

Call to Order:

The regular meeting of the Monroe Township Zoning Board of Adjustment was called to order at 6: 30 p.m. by Chairman Sebastian 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 November 06, 2021 and November 27, 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. Cossaboon, Mr. Cummiskey, Mr. Kozak, Mr. Rybicki, Mr. Salvadori, Mr. Sebastian, Mr. DelCampo. **Absent-** Mr. Adams, (excused) Mr. Powers, (excused) Mr. Sanders, (excused) Also **present** – Mr. Coe, Solicitor, Mr. Kernan, Planner, Mr. Wisner, Planner, Mr. Snowden, Engineer, Ms. Fox, Council Liaison, Mrs. Orbaczewski, Secretary, Mrs. Tomasello, Clerk Transcriber

Memorialization of Resolutions:

None.

Public Hearings:

1. #21-54 – Brenda Mendleby- Use Variance

Present- Brenda Mendleby, applicant

The applicant is requesting a use variance for the operation of a used car lot without an indoor display area and a use variance to allow a second use for an automotive repair facility; along with any other variances or waivers deemed necessary by the Board. The applicant was previously granted a site plan waiver approval by the Planning Board in 2018. The property is located at 7 W. Black horse Pike, also known as Block 6301, Lot 50 in the RD-C Zoning District.

Ms. Mendleby was sworn in by Mr. Coe. Mr. Sebastian asked if the application can be deemed complete. Mrs. Orbaczewski replied the application can be deemed complete. Motion by Mr. Salvadori, seconded by Mr. Cummiskey to deem application #21-54 complete. Voice vote; all ayes, motion passed.

Public Hearings: (continued)

1. #21-54 – Brenda Mendleby- Continued

Ms. Mendleby stated she is before the Board concerning her property at 7 West Black Horse Pike which is a commercial property. The property contains a block building which houses an office, a restroom, and two bay garage. She is requesting a use variance to allow the property to be utilized. She stated prior to purchasing the property in 2018, she met with the Township's previous Zoning Officer and explained to her that her intent for the property was to open a used car lot. The Zoning Officer explained the procedure to Ms. Mendelby for a site plan waiver, Ms. Mendelby followed that procedure and she appeared before the Planning Board and was granted site plan waiver approval in August 2018. Ms. Mendelby stated that she made some improvements on the site as required by her approval and inspections and she obtained the Zoning Permit and Certificate of Occupancy.

The approval allows her to repair vehicles that are owned by the business; they do not do outside vehicle repairs. The property had been previously used as an automotive repair shop. Ms. Mendelby stated she does have a dealer's license and she owns another lot in another township but intends to move that business to this property. Since they had the other business they were not in a hurry to move to this location and in 2020 another dealer called and asked if they could rent her lot. When the person inquired at the Zoning Office for a permit, it was learned that the previous zoning permit would be revoked because it was obtained without the proper approvals. By the zoning code of the Township, Ms. Mendelby should have been directed to the Zoning Board for a use variance back in 2018, but unfortunately was misguided by the previous Zoning Officer. In order for her property to be in compliance, she was told she would have to apply for the use variance, which is why she is before the Board. Mr. Coe stated the Board is aware of the history of why she has to appear before the Zoning Board as there are many other car dealerships that were misguided by the previous Zoning Officer and they had to come in to rectify it just as she is doing.

Mr. Kernan reviewed his report for the Board. He clarified that Ms. Mendelby would not be conducting auto repair services on vehicles not owned by the business. Mr. Kernan listed the conditions for approval of a used car lot. The first is obtaining site plan approval. He stated he is aware the applicant received a site plan waiver from the Planning Board and he will revisit this condition later in the testimony. The second condition is that proper notice be given which it was and the third is that the owner has a dealer license, which Ms. Mendelby testified to already. The fourth condition is that the repairs being done are exclusive to the vehicles being sold. Ms. Mendelby confirmed this condition. The next condition is that there is an office and restroom on site. Ms. Mendelby confirmed there is an office and restroom in the existing building. Mr. Kernan asked if there is a septic system on the site. Ms. Mendelby stated there is a septic system. The condition Ms. Mendelby is asking for a variance for is from providing an indoor display area. Ms. Mendelby replied that it would be a great expense to them to provide an indoor display area. She commented that there are other used car dealerships in the town without an indoor display area and she has never heard of this requirement in other townships.

