

Call to Order:

The meeting was called to order at 5:20 p.m. by Chairperson Fox who read the following statement: "Notice of this meeting was given as required by the Open Public Meetings Act on June 27, 2020. In addition, notice for this evening's public hearings was published in the newspaper.

The Board saluted the flag.

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

Public Hearings:

1. #20-25 – Megan Lawlor – Rear Yard Variance

Present – Megan & Kevin Lawlor, applicants.

The applicant is requesting a rear yard variance where 75' is required and she is proposing 27.6' in order to construct an 11' x 14' addition to the existing house. The property is located at 848 Lois Drive, also known as Block 13505, Lot 17 in the R-2 Zoning District.

Ms. Fox asked if the application can be deemed complete. Mrs. Farrell replied the application can be deemed complete. Motion by Mr. McLaughlin, seconded by Mr. Salvadori to deem application #20-25 complete. Voice vote; all ayes, motion passed.

Mr. & Mrs. Lawlor were sworn in by Mr. Coe. Mrs. Lawlor stated they are before the Board to request a rear yard variance in order to construct an addition where their existing deck is located. The house is on a corner lot, so they have more side yard than rear yard. Mr. McLaughlin asked if they have any drainage issues on their property. Mrs. Lawlor replied they do not have any drainage issues. Mr. Coe asked if the addition is going to be the same size as the deck. Mrs. Lawlor replied that the addition will be much smaller than the deck.

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 variance for the Board. Motion by Mr. Kozak, seconded by Mr. McLaughlin to grant the rear yard variance to allow a rear yard of 27.6' conditioned upon the applicant constructing the addition in accordance with the plans submitted, obtaining all necessary zoning and construction permits, and maintaining their escrow account. Roll call vote: Ayes – Mr. Kozak, Mr. McLaughlin, Mr. Cossaboon, Mr. Salvadori, Mr. Rybicki, Ms. Fox. Nays – Zero. Abstentions – Zero.

Public Hearings: (continued)

2. #20-26 – Edwin & Susan Gramley – Right-of-Way Variance

Present – Susan Gramley, applicant.

The applicant is requesting a right-of-way variance in order to install a 27' above ground swimming pool. The required minimum setback to the right-of-way is 35' and the applicant is proposing 15'. The property is located at 307 Marissa Court, also known as Block 27.0202, Lot 8 in the RG-MR Zoning District.

Ms. Fox asked if the application can be deemed complete. Mrs. Farrell replied the application can be deemed complete. Motion by Mr. Salvadori, seconded by Mr. Rybicki to deem application #20-26 complete. Voice vote; all ayes, motion passed.

Mrs. Gramley was sworn in by Mr. Coe. She stated that their property is a corner lot and they need a variance from the required right-of-way in order to install an above ground swimming pool in their yard. Mr. McLaughlin asked what type of fence is planned for around the pool. Mrs. Gramley stated that they are installing a six-foot privacy fence. Mr. McLaughlin also asked about the utility easement. Mrs. Gramley stated that there is a ten-foot wide utility easement; however, the pool will not be placed inside the easement. Mr. Kozak inquired if the fence is within the easement. Mrs. Gramley replied the fence is just on the edge of the easement but not in the easement area.

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 variance for the Board. Motion by Mr. McLaughlin, seconded by Mr. Salvadori to grant the right-of-way variance to allow a 15' right-of-way conditioned upon the applicant installing the pool in accordance with the plan and survey submitted, obtaining all zoning and construction permits, and maintaining their escrow account. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Cossaboon, Mr. Kozak, Mr. Rybicki, Ms. Fox. Nays – Zero. Abstentions – Zero.

3. #20-14 & #500-SP – A.C.E. – Use Variance/Preliminary & Final Major Site Plan

Present – Nick Talvacchia, applicant's attorney, Mark Hermann, applicant's engineer, Stuart Wiser, applicant's planner, and Rich Hall, project manager for A.C.E.

