

**Call to Order:**

The regular meeting of the Monroe Township Zoning Board of Adjustment was called to order at 6:47 p.m. by Vice Chairman Kozak 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 July 29, 2021. In addition, separate notice for this evening's public hearings were sent in writing and published in the newspaper on September 25, 2021. 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. Cummiskey, Mr. Kozak, Mr. Powers, Mr. Rybicki, Mr. Salvadori Mr. DelCampo, **Absent**- Mr. Adams, (excused) Mr. Sebastian, (excused), Mr. Cossaboon, (excused), Ms. Fox, Council Liaison (excused) Also present – Mr. Coe, Solicitor, Mr. Kernan, Planner, Mr. Sander Engineer, Mrs. Orbachewski, Secretary, Mrs. Tomasello, Clerk Transcriber

**Memorialization of Resolutions:**

1. #76-2021 – App. #21-51 Dave & Lori Brown- Side Yard Variance Approved

Motion by Mr. Powers, seconded by Mr. Rybicki to adopt resolution #76-2021. Roll Call Vote; all ayes; motion passed.

2. #77-2021 – App. #21-48 Monroe Township Board of Education- Use Variance Approved

Motion by Mr. Salvadori, seconded by Mr. Powers to adopt resolution #77-2021. Roll Call Vote; all ayes; motion passed.

**Public Hearings:**

**1. #21-53 – Raul Nieves- Side and Rear Yard Variances**

Present- Raul Nieves applicant.

The applicant is proposing to construct a 30' x 30' x 12' pole barn for personal storage which will require a rear yard variance where 37.5' is required and he is proposing 15'. He is also proposing to construct a carport on the side of his existing home which will require a side yard variance where 30' feet are required and he is proposing 17' and a rear yard variance to allow 55.75' where 75' is required along with any other variances or waivers deemed necessary by the Board. The property is located at 220 Laurel Avenue, also known as Block 612, Lot 1 in the R-2 Zoning District.

**1. #21-53 – Raul Nieves- Continued**

Mr. Nieves was sworn in by Mr. Coe. Mr. Kozak asked if the application can be deemed complete. Mrs. Orbachewski replied the application can be deemed complete. Motion by Mr. Salvadori, seconded by Mr. Cummiskey to deem application #21-53 complete. Voice vote; all ayes, motion passed.

Mr. Nieves stated he wants to build the pole barn so he can store his antique cars inside, as well as clean up the yard. Mr. Kozak questioned if the applicant will be doing a carport, Mr. Nieves replied yes. Mr. Kozak questioned how big will the roof of the carport be, applicant stated 20' x 30'.

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 request for the Board. Motion by Mr. Salvadori, seconded by Mr. Cummiskey to grant the Side and Rear use variance for the pole barn and the carport conditioned upon the applicant securing all necessary outside agency approvals and township permits, including construction permits and approvals that may be necessary. The applicant shall maintain his escrow account and satisfy any outstanding escrow obligations. The pole barn structure should be solely for storage use only not for commercial purpose and no living space can be constructed in the pole barn. The applicant must comply with the COAH development fee. All construction shall be done in accordance with the plan and survey that was submitted as part of the application. Roll call vote: Ayes – Mr. Salvadori, Mr. Rybicki, Mr. Powers, Mr. Kozak, Mr. Cummiskey, Mr. DelCampo. Nays – Zero. Abstentions – Zero.

**2. #21-37 –Ty Hagy –Amended Use Variance**

Present- Geneveive Hagy applicant.

The applicant is requesting to amend his previously approved use variance where he was approved to demolish 80' of an existing chicken coop and replace it with a 40' x 60' pole barn with one main door, one 12'x 12' overheard door, and one 10'x 10' door. Due to the cost of building material, he is proposing to amend the approval to allow 40' x 80' building that is already constructed and has the same size doors, which he will move to his site. The property is located at 2121 Bluebell Road, also known as Block 10401, Lot 4 in the AG Zoning District.

Mrs. Hagy was sworn in by Mr. Coe. Mr. Kozak asked if the application can be deemed complete. Mrs. Orbachewski replied the application can be deemed complete. Motion by Mr. Salvadori, seconded by Mr. Rybicki to deem application #21-37 complete. Voice vote; all ayes, motion passed.

**2. #21-37 –Ty Hagy –Continued**

Mrs. Hagy stated that earlier this year they were approved for a 40' x 60' pole barn. But because of the prices of materials going up they have decided to buy a used pole barn and found one that is 40' x 80'.

Mr. Kernan reviewed his report for the board. He stated that the applicant was there four months ago and had an approval for a smaller building 40 x 60 and is getting a larger steel building. He also stated that according to 175-89, within a non-subdivision parcel with a minimum of three acres, an accessory building pole barn, may be erected not to exceed 2,500 square feet and no more than 24 feet high from the finished first floor so long as said pole barn is not larger in square feet than the principal use/structure. The proposed steel building does not conform with these requirements, having an area 3,200 square feet. As proposed, a use variance is required. Mrs. Hagy informed the board that the new steel pole barn will be compatible with their house with regard to color.