Public Hearings: (continued)

1. #21-54 – Brenda Mendleby- Continued

Mr. Kernan stated that the next condition is that there must be at least one entrance from an adjoining street at least 30 feet in width. He stated that there are two entrances that are at least 30 feet in width. He stated that there is an old survey and he cannot confirm the widths but he did see the entrance drives from Google Earth. He asked Ms. Mendelby if she has had an updated survey done. She stated she has not. Mr. Kernan commented that the next condition speaks to the setback requirements. Ms. Mendelby stated the setbacks are in compliance and stated that there is wooded area to the right of the building which is part of the lot, and it will remain wooded. There is a fence in the woods where the property line is located; the wooded area is about 40 feet. On the other side, the metal fence is 11 feet from the property line and the lot adjacent is vacant. She stated the plan indicates they would not have any cars parked in the front yard 20-foot setback requirement. She stated the 20 feet is from the end of the mailbox and then there is more open area with no parking proposed, as it is the circular driveway. The back of the building is adjacent to Francis Lane and there is 20 feet between the metal fence and paved roadway. They also planted some trees along the back fence area which was required by the previous approval. There is also a wooden fence along the back on the right hand side and it is in need of repair which she will take care of. There is residence on the other side of the wooden fence located on Francis Lane.

Mr. Kernan responded that the minimum front yard set back is from the right-of-way line and not the curb line. She stated she has more than 20 feet. Mr. Kernan responded and said he is going off of the old survey that shows the closest point of the building setback 41.35 feet to the front property line. With the setback line of 20 feet required, that would leave little over 21 feet and that would be if the cars were parked right up to the building but they cannot. He stated he is having a hard time understanding the layout of the parking lot and then there is a drawing where they show spaces in the front, a few off to the side, and then many spaces in the rear without setbacks shown to the spaces. He stated the survey indicates a chain link fence being a foot off the rear property line and the one to the left, adjacent to the vacant lot, on the survey it indicates it is right on the property line. He stated at the very least a current survey is needed. Ms. Mendelby stated she does not know if the fencing or anything changed on the property since that old survey. Mr. Sebastian replied that is the point Mr. Kernan is making; that a new survey is required so they know what exists now and the proper setbacks. Ms. Mendelby replied it is a bit costly or she can just use the old survey and make sure she doesn't park any cars within the setback area. Mr. Kernan commented on the next condition as it pertains to signage which has to meet the ordinance. Ms. Mendelby stated she is using the existing sign which meets the code. Ms. Mendelby commented on the property being vacant and a little overgrown. She also commented that they do about 95% of their business wholesale and 5% retail. Most of the vehicles are sold online to other dealers through auctions. The pick-up and delivery of vehicles is one vehicle at a time. They do not have vehicle carriers deliver to their property that is larger than a two vehicle carrier.

Public Hearings: (continued)

1. #21-54 – Brenda Mendleby- Continued

The last condition concerns yearly inspections and Ms. Mendelby was in agreement with that condition. He stated the next section concerns all conditional uses. This section concerns the use and its relationship and impacts to the surrounding area and uses, it asks the number of employees, traffic circulation on the site, and parking. Ms. Mendelby replied that the public health is protected by fencing and landscaping. There will be two employees, her husband and herself. There are other dealerships in the area and they do not adversely affect the area or the property values. The traffic circulation and parking is shown on the drawing. With regard to lighting, Ms. Mendelby stated she testified at the Planning Board that she would have the electric company provide the outside lighting; but she was wrong about that as there are no telephone poles there. She stated she is proposing to place large rectangular lights on the building to light up the lot. Mr. Kernan responded that the Township does have a code to follow for lighting requirements. Mr. Kozak asked Mr. Kernan if all these issues should be handled under a minor site plan and stated that there are too many issues not addressed. Mr. Kernan responded that his recommendation to the Board is that if the use is granted, it be subject to site plan. Ms. Mendelby replied that it a very expensive proposition. Mr. Kozak stated as a Board Member, they cannot worry about what the cost is to the applicant but what the project is going to be to the Township. If it is not cost effective to the applicant, then that is on them. Mr. Kozak stated that there aren't really any dealerships without an indoor display. He commented that the applicant has a two car garage where she could convert one side of that to a display area which has been done at other dealerships.