Public Hearings: (continued)

3. #20-14 & #500-SP – A.C. E. (continued)

The applicant is requesting a use variance and site plan approval in order to make improvements to their existing A.C.E. substation. The proposed improvements are required by Exelon's Utility Security protocols and include a new 12' high fence, gates, grounding rods, and an intrusion detection system with perimeter cameras and a security enclosure for the equipment. The property is located on North Tuckahoe Road, also known as Block 12901, Lots 1,3,4,11 and 13 in the R-2 Zoning District.

Mrs. Farrell announced that if there are members of the public online for this public hearing, they should turn on their video so they can be seen and acknowledged if necessary. In addition, at the beginning of the meeting it was established that the applicant wished to move forward with their hearing with regard to the use variance this evening even though there are only six Board members present.

Ms. Fox asked if the applications can be deemed complete. Mrs. Farrell deferred the issue of completeness to Mr. Sander. Mr. Sander replied that the applicant is requesting a number of submission waivers which need to be granted by the Board in order to deem the application complete. Waivers are required from providing an Environmental Site Assessment, a traffic study, proposed circulation plans, the location of potable water, and a landscape plan. In addition, the applicant has requested a temporary waiver from providing stormwater drainage information until a later date. Mr. McLaughlin commented that he did not see any issue with the waivers for circulation and traffic but asked the applicant how the Environmental Site Assessment and landscaping are going to be addressed. Mr. Talvacchia replied that the site is approximately eighty-nine acres in total; however, the substation currently only utilizes fourteen and a half acres of the entire property. The application involves replacing the fence and adding a 160 square foot building to house camera and security equipment. They do not believe there is any environmental impact from this proposal. Motion by Mr. McLaughlin, seconded by Mr. Salvadori to grant the waivers and deem applications #20-14 and #500-SP complete. Voice vote; all ayes, motion passed.

Mr. Hermann, Mr. Hall, Mr. Wiser, Ms. Pellegrini, and Mr. Sander were sworn in by Mr. Coe. Mr. Talvacchia stated that this is an existing substation; they have not been able to find any records of when it was constructed, but they believe in the 1960's or early 1970's, so there isn't a previous site plan on record. There is an existing eight-foot fence that will be replaced with a twelve-foot fence which includes barbed wire. Security cameras will be added as well as other intrusion devices. Trenching for the cabling for the camera system and a small twelve-foot high prefab building to house the equipment. That is basically the whole proposal. Mr. Talvacchia commented that by law this is an inherently beneficial use, so with regard to the use variance, the positive criteria are deemed to be satisfied.

Public Hearings: (continued)

3. #20-14 & #500-SP – A.C. E. (continued)

Mr. Coe advised the Board that Mr. Talvacchia is correct in saying this is considered an inherently beneficial use and the Board should evaluate the evidence with that in mind. The positive criteria have been established and the Board should evaluate based on the negative criteria. Mr. Hall introduced himself as the project manager for the site. He stated that the project is a security upgrade to the existing substation. The new fence will be eleven feet in height with one foot of barbed wire at the top for a total height of twelve feet. They are installing sensors, perimeter cameras, and access controls around the perimeter that will operate only when someone enters the substation. They are also constructing a new underground concrete duct bank in certain areas where vehicles may traverse inside the substation; otherwise the conduits will be directly buried. They are installing a new security enclosure next to the existing control building. This building will house the control equipment for the security system. They are proposing new stone surfacing primarily around the fence which is a safety issue for the fence and grounding. This security upgrade is the electric company's attempt to reduce the risk at the substation and is mandated by Exelon's Utility Security protocols.