Mr. Coe stated that with the original application the applicant had stated that they were going to demolish 80ft of an existing chicken coop. He questioned the applicant if she was going to demolish the coop, Mrs. Hagy replied yes it was already demolished. Mr. Kozak asked the applicant what was the pole barn going to be used for, Mrs. Hagy replied it will be used for storage.

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 amended variance request for the Board. Motion by Mr. Salvadori, seconded by Mr. Powers to grant the amended use variance for a pole barn. Mr. Coe stated that this matter came previously to the board and was memorialized in resolution 63-2021. There are four amendments the first one being to increase the size of the pole barn from 40 x 60 to 40 x 80. The second amendment will be the description of the building from a pole barn to a steel building. The third one is increasing the height from 16ft to 17ft. The fourth amendment is for a variance from the requirements of township code 175-89 to increase the size of the square footage of the structure to 3,200 square feet. Those are the four amendments that are the subject of the motion. All of the conditions and terms of the resolution will remain the same as the prior approval. Roll call vote: Ayes – Mr. Salvadori, Mr. Rybicki, Mr. Powers, Mr. Kozak, Mr. Cummiskey, Mr. DelCampo. Nays – Zero. Abstentions – Zero.

**3. #21-49 & #500-SP—Atlantic City Electric- Use Variance and Major Site Plan- Phase II**

Present- Nicholas F. Talvacchia, Esq, Kyle Rutherford, Engineer from PS&S, Brian McPeak, Planner from PS&S

**3. #21-49 & #500-SP—Atlantic City Electric-Continued**

The applicant is requesting a use variance for the expansion of a non-conforming use or use not permitted in the zone which concerns the existing Atlantic City Electric substation along with any other variances or waivers deemed necessary by the Board. This application is for Phase II of the overall project which also includes the storm water. The property is located at 501 N. Tuckahoe Road, also known as Block 12901, Lots 1,3,4,11 and 13 in the R-2 Zoning District.

Mr. Kozak asked if the application can be deemed complete. Mrs. Orbaczewski deferred the issue of completeness to Mr. Sander. Mr. Sander replied that the applicant is requesting a waiver which needs to be granted by the Board in order to deem the application complete. A waiver of the requirement to submit topographical contours extending two hundred feet (200') beyond the boundary of the proposal has been previously recommended by this office. Motion by Mr. Powers, seconded by Mr. Cummiskey to grant the waiver and deem application #21-49 & #500- SP complete. Roll call vote: Ayes – Mr. Salvadori, Mr. Rybicki, Mr. Powers, Mr. Kozak, Mr. Cummiskey, Mr. DelCampo. Nays – Zero. Abstentions – Zero.

Mr. Rutherford and Mr. McPeak were sworn in by Mr. Coe. Mr. Talvacchia stated that the applicant was heard by the board virtually on July 7, 2020 for Phase I. Phase I was for new fencing, security up grades, new control building, and at that time the discussion with Mr. Sanders about coming back for Phase II for upgrades for the storm water. The driving force for the storm water upgrade is for the safety and comfort of the Atlantic City Electric employees on the site. During storm events it is quite wet there and the company is concerned that it's not safe as it could or should be for its employees or comfortable with all the water. This storm water upgrade is primarily to make the site dryer. They are adding the retention basin, and adding the improvements necessary for the storm water system. The applicant is asking for a D-2 expansion for a non-conforming use. This use is not permitted in the R-2 zone. He stated that there is no other variance that they might need. There is a site plan component to these reports.

Mr. Rutherford introduced himself as the applicant's engineer and testified as to his credentials as a licensed professional engineer. The Board accepted Mr. Rutherford as an expert in his field. Mr. Rutherford displayed an accurate aerial of the site. The property is about 89.73 acres in which includes the existing substation, as well as the transmission lines, and overhead poles throughout the area. The property is located in the R-2 zone which is the suburban residential option district, it is not listed as a public utility or conditional use. There are no applicable bulk criteria for this type of use under this zone. The primary substation is quite sandy due to the long term use of it. He stated that they will not be doing any tree clearing or tree removal to facilitate this improvement. There will be no buffer needed for the upgrade. He also stated that primarily what they are looking to do is reduce the storm water runoff they will first regrade the site and apply gravel across the substation itself to better pitch the drainage and avoid ponding throughout the site. The second thing is for infiltration trenches. The water runs off the site into a stone bed and into a pipe so it can be transmitted into the soil bed or into a neighboring basin to infiltrate better.

### **3. #21-49 & #500-SP—Atlantic City Electric-Continued**

Mr. Talvacchia stated that when they submitted this project, the NJDEP storm water were changing in March, so this plan complies with the new regulations. Mr. Rutherford agreed, although he doesn't think they would have been required to, however they wanted to be respectful of the new regulations. In addition to the storm water management upgrades, they will also do minor foundation repairs; the transformer area will be brought up to date with new safety features. Mr. Kozak questions if it was towards Tuckahoe Road, he replied yes towards Tuckahoe Road to where it is already cleared for those overhead power lines.