Mr. Kernan stated that he did not really need to go through the rest of his letter since he is hearing the site plan may be required. Mr. Sebastian stated that there are many issues with the site that need to be addressed with site plan but the Board can still deal with the use at this time. If the use is denied, then it's a moot point but if it is approved then it can be conditioned upon site plan approval. Ms. Mendelby stated that the Planning Board granted her a site plan waiver and she is not proposing anything different to this Board than she did to them. Mr. Sebastian replied the Zoning Board is not obligated to go by anything the Planning Board granted since she should have been before the Zoning Board to begin with. Mr. Coe stated had a Zoning Board had exclusive jurisdiction over the application but unfortunately the prior Zoning Officer made an error and the Planning Board professional should have never let the Board hear the matter. The Board has an obligation to correct the error and the Zoning Board has jurisdiction to deal with the site issues. The Board will give full weight to what the Planning Board did but given the seriousness of the use variance and the site issues raised, the Board will take the recommendation of their professional which at the very minimum is a proper survey. Mr. Sebastian pointed out the corner of the property being a wooded lot; however, the plan shows cars parked across the whole back of the property. Ms. Mendelby replied it is not the whole back of the property; it is from the wooded area over to the left side of the property.

Public Hearings: (continued)

1. #21-54 – Brenda Mendleby- Continued

Mr. Sebastian stated the Board is only going to deal with the use variance this evening but if it is approved it will be conditioned upon the site plan being submitted. Ms. Mendelby asked if it is a site plan or survey. Mr. Kernan stated that you have to start with a survey but in order to show the parking and drive aisles and the setbacks and the lighting, handicapped access, etc., an engineer will have to draw that on a minor site plan. Mr. Kernan stated that she cannot just put lights up on the building as they have to be designed and meet the code.

Mr. Kozak asked if the applicant would be agreeable to making the garage or part of the garage display area. Ms. Mendelby replied they need that area to detail and make minor repairs on the cars. Mr. Kozak stated that nothing would stop them from taking the display car out if they needed the bay to make repairs and then put it back. Mr. Sebastian questioned if that would qualify. Ms. Mendelby asked if they would allow a small metal building. Mr. Kozak replied that would then have to be part of a site plan.

Motion passed to open the hearing to the Board.

Mr. Coe spoke on the letter in opposition to the use variance from a neighbor but stated that since the person was not present the letter would not be entered into evidence.

Mr. Coe reviewed to use variance for the Board. Motion by Mr. Cummiskey, seconded by Mr. Salvadori to grant the use variance for a used motor vehicle sales facility. Mr. Coe will include in this motion that there will be no variance from the indoor display requirement. The conditions on the motion are that any repair facility on the property will be used exclusively for the vehicles being sold. There will be no equipment for the sale of gasoline or oil on the property. The facility will have an office and restroom. The applicant shall return to the Board for site plan and shall submit both a site plan and a survey in connection with the use variance approval. The applicant will obtain all outside agency approvals. The applicant will satisfy and maintain her escrow account. Roll call vote: Ayes- Mr. Cossaboon, Mr. Cummiskey, Mr. Kozak, Mr. Rybicki, Mr. Salvadori, Mr. Sebastian, Mr. DelCampo. Nays- Zero. Abstentions- Zero.

2. #21-56 – Joseph Caruso- Use Variance

Present- Joseph Caruso, applicant

The applicant is requesting a use variance for the construction of a 60' x 30' x 24'2" pole barn prior to the principal use/single family dwelling being constructed in order to store the building materials and equipment needed to build the house. A height variance is also required where 24' is the maximum height permitted and the applicant is proposing 24'2"; along with any other variances and waivers deemed necessary by the Board. The property is located on Orchard Drive, also known as Block 15302, Lot 8 in the R-2 Zoning District.

Public Hearings: (continued)

2. #21-56 – Joseph Caruso- Continued

Mr. Caruso was sworn in by Mr. Coe. Mr. Sebastian asked if the application can be deemed complete. Mrs. Orbaczewski replied the application can be deemed complete. Motion by Mr. Cummiskey, seconded by Mr. Salvadori to deem application #21-56 complete. Voice vote; all ayes, motion passed.