Mr. Hermann introduced himself as the applicant's engineer and testified as to his credentials as a licensed professional engineer. The Board accepted Mr. Hermann as an expert in his field. Mr. Hermann displayed the proposed fence for the Board. The proposed fence is a steel fence, eleven feet high with and additional one foot of barbed wire. The steel fence has an industrial mesh between the post which provided screening and prevents climbing. There are five super posts that are sixteen feet high on which they will mount the cameras at fifteen feet high. These super posts are placed at certain intervals around the site and will be part of the fencing. Mr. Hermann also pointed out the new stone area around the fencing which is approximately three feet wide. He stated they will have to do work with the grounding grid within the substation so they will replace the stone with a similar stone. Mr. Talvacchia commented that there is a residential neighborhood nearby the substation but there is also a lot of wooded areas that screen the substation from view. Mr. Kozak asked the material of the fencing. Mr. Hermann stated it is galvanized steel. Mr. Kozak commented that the mesh makes the fence unclimbable so why do they need the barbed wire on top. Mr. Hermann replied that the fence is not climbable where someone could put their foot in to climb but the barbed wire is in place as an extra security measure in case someone tried to climb the fence by another means. Mr. Kozak also asked if the cameras will be pointing into the substation only. Mr. Talvacchia replied that some of these questions deal with security and operations that the company cannot disclose to the public. Mr. Hall replied the cameras are limited to the substation footprint and they will not be intruding on anyone's privacy.

Public Hearings: (continued)

3. #20-14 & #500-SP – A.C. E. (continued)

Mr. Hermann displayed the aerial photograph for the Board which depicted the substation and the surrounding area. He stated that he has walked the site and he could not really see through the wooded area between the substation and Butler Drive and the same for the Waverly Court area. With regard to Danville Drive and Westin Drive, the substation is a little closer, but there is a nice tree line there as well. He walked that area and stated the substation is well screened from this area. Mr. Hermann did not believe the higher fencing will be visible from the surrounding neighborhoods.

With regard to the proposed building, which is approximately 160 square feet and twelve-foot high, this building will house the security equipment. Mr. Hermann displayed the proposed building for the Board. He also displayed a view of the existing building and where the new building will be located in relation to the existing building. Mr. Hermann did not believe the new building would be visible to the surrounding neighborhoods given the small size of the building and the wooded screening. He also pointed out the driveway areas where they will be replacing stone where it has worn out. This substation is an unmanned facility; there could be one truck a week but usually the site will only be visited once or twice a month. There is no impact to the traffic to and from this site. Mr. Hermann prepared a stormwater management statement for the Board. Based on the controls by the NJDEP, they are not required to provide for any stormwater management since the area being disturbed is less than a quarter of an acre. He did not anticipate any significant change in the current drainage for this proposal.

There are no buffers proposed for this site as the existing buffers are adequate. With regard to parking, there is ample room for any vehicles that visit the site for maintenance. A variance is required for the height of the fence. The applicant is also requesting a waiver from providing sidewalk along the frontage. The nearest sidewalk is approximately 1000 feet away and the applicant does not feel there is a need for sidewalk in this area since the roadway is uncurbed. There are no proposed changes to the current lighting with the exception of a small downlit light above the door for the new security building. Mr. Hermann stated there is also a waiver required for the proposal of stone instead of asphalt. The reason they prefer to use the stone is because there are conduits buried underground and if they have to do maintenance to one or more of them, it makes it harder to tear up the asphalt as opposed to digging up the stone. Mr. Kozak asked if the applicant can maintain the frontage along Tuckahoe Road for safe passage by any pedestrians. He commented that the applicant does maintain it now and he wanted make sure they continue to do so.

Mr. Wiser introduced himself as the applicant's planner. Mr. Wiser testified as to his credentials as a licensed professional planner. The Board accepted Mr. Wiser as an expert in his field.

Public Hearings: (continued)

3. #20-14 & #500-SP – A.C. E. (continued)

Mr. Wiser stated that this substation was probably constructed in the late 1960's or early 1970's. They cannot find any records of exactly when or if any local approvals were granted. They do know that Atlantic City Electric began purchasing and assembling the land somewhere between 1958 and 1968. Since no zoning for the Township was in place at the time; this is a pre-existing non-conforming use in this zone and as such a (d2) variance is required for the expansion of a pre-existing non-conforming use. Under the R-2 Zoning requirements, there really are no bulk standards for this type of use. Variances are required for the fence height and the height of the super posts that will hold the cameras. There are no standards for parking for this use in this zone and the applicant is asking for a waiver for any parking requirements. There was discussion on there being adequate parking for the maintenance workers. The applicant is requesting waivers for any buffer, lighting, fire protection, providing a rodent control plan, and from providing a landscaping plan. Mr. Talvacchia commented that a waiver is not necessary for the buffer since the proposed improvements do not trigger the need for any additional buffering.