Mr. Rutherford stated they have a couple of regulatory approvals that need to be addressed. Gloucester County Planning Board which they have submitted but is on hold, Soil Conservation District for the disturbance area, Monroe Fire Marshal was submitted, MUA was on the list however we do not have any water or sewer connections to the site, and the wetlands application was submitted and approved by the NJDEP which is currently in the process of being filed and recorded which was one of Mr. Sanders request. In regards to Mr. Sanders letter which we received on October 1<sup>st</sup>, as to the fresh water wetland documentation they will provide it as soon as it is received. There was a question in regards to the storm water design, it was modeled to separate the infiltration trench within the substation from what is outside of the substation because they operate slightly different. Lastly, they received a letter from the Planner dated October 11 and there were a number of waivers, one being identified as the sidewalks which previously was granted. Secondly, was the use of gravel for driveways in lieu of asphalt which was also granted. Mr. Kozak questioned if the basin is going to be within the fencing, Mr. Rutherford replied the surface basin will be outside the fencing area, so there will not be a fence around it.

Mr. McPeak introduced himself as the applicant's Planner and testified as to his credentials as a licensed planner. The Board accepted Mr. McPeak as an expert in his field. Mr. Talvacchia stated that they will need a D-2 variance which is an expansion for a non-conforming use. Mr. Peaks stated that in reviewing the application his professional opinion is that the findings are still at hold and as Mr. Talvacchia noted generally it's considered an electrical substation in beneficial use. It's given that the board considers the substation as an inherently a beneficial use it also absorbs the safety and welfare for these minor improvements. There is no tree cutting involved in this improvement. The basin disturbance is located under existing overhead utility lines. In regards to the waivers the statutory requirements 40:55D/51B which are applicable for the provision.

Mr. Kernan stated that they have addressed everything on his report, he just wanted to go over the buffer. He stated that it should be noted that within Resolution #35-2020, additional buffering was not required. However, all existing buffers around the substation were to be maintained. We recommended this requirement be upheld as part of the improvement. Mr. Sanders stated they have addressed everything on his report they; will just need to submit revised plans addressing the details.

**3. #21-49 & #500-SP—Atlantic City Electric-Continued**

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 preliminary and final site plan for the Board. Motion by Mr. Salvadori, seconded by Mr. Cummiskey to grant the use variance for drainage improvements to add HDPE piping to assist in the collection of storm water on the site to facilitate positive drainage towards the storm water that the HDPE piping is not able to store. Repairs to the foundation throughout the substation and the replacement of an existing transformer as indicated in the plans. Waivers that are part of the motion are as follow, waiver to use stone in lieu of paving is required by Township code provision 175-123G and a waiver for the sidewalk requirement of Township code provision 175-133. The conditions on the approval are that all the discrepancy cited in the engineer's report will be resolved in the final plans, all improvements should be constructed according to plans, surveys and submission presented by the applicant. The applicant shall maintain all existing buffering at the property. The applicant shall pay all required COAH development fees that may be assessed by the construction official. The applicant shall obtain all outside agency approvals that may be necessary including but not limited to Gloucester County Planning Board, Gloucester County Soil District, Monroe Township Fire Official, and NJDEP. The applicant will submit NJDEP permit with the authorizing signature and action by County Clerk. The applicant must secure all necessary township construction permits that may be necessary. The applicant should establish an inspection escrow account to cover the cost of inspections pursuant to NJSA 40:55D-53H. The applicant shall maintain its escrow account satisfying any outstanding escrow obligations. Finally, plans revised in accordance with the Board professional's reports shall be submitted within 60 days of the confirming resolution on this application. All revisions must be specifically noted on the plans with the revision date for each one. Mr. Sanders stated that the HDPE piping will need to be perforated piping. Mr. Coe amended to include perforated piping. Mr. Kozak questioned what was the maximum depth of the retention basin, Mr. Rutherford replied the depth will be 5ft. Mr. Kozak questioned if they will put a fence, Mr. Talvacchia replied that he spoke to his client and they have agreed to put a chain link fence around the basin 48 inches high. Mr. Coe added two amendments one to add perforated pipe and additionally add a chain link fence 4ft around the basin. Roll call vote: Ayes – Mr. Salvadori, Mr. Rybicki, Mr. Powers, Mr. Kozak, Mr. Cummiskey, Mr. DelCampo. 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. Orbaczewski mentioned that for the New Year, the Board should discuss choosing a different day for our meetings so that way we are not in conflict with the court. She is requesting that a decision should be made by the last meeting in December.

2. Mrs. Orbaczewski notified the Board that due to the fact that we are having numerous applications, if the Board would agree to have a special meeting on November 30, 2021. The Board was in agreement to the Special Meeting. She advised that she will be advertising this meeting.

**Approval of Minutes:**

1. 10/05/2021 regular meeting.

Motion by Mr. Cummiskey, seconded by Mr. Rybicki to approve the minutes from the October 5, 2021 regular meeting. Voice votes; all ayes, motion passed.

**Adjournment:**

The meeting was adjourned at 7:56 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: Iris Tomasello, Clerk Transcriber.