Mr. Caruso stated he is in front of the board to build a pole barn separated from the house that is going to be built. The pole barn is not permitted prior to the house being in place. He would like to build the pole barn first so he can store his equipment and tools so he can then proceed to build the house.

Mr. Kernan stated that in 175-89G (3) accessory structures are not permitted in the front yard or in the front of the home. Mr. Caruso stated that there was a clerical issue with the height of the garage it is not 24'2 it is actually 21'2. Mr. Kernan was going through his report and stated that the garage is actually behind the dwelling and septic in the front. Mr. Kernan asked Mr. Caruso to inform the board on the shape of the garage and its compatibility with the principle dwelling and the type of materials he will be using. Mr. Caruso replied it will be a regular garage that will look similar to the house with vinyl siding and asphalt shingles roof that will match the house, it will have four garage doors that will be 60ft wide by 30ft deep. Mr. Kozak questioned the height. Mr. Caruso replied 21'2. Mr. Kernan stated that on item four of his report, it states that the structure is not permitted in the front yard, but he saw that the garage will be behind the dwelling, so that it conforms. The variance for the height is not needed. Mr. Kernan asked Mr. Caruso to indicate the size of the principle dwelling. Mr. Caruso replied the estimate size for the principle dwelling will be 2,500 sq. ft. Mr. Kernan stated the pole barn is 30 x 60 in which is 1,800 so that is in conformance. Mr. Kozak asked Mr. Caruso prior to building the house what will the garage be used for. Mr. Caruso replied his equipment, tools, and materials for the house. Mr. Kozak asked after the house is built what will the garage be used for. Mr. Caruso replied his equipment, personal use as well as he works on cars and does wood working. There will be no commercial use of the building. Mr. Kozak asked when construction on the pole barn will begin if the board approves it. Mr. Caruso replied if he gets approved tonight he will need to submit plans for his permits. Mr. Kozak asked when will you be building the house, Mr. Caruso replied as soon as the garage is done he will start on the house. It will take him about three months to build the pole barn and about eighteen months for the house the prior house he built took him ten months but he is older now. He will be applying for two permits at the same time the house and pole barn. Mr. Sebastian asked if he will have water and electric for the pole barn, Mr. Caruso replied no water but he will have electric. Mr. Caruso stated that once the garage is done the sea box will be removed from the property as he is storing his tools in the sea box. Mr. Sebastian asked if there is well and septic. Mr. Caruso replied it is well and septic.

2. #21-56 – Joseph Caruso- Continued

Mr. Coe reviewed the use variance request for the Board. Motion by Mr. Kozak, seconded by Mr. Cummiskey to grant the use variance for the construction 60 x 30 x 21'2 pole barn with the construction of the pole barn prior to the principle residence been completed. The conditions on the motion are that the house will be completed within eighteen months of the completion of the pole barn. The sea box be removed after the pole barn has been completed. That there will be electric only in the pole barn, no water service. The applicant must secure all necessary outside agency approvals and township permits including construction permits and approvals that may be necessary. The applicant shall maintain his escrow account satisfying any outstanding escrow obligations. The pole barn should be used solely for storage purposes; no living area shall be constructed in the pole barn. The applicant will comply with any COAH development fee requirement that may be determined by the construction official. The applicant should comply with all the designs and performance standards set force by the planner's report. The pole barn should be constructed in accordance with all plans and surveys submitted as part of the application. Roll call vote: Ayes- Mr. Cossaboon, Mr. Cummiskey, Mr. Kozak, Mr. Rybicki, Mr. Salvadori, Mr. Sebastian, Mr. DelCampo. Nays- Zero. Abstentions- Zero.

3. #21-59 – Eva Silva- Use Variance

Present- Eva Silva, applicant & Claudio Silva applicant's husband

The applicant is requesting a use variance to be permitted to have a second dwelling in an existing accessory structure attached to the principal dwelling unit, which is not and will not be her principal residence; along with any other variances and waivers deemed necessary by the Board. The property is located at 43 Walnut Street, also known as Block 3302, Lot 19 in the RG-C Zoning District.

Mr. Silva and Mrs. Silva were sworn in by Mr. Coe. Mr. Sebastian asked if the application can be deemed complete. Mrs. Orbaczewski deferred the issue of completeness to Mr. Coe. Mr. Coe stated the application can be deemed complete if the waiver for the certificate of filing is granted but getting the certificate will be a condition of the approval. Motion by Mr. Cummiskey, seconded by Mr. Salvadori to grant the waiver and deem application #21-56 complete. Voice vote; all ayes, motion passed.