Mr. Wiser agreed that the nature of the use is considered an inherently beneficial use and that the positive criteria for the use variance is satisfied. With regard to the negative criteria, the applicant is making minor improvements to a long standing substation that does not impact the public, the zone plan, or the master plan. Under inherently beneficial uses, there is a four-pronged step in identifying variance justification. The first is to identify the public interest at stake. In this case it is the uninterrupted provision of electricity to the general public in a safe and efficient manner. The second prong is to identify any negative effects and the only negative effects from the proposed improvements is that the higher fence and super posts may be visible from the surrounding neighborhoods. The next step is to determine if any of the negative effects can be reduced by the Board imposing reasonable conditions. Because the proposal is a security upgrade and the fencing and post probably will not be visible due to the existing wooded buffers, they do not believe there are any reasonable conditions that could be put on the substation to make it less of a detriment given there really aren't any detriments. So, the Board should determine that the variance can be granted without a substantial detriment to the public good.

The variance for the height of the fence and the super posts is justified because of the security protocols necessary to maintain the substation. The purposes of the municipal land use law that are advanced and pertain to this application are a, c, e, g, and j which are listed in Mr. Wiser's report.

Public Hearings: (continued)

3. #20-14 & #500-SP – A.C.E. (continued)

Ms. Pellegrini reviewed her report for the Board. She stated the applicant has provided the testimony requested in her report. She did want to clarify her comment concerning the buffer. She stated as a non-conforming use there are not any specified widths and she did not see any need to provided additional buffering; however, it is important to maintain the buffering that currently exists around the limits of the substation. The waivers and variances have been correctly identified and discussed. She pointed out the comments under COAH and the escrow account and concluded her report. Mr. Kozak asked if the applicant is required to pay COAH. Ms. Pellegrini replied that it will be based on whatever the value of the non-residential construction is and will be up to the Construction Code Official. Mr. Talvacchia stated that they are okay with whatever the Construction Official determines with regard to the COAH fee.

Mr. Talvacchia stated that the applicant does not have any issues with Mr. Sander's report except for comments concerning Phase II and stormwater management. They incorrectly stated that they plan to do a Phase II with stormwater management and Mr. Sander made that a condition of approval. In addition, Mr. Sander did not initially have the stormwater report which states that the proposed project does not generate the need for stormwater management. He asked Mr. Sander if he would consider removing that comment so there is no condition of a Phase II. Mr. Sander agreed with Mr. Talvacchia's statement and agreed the current project does not require stormwater management; if the Board does not have a problem with him removing the comment he will do so. The applicant is not proposing any waste management as the employees who visit the site will remove any waste and take it with them for disposal. They are not proposing any signage with the exception of safety and warning signs posted on the substation fence. With all other comments addressed, Mr. Sander concluded his report.

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 and site plan for the Board. Motion by Mr. McLaughlin, seconded by Mr. Salvadori to grant the use variance to expand a pre-existing non-conforming use, preliminary and final major site plan, and the waivers and variances discussed and agreed upon subject to the following conditions; all improvements completed in accordance with the plans submitted, compliance with any COAH fees, maintenance of the escrow account, posting of inspection fees, the applicant must obtain all necessary Township and outside agency permits that are deemed required, the applicant maintains the existing buffering around the site, and continued maintenance of the right-of-way. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Cossaboon, Mr. Kozak, Mr. Rybicki, Ms. Fox. Nays – Zero. Abstentions – Zero.

The Board took a brief recess.

