), BA-5125-16 (The Verde Group, LLC) are approved by all board members present.

DISCUSSION:

Kemm: the last item we have on is a resolution to authorize me to defend the board in a lawsuit that was filed. Mr. Tarantino has filed an appeal on the board's decision.

A motion to the authorize Karl Kemm to defend the board in litigation filed by Mr. Tarantino is made by Mr. Klein, seconded by Mr. LaFata and approved by all board members present.

PUBLIC:

Michelle Arminio - 9 Nathaniel St. I just want to be clear on the memorialization on BA – 5125 – 16 has not been changed since the denial to expand the loft?

Kemm: there was approval of the tractor supply and some signage for the McDonald's and then the denial for the lofts.

Arminio: are there separate resolutions for that?

Kemm: no it is all on the one resolution, it was one application. But I break it out into sections so it is clear what was approved of what is denied.

Arminio: I appreciate the board attention to that and I thank you for taking care of the public in that decision.

Rasimowicz: the item that Michelle brings up on the resolution talks about "inhabitable 4th story". There was no fourth floor originally.

Kemm: thank you for picking that up. I will change the resolution as Mr. Rasimowicz indicated. The way the ordinance is written is you can have a fourth floor in a building as long as it is not for living space. So technically, the original approval was for three stories and an attic, not 4 floors. So I am going to make it clear that the proposal that was denied was to convert the attic into a habitable fourth floor which we called a loft. I will change the resolution.

Rasimowicz: the issue was the fourth story livable which was denied.

Arminio: thank you

There being nothing further to come before the board the meeting was adjourned.

Respectfully Submitted,

Patti Williams,
Secretary for the Board