Mrs. Silva is in front of the board because she bought this property; however, prior to her purchasing it the previous owner had applied to build a two car garage with a living space above and the previous owner was given the approval in 1985. The previous owner framed everything in the addition but did not finish it. She wants to finish it and rent it in two parts. She wants a use variance so she can finish the building. The previous owner had proposed to have the entrance from the house, but she is proposing to put the stair case outside so it can be rented to two different families. Mrs. Silva stated the actual structure will not change other than adding the stair case to go into the house. She stated that right now the only way to get in is with a ladder. Mr. Sebastian asked if there was ever an entrance to the main house. Mrs. Silva replied no. Mrs. Silva stated that on the plans it shows where the door would have been and the stairs but the previous owner never did it. She has a survey in which the stair case will be 10 ft. from the house but right now from the house to the right side is 30.01 ft. and she doesn't know what the requirement is for setback. Mr. Sebastian asked if the stair case will hug the side of the house. Mrs. Silva replied it will come off the back of the house. Mr. Kozak said it will be a duplex. Mrs. Silva replied yes.

Public Hearings: (continued)

3. #21-59 – Eva Silva- Continued

Mr. Kernan reviewed his report for the Board. In accordance with 175-157J, an accessory dwelling unit is a small apartment which is part of an existing single-family owner occupied home, and which is clearly secondary to the single family home. The accessory dwelling unit shall have a kitchen, bathroom and no more than one bedroom, a variance for this section will be needed. Mr. Kernan also stated that owner occupied means that either the principal dwelling unit or accessory dwelling unit is occupied by a person who has a legal or equitable ownership interest in the property and bears all or part of the economic risk of decline in value of the property. The plan does not conform to this requirement, as a proposed a use variance is required because the duplex will be rented out. Mr. Kernan stated the maximum floor area of an accessory dwelling unit shall be 1,000 square feet and this is 840 square feet, or 1/3 the living space of the principal dwelling, whichever is less; provided that this limitation shall not be constructed to require an accessory dwelling unit smaller than that required by the New Jersey Mortgage Finance Agency for funding purposes. The plan does not appear to conform to these requirements. As proposed, a variance maybe required. Mr. Sebastian clarified that the house is not a detached house it is attached to the main house even by the roof, it is one building. Mr. Kernan went on to his report to state that the accessory dwelling unit may not be utilized for a short-term rental (fewer than 12 months). Mrs. Silva agreed that there will not be no short-term rental. Mr. Kernan also stated that the property owner must occupy either the principal dwelling unit or accessory dwelling unit as his/her principal residence, and at no time receive rent for the non-owner-occupied unit. He stated the Mrs. Silva will need a use variance for that as well. Mr. Kernan stated that parking must be provided for each vehicle registered to occupants of the accessory dwelling. Mr. Silva replied that there is one entrance and when you get to the garage it opens up to fit 2 cars side by side. Mr. Kernan asked if the garage was a two car garage, Mrs. Silva replied yes. Mr. Kernan questioned the architectural design, style, appearance, and character of the main building as a single family residence. Mrs. Silva replied that there is a lot of work that still needs to be done and they just put the vinyl sidings, on the main house to match the garage. She is still unclear if for the bottom of the garage she will be parging or painting. Mr. Sebastian commented she can parget and then paint on top of it the color she would like. Mr. Kernan stated in accordance with 175-89E, accessory buildings or structures shall not be located in any required buffer areas, easements, or drainage ways. Mrs. Silva replied no they are not. Mr. Kernan asked if there was a copy of the survey and stated that there were no easements.

Mrs. Silva questioned if she can put gravel by the staircase that way someone else can park on that side. Mr. Sebastian asked how would they get to their vehicle from that side. Mr. Kozak replied there is a breezeway. Mr. Silva stated that way the tenants will not argue about parking; one can park on one side and the other on the other side. Mr. Sebastian stated that they are only allowed one curb cut. Mr. Kozak replied there is no curb or sidewalk on the property. Mr. Kozak also stated that if Mrs. Silva would put a second driveway on the other side it would be better for the tenants, that way it won't cause a problem for tenants having to park on the street. Mr. Kozak asked if the stairway will be opened or closed. Mrs. Silva replied it will be opened.

