

Call to Order:

The meeting was called to order at 7:03 p.m. by Chairman Salvadori who read the following statement: Notice of this meeting was given as required by the Open Public Meetings Act in the Annual Notice of Meetings on January 19, 2019. In addition, separate notice for this evening's public hearing was sent by the applicant's attorney.

Chairman Salvadori also read the following: "Be advised, no new item of business will be started after 10:30 p.m. and the meeting shall terminate no later than 11:00 p.m."

The Board saluted the flag.

Roll call: Present – Mr. Cossaboon, Ms. Fox, Mr. Fritz, Mr. Mercado, Mr. McLaughlin, Mr. Salvadori, Mr. Sebastian, Mr. Kozak, Mr. Rybicki. Absent – Mr. Sander, (excused). Also present – Mr. Coe, Solicitor, Mr. Kernan, Planner, Mr. O'Reilly, Council Liaison, Mrs. Farrell, Secretary, Mrs. Orbaczewski, Clerk Transcriber.

Public Hearing:

1. #19-09 – Bialowas Concrete Construction Co., Inc. – Use Variance

Present – Frank Bialowas, applicant, Robert Mintz, applicant's attorney, Tiffany Morrissey, applicant's planner, Joe Arsenault, applicant's environmental specialist, Sandford Mersky, applicant's engineer.

The applicant is requesting a use variance in order to be allowed to continue to store his company vehicles and equipment on his residential property. The property is located at 1640 New Brooklyn Road, also known as Block 2601, Lot 31 in the RD-A Zoning District.

Mr. Mintz introduced himself as the applicant's attorney. Mr. Bialowas, Mr. Arsenault, and Mrs. Morrissey were sworn in by Mr. Coe. Mr. Mintz stated that the property is approximately 9.3 acres. He referred to the photographs in the Board member's packets which depicted the residential home, the pole barn, as well as the surrounding wooded area and street views. The pole barns were constructed as part of the previous farmland/woodlands designation; however they were constructed in the wetlands buffer. The farmland designation is no longer associated with the property. The vehicles being stored at the property consist of two dump trucks, two Ford 350's, and one Ford 550. There is also equipment stored inside the pole barn. The applicant stored his trucks and equipment at another location but there had been vandalism and theft so he felt it necessary to move the trucks and equipment to his property where he could monitor the area.

Public Hearing: (continued)

1. #19-09 – Bialowas Concrete Construction Co., Inc. (continued)

Mr. Mintz commented on the Pinelands Certificate of Filing. Mr. Coe stated that the applicant is seeking a waiver of the Pinelands Certificate of Filing as part of completeness for the use variance but the Certificate of Filing will be required before he comes back to the Board for the site plan, if the use is granted this evening. Motion by McLaughlin, seconded by Mr. Cossaboon to grant the waiver and deem application #19-09 complete. Roll call vote: Ayes – Mr. McLaughlin, Mr. Cossaboon, Ms. Fox, Mr. Fritz, Mr. Mercado, Mr. Sebastian, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

Mr. Mintz stated that they have been trying to move forward with the Township. There is no intent to have an office at the site and no intention to have the employees remain on the site. They will come to the property and pick up whatever vehicle and equipment is needed for the day and go to the job site. However, the Pinelands may require the septic system to be upgraded since there are no bathroom facilities in the pole barn and because the employees access the site. If that is the case, Mr. Mersky will testify that the current septic system on the property can be changed to accommodate any conditions the Pinelands may impose.

Mr. Arsenault placed his credentials on the record. He stated he is an environmental consultant with experience in wetlands, endangered species, and natural resource inventories. The Board accepted Mr. Arsenault as an expert in his field. Mr. Arsenault stated that the Pinelands will require the applicant to restore areas where he has cleared trees or other vegetation and remove things from the wetlands buffer such as gravel or concrete as well as any materials that are stored. Mr. Arsenault did not believe the Pinelands would make the applicant remove the pole barn from the buffer area but they may require him to purchase a PDC. He stated he has never seen them require a building to be removed from a buffer. Mr. Bialowas will have to install a barrier between the building and the wetlands buffer such as a fence so no one will be able to access that area. Mrs. Farrell commented that she has spoken with the Pinelands as well on this application and it was stated that they have never made anyone remove a building from a buffer.

Mr. Mercado asked if any repairs to the equipment or vehicles will take place on the property. Mr. Bialowas testified that there are no major repairs being done on the site. They can do small minor repairs and change the oil. The oil goes back into the storage tanks in the trucks and gets reused at the job site. He stated that the pole barn is only used for storage of equipment such as two mini excavators and two skid steer loaders. There are no job materials stored on site with the exception of occasionally storing a small excess of material left over from a job. Right now he has a pile of extra block but it can be removed if necessary.

Public Hearing: (continued)

1. #19-09 – Bialowas Concrete Construction Co., Inc. (continued)

Mr. Bialowas commented that he also has a couple of trailers he stores on the site. No customers come to the site and all office work is done offsite. He has five employees and usually the hours they come to the site to pick up the work vehicles is around 5:30 a.m. maybe 6:00 a.m. and they return to the property around 5:00 p.m. but at times it can be a little later. Mr. Bialowas testified he has never had a neighbor complain about noise or anything with regard to his business. Mr. Kozak asked if Mr. Bialowas had any objection to removing the materials that are stored in the wooded area. Mr. Bialowas replied that the materials are not in the wetlands buffer area; the only thing in the buffer with regard to materials, is a pile of wood behind the building. Mr. Fritz asked if there are any issues with regard to traffic on New Brooklyn Road. Mr. Bialowas replied that he does not have any issues with traffic. Mr. Mintz also commented that they are aware it is a County road and they will have to send an application to the County.