Public Portion:

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

Memorialization of Resolutions:

Mr. Coe stated that Resolutions #24 & #25 will be done at the next regular meeting. With regard to #28 it is stated on the agenda that resolution is for Anthony McGill; however, he withdrew his application. Mr. Coe stated he substituted the Closed Session resolution as #28.

1. #19-2020 – App. #20-12 – Lisa Agigian – Rear Yard Variance Approved

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #19-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Kozak, Mr. Rybicki, Ms. Fox. Nays – Zero. Abstentions – Zero.

2. #20-2020 – App. #20-13 – Stephen Paparo – Rear Yard Variance Approved

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #20-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Kozak, Mr. Rybicki, Ms. Fox. Nays – Zero. Abstentions – Zero.

3. #21-2020 – App. #20-15 – Dwayne & Arlene Dobbins – Lot Coverage Variance Approved

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #21-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Kozak, Ms. Fox. Nays – Zero. Abstentions – Zero.

4. #22-2020 – App. #20-16 – John McHugh – Lot Coverage Variance Approved

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #22-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Kozak, Ms. Fox. Nays – Zero. Abstentions – Zero.

5. #23-2020 – App. #20-17 – Celina Dottoli – Lot Coverage Variance Approved

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #23-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Kozak, Ms. Fox. Nays – Zero. Abstentions – Zero.

Memorialization of Resolutions: (continued)

6. #26-2020 – App. #20-10 – Our Lady of Peace Parish – Use Variance Approved

Mr. Coe stated that Deacon Mike had mistakenly included the wrong picture and dimensions of the LED sign. He has submitted the correct sign to the Board and Ms. Pellegrini reviewed the correct sign and dimensions and determined that there wasn't a significant difference and she was okay with the Board moving forward with the resolution. Mr. Coe attached the correct picture and dimensions of the sign to the resolution. Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #26-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Cossaboon, Mr. Kozak, Ms. Fox. Nays – Zero. Abstentions – Zero.

7. #27-2020 – App. #20-18 – Jeff & Jessica Rudolph – Lot Coverage Variance Approved

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #27-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Cossaboon, Mr. Kozak, Ms. Fox. Nays – Zero. Abstentions – Zero.

8. #28-2020 – Closed Executive Session

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #28-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Cossaboon, Mr. Kozak, Mr. Rybicki, Ms. Fox. Nays – Zero. Abstentions – Zero.

9. #29-2020 – App. #20-20 – George & Jenn Appenzeller – Lot Cov. & Right of Way Var.

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #29-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Cossaboon, Mr. Kozak, Ms. Fox. Nays – Zero. Abstentions – Zero.

10. #30-2020 – App. #20-21 – Jose Alvarado – Lot Coverage Variance Approved

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #30-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Cossaboon, Mr. Kozak, Ms. Fox. Nays – Zero. Abstentions – Zero.

11. #31-2020 – App. #20-22 – Ed & Kristin Penna – Lot Coverage Variance Approved

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #31-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Cossaboon, Mr. Kozak, Ms. Fox. Nays – Zero. Abstentions – Zero.

Memorialization of Resolutions: (continued)

12. #32-2020 – App. #20-23 – Anthony & Stephanie Aucello – Lot Coverage Variance

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to adopt resolution #32-2020. Roll call vote: Ayes – Mr. McLaughlin, Mr. Salvadori, Mr. Cossaboon, Mr. Kozak, Ms. Fox. Nays – Zero. Abstentions – Zero.

Reports:

1. There is an executive session after the current meeting adjourns. The Board will have to leave the current Zoom meeting and sign into the new one.

Approval of Minutes:

1. 6/16/2020 regular meeting.
2. 6/23/2020 special meeting.

Motion by Mr. McLaughlin, seconded by Mr. Salvadori to approve the minutes from the June, 16, 2020 regular meeting and the June 23, 2020 special meeting. Voice vote; all ayes, motion passed.

Adjournment:

The meeting was adjourned at 7:07 p.m. to executive session.

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.