Public Hearings: (continued)

3. #21-59 – Eva Silva- Continued

Mr. Coe reviewed the use variance request for the Board. Motion by Mr. Kozak, seconded by Mr. Cummiskey to grant the use variance for duplex building as part of the applicant's presentation, it will not be owner occupied, and it will not be 1/3 or less of the principal dwelling unit. The conditions that are appropriate on the motion are that the dwelling units may not be utilized for short term rental (fewer than 12 months). The applicant will comply with all of the designs and performance standards set forth in the section 4.0 of the planner's report. The applicant will obtain any outside agency approvals that might be necessary. The applicant will satisfy the escrow requirements. The applicant must do everything in accordance to the plans and survey submitted with the application. The applicant will comply with any COAH obligation determined by the construction official, any work should be done in accordance to township permits and approvals. An additional condition, is the applicant is to provide off street parking for each dwelling unit.

Mrs. Orbaczewski advised Mr. Coe she spoke to Mrs. Silva prior to the meeting about the waiver for the certificate of filing and Mrs. Silva indicated that she didn't believe she needed one because she spoke to someone in the Pinelands, that indicated that this is considered an addition not an accessory building. However, speaking to someone on the phone is one thing, getting it in writing is another. Mrs. Orbaczewski stated that she wasn't sure if this should be a condition. Mr. Coe replied that the applicant must obtain any outside agency approvals, which includes Pinelands. Mrs. Silva stated that she spoke to Keith Carter the regulatory specialist. Mrs. Orbaczewski stated that the certificate of filing is to allow two single family units on one property, and that the Pinelands will give you either the certificate of filing, or the letter stating that you don't need it.

4. #21-55- Conlin Family Limited Partnership- Use Variance

Present- Leonard Schwartz, applicant's attorney, Mario Conlin, applicant, William Gilmore, applicant's engineer, Brian Seidel, applicant's planner.

The applicant is requesting a Certificate of Non-Conformity for a pre-existing machine/fabrication shop and for the expansion of that use. They are also requesting a D2 use variance to allow parking on Lot 17, and outdoor storage area on Lot 18, and storage buildings on Lot 11.02 as accessory uses to the machine shop, and to allow more than one principal use on Lot 20, to allow more than one principal use on Lot 18 which contains the existing Pep Boys retail store, to allow the existing office building and parking area on Lot 17, along with any other variances and waivers deemed necessary by the Board. The property is located at 1068, 1074, and 1086 N. Black Horse Pike, also known as Block 1101, Lots 11.02, 17, 18, and 20 in the Commercial Zoning District.

Public Hearings: (continued)

4. #21-55- Conlin Family Limited Partnership- continued

Mr. Conlin, Mr. Gilmore, Mr. Seidel as well as the Board professionals Mr. Snowden and Mr. Wisner were sworn in by Mr. Coe. Mr. Schwartz introduced himself as the applicant's attorney. The application that he is presenting to the Board is Great Railings. Great Railings is on the BHP near Pep Boys. They do the fabricating of fences. Along with that property is Pep Boys which is on Lot 18 and the next lot used to be Enterprise Rental which is Lot 17, and the one behind is Lot 11.02 where the three storage units will be going. Mr. Schwartz stated that he wanted to make something clear from the very beginning, although it's not in order but it's important because people are going to be worrying about it. The big issue that exists in that area is access to Herbert Blvd and Lake Ave. He stated that he knows that there is access from the bank and the Library, but on the resolution he wants it to be clear that there will not be motor vehicle access from these lots on to Herbert Blvd or on to Lake Ave. The only way to get into Great Railings lots is through the BHP. That easement that exist basically will be blocked off by the drainage basin that is on the right side of the property, to eliminate a big issue that he is pretty sure will come.