Mrs. Fox asked if there is any type of office work done on the property. Mr. Bialowas stated that no work order paperwork or accounting is done on the property. He does have large printers in the pole barn where he can print blueprints when a client sends him plans electronically. Mr. Coe asked if the applicant anticipates needing any more vehicles or equipment on the site. Mr. Bialowas replied he will not be increasing the number of vehicles or equipment on the property. Mr. Mersky was sworn in by Mr. Coe. He testified that the existing septic system is capable of being redesigned if required by the Pinelands.

Mrs. Morrissey introduced herself as the applicant's planner. She stated that the applicant is required to provide special reasons why this use is appropriate for this site as well as providing the positive and negative criteria for the use variance. She stated the zone allows a variety of uses including home occupations. Mrs. Morrissey stated that the commercial uses across the street in the R-2 residential zoning district are more nonconforming than the use Mr. Bialowas has on his property. The surrounding area contains mixed uses such as agricultural uses, storage uses, landscaping businesses and residential uses. With regard to the special reasons, Mrs. Morrissey commented that the site provides for adequate space for the use, the surrounding uses are consistent with the applicant's use, and the zone does allow for a variety of different uses. The applicant has provided adequate screening and landscaping and nestled the pole barn and vehicles in an area so there isn't any impact on the neighboring properties. With regard to the Master Plan, this really is a home occupation that doesn't meet all the criteria. The Master Plan allows for vehicle storage and home occupation but the equipment and dump trucks cause this use to be more than a home occupation. In the rural development area, the Pinelands does allow for different uses such as community commercial uses and industrial uses; so this use is not out of the realm of what is already permitted in the zone.

Public Hearing: (continued)

1. #19-09 – Bialowas Concrete Construction Co., Inc. (continued)

In terms of the substantial detriment to the public good, while this is not a permitted use, it does not create a substantial detriment to the public good. The traffic impact is minimal and in relation to the surrounding area, meaning the wetlands and woods, it takes away the impact of the employees coming and going with the vehicles and equipment. The applicant has taken efforts to ensure that the vehicle and equipment storage is not visible to the surrounding neighbors. This type of business is typically not something towns plan for in their Master Plan but they are more common in many towns today. Mrs. Morrissey stated that the Board can find that this use does not impose a substantial detriment to the zoning ordinance or the public good. The property is suited for this type of use and is consistent with other uses in the area.

Mrs. Fox asked about materials brought back to the property and unloaded and left there. Mr. Bialowas stated that he does store pavers and blocks which are on pallets. Mrs. Morrissey commented that the area of material storage is not large at all. Mr. Bialowas also stated that the materials are not stored in the wetlands buffer and in the summertime with all the leaves on the trees, you cannot see it from the street. Mr. Sebastian asked Mr. Bialowas where he stores the forms for the concrete work. Mr. Bialowas stated that they are stored onsite on a trailer.

Mr. Kernan reviewed Ms. Pellegrini's report for the Board. He stated that he is satisfied with the testimony from Mrs. Morrissey with regard to the proofs and special reasons for the granting of the use variance. He also stated that the Township is preparing to do another Master Plan very soon and this type of use is something they need to look at in the RD-A zone. The applicant does need to obtain a Certificate of Filing from the Pinelands and then come back to the Board with a minor site plan. The only issue not addressed but noted in the report is the site triangle and site distance from the driveway the employees use to come and go from the property. Mr. Kernan stated this can be handled as part of the site plan but he wanted the applicant to be aware of the issue of visibility from the street edge on New Brooklyn Road.

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Mr. Coe reviewed the use variance for the Board for the storage and parking of vehicles and equipment on the property. Any approval will be subject to the following conditions: all outside agency approvals including the Pinelands and the County, the applicant must return with a site plan, and maintain all escrow accounts. Mr. Salvadori asked if a time limit can be imposed for the applicant to return with a site plan. Mr. Mintz replied that they are really at the mercy of the Pinelands but they will provide the Board with a copy of their Pinelands application within 90 days. Mrs. Farrell asked that they submit a copy of the application to the Board office.

Public Hearing: (continued)

1. #19-09 – Bialowas Concrete Construction Co., Inc. (continued)

Motion by Mr. McLaughlin, seconded by Mr. Sebastian to grant the use variance with the conditions stated on the record. Roll call vote: Ayes – Mr. McLaughlin, Mr. Sebastian, Mr. Cossaboon, Mrs. Fox, Mr. Fritz, Mr. Mercado, Mr. Salvadori. Nays -Zero. Abstentions – Zero.

Public Portion:

Motion passed to open the meeting to the public. There being none, motion passed to close the meeting to the public.

Reports:

1. Mrs. Farrell asked Mr. Coe if he received the email concerning the Kanady matter. Mr. Coe informed the Board that he did receive an email earlier in the day from Mr. Trimble concerning the Kanady matter. Mrs. Farrell stated the acting Zoning Officer went out to do an inspection of the site. Mr. Coe stated that he will review the email and send a report on his findings.
2. Mrs. Farrell stated there has been an issue concerning the Dropbox. She will be handling it a different way and sending the Board members an email with the new procedure on how to access the meeting information in Dropbox. Until that time she will forward any information directly to their email.

Approval of Minutes:

1. 06/04/19 regular meeting.

Motion by Mr. McLaughlin, seconded by Mr. Fritz to approve the minutes from the June 4, 2019 regular meeting. Voice vote; all ayes, motion passed.

Adjournment:

The meeting was adjourned at 8:14 p.m.

These minutes are an extract from the meeting that was held on the above date and are not a verbatim account or to be construed as an official transcript of the proceedings.

Respectfully submitted by: Ninette Orbaczewski, Clerk Transcriber.