Mr. Schwartz stated that another thing that was brought up by the professionals is the question as to whether or not for the purpose of a use variance, the applicant is manufacturing and Mr. Colin can testify that there is no manufacturing of fences on the property. Mr. Colin buys the vinyl parts. Mr. Conlin presented to the Board a router that has a bit that they use to open up the holes into the vinyl and it's hooked to a CNC machine that moves it back and forth and that is what the fabrication is. Mr. Conlin stated it's like a machine shop; all they do is cut holes in the vinyl. He also stated that everything that comes in is already cut to length all they do is package it. Mr. Conlin stated there is no manufacturing facility there; all they are doing is the holes and packaging. Mr. Schwartz asked Mr. Conlin if that is on lot 20. Mr. Conlin replied yes. Mr. Schwartz asked how long he has been at that location. Mr. Conlin replied on January 26, 2006 will be 16 years. Mr. Sebastian asked Mr. Conlin if they are assembling them there. Mr. Conlin replied no. Mr. Conlin stated when he bought the property there was four machine shops there. Mr. Schwartz stated that his applicant is not asking for a use variance for manufacturing, it's more of a fabrication shop, a machine shop is plastic or metal and our fences are plastic. Mr. Schwartz asked Mr. Conlin if what everyone is seeing outside is basically parts and those parts are going to be going into storage units A, B, and C. Mr. Conlin replied yes. Mr. Sebastian stated that he just wants to get clarification with the professionals that it's not a manufacturing and only an assembly. Mr. Wisner responded and said if it wants to be called machining, manufacture has more of the heavy industrial connotation, he doesn't object to that. Mr. Schwartz stated the one use variance for the machining, the other being the fencing which is on lot 20 and 11.02, Pep boys will still be there and that is on lot 18 and it's a commercial use, lot 17 where Enterprise Rental use to be, will be used as an office for Great Railings.

Public Hearings: (continued)

4. #21-55- Conlin Family Limited Partnership- continued

Mr. Schwartz stated a letter was presented to the Board today in regards to some issues like noise from the dumpster trucks that come on the property at 4am, as well as sound and lights coming out of the property and its affecting the neighbors. Mr. Conlin replied that he got a call from Waste Management about picking up the dumpsters at night because he received a complaint. He stated that for some reason Waste Management did it again and he went back to check cameras and Waste Management came in at 4:07am and they are not supposed to be coming in at that time. Mr. Schwartz asked Mr. Conlin assuming that the board approves your site plan for your use, when will Waste Management be coming to the property. Mr. Conlin replied the dumpsters will be behind a fence and the fence will be locked. It will only be opened from 7:30am to 4:30pm so if they come after those hours they will not be able to get in because the fence is locked.

Mr. Schwartz stated with regards to the sound barrier, building A is going to have the back towards Herbert Blvd., there will be a 50ft set back line on both sides of the building as required. Mr. Conlin stated that he doubled the set back to 100 ft. not to disturb the neighbors and the reason for putting the building that way is for a sound barrier and the back of the building will be insulated for sound. Mr. Schwartz asked how many entrances are on the property now. Mr. Conlin replied there are five curb cuts that are being used. Mr. Schwartz asked if you get approved how many curb cuts will there be. Mr. Conlin replied two; one will be between the Pep Boys and the Enterprise Rental and the other one will be on the other side of Pep Boys. Mr. Conlin also stated that the one on lot 20 will only be used by forklift there will be no traffic. Mrs. Orbaczewski asked of the five curb cuts that exist, do the two that you will be using already exist. Mr. Conlin replied yes.

Mr. Snowden stated there are two letters for his report; one for final completeness and the other one for technical review. On page four most of the items are complete but there is one the environmental assessment study that hasn't been submitted but can be waived by the Board. The traffic report has to go to NJDOT. Most of these things can be done in the future. The one thing that might be waived is contours which do not extend 200 ft. beyond the property line. Most of the other items can be addressed later. Mr. Sebastian asked Mr. Snowden why they need a traffic study, Mr. Snowden replied its DOT jurisdiction.

The applicant is asking for two submission waivers; one being the environmental and the other is for topography. Motion by Mr. Cummiskey, seconded by Mr. Rybicki to grant the waivers. Mr. Sebastian asked if the application can be deemed complete. Mrs. Orbaczewski replied the application can be deemed complete for the use variance. Motion by Mr. Cummiskey, seconded by Mr. Rybicki to deem application #21-55 complete. Voice vote; all ayes, motion passed.

Public Hearings: (continued)

#509-SP- Conlin Family Limited Partnership- Preliminary & Final Major Site Plan

The applicant is requesting preliminary and final major site plan approval to allow site improvements for the existing business known as “Great Railings” such as increased parking spaces, outdoor storage, the construction of three storage buildings, and storm water management. The property is located at 1068, 1074, 1086 N. Black Horse Pike, also known as Block 1101, Lots 11.02,17,18 and 20 in the Commercial Zoning District.

Mr. Gilmore displayed to the Board with a rendering that was included with the site plan application package. Lot 20 is where the machining will take place to the rear. Right now it is a wooded area. That is where the three proposed pole barns will be going and the storm water management facilities, towards Herbert Blvd. The rear will remain wooded and the access easement that was spoke about earlier loops around on the southern side but again this will not be utilized or have any access to Herbert Blvd. Mr. Gilmore stated that they are providing storm water management that meets the new infrastructure with no more than 2ft. of water and sand in the bottom to infiltrate some of the water. The lot that is wooded is all gravel and it all drains towards the BHP. They will pave certain areas that will be reviewed by the DOT to make sure everything is correct. The Pep Boys will function as it’s been functioning. Mr. Gilmore stated they will be providing the landscaping, the lighting per township is 16ft for poles, the facility has now 30 ft. poles that are lights from Atlantic City Electric they are not proposing any new poles they will be adding some lights to the existing poles to help the pattern for non-conforming. The facility closes at 4:30pm so only a few lights are left on for security purposes for the camera system. They are adding new lights for the pole barns and they will be directed towards the site. There is a high degree of theft that occurs on this property so that is the reason for the 8 ft. fence and the lighting. The trash will be enclosed in an area to be fenced that will be picked up during working hours. The position of the building is to deflect the noise. The pole barns are going to be with electric that will be stored underground. There is no water, no sewer, no gas, or no heat in them. Mr. Sebastian questioned in regards to the trash can they rearrange it to another place to get it away from the neighbors maybe closer to the manufacturing building. Mr. Gilmore stated yes it can be rearranged and still be behind the gate.

Mr. Schwartz stated there have been complaints about pickup and delivery on the BHP. Once everything is approved where will that be, Mr. Gilmore stated through the front office and from there they will be guided on where to park inside the facility. Mr. Kozak questioned concerning the deliveries not being on the BHP anymore, and asked about the customers if they be on the BHP. Mr. Gilmore replied nothing will be on the BHP. Mr. Kozak stated another concern with regards to the materials and the sun glare on it. Mr. Gilmore replied there won’t be sun glare because the building will be in the way of it.

Public Hearings: (continued)

#509-SP- Conlin Family Limited Partnership- Continued

Mr. Schwartz asked Mr. Conlin about an issue they discussed concerning the four lots being separate 11.02, 17, 18, & 20 and they discussed combining some of the lots due to financing. Mr. Conlin replied correct. Mr. Schwartz stated the way to solve the problem will be by combining 11.02 and 20 and then 17 & 18. Mr. Conlin stated we can't combine all the lots together because one is a trust and the other one is a flip. Mr. Kozak questioned if all four lots are zoned commercial. Mr. Conlin replied yes. Mr. Gilmore stated that he just wanted to clarify with regards to the sidewalk comments that there is no sidewalk down Herbert Blvd. There is no need to cut trees and put one on there. The BHP doesn't have sidewalks; there is a piece that has it is in front of the Enterprise Rental. We would like to waive the side walk since there is none around. Mr. Kozak asked is this public water or sewer. Mr. Gilmore replied it is public water but there is no sewer on the BHP. Two buildings have septic.

Mr. Wisner report was dated November 2, 2021. He state giving the issues of consolidation, in regards to this not being manufacturing, and limiting it to fabrication, packaging, and machining, he doesn't think any of those uses are still permitted in the zone. A D-1 variance needed the applicant stated that there was a facility on Lot 20 that has been there doing machining since the 1970's; If the Board accepts that as a fact, then the D-1 variance goes away and the Board can grant the applicant a certificate of non-conformity which is a diploma that grandfather's the fabrication use. The next item is in regards to an expansion of a preexisting non-conforming use which requires a D-2 variance, so it's still required for part of this application. In terms of the uses on the various lots, we have parking on lots 11.02 ,17,18 that are in effect an accessory to the use on Lot 20. If Lot 20 and 11.02 are combined are an issue for parking in lots 17 & 18. The purposed out door storage on Lot 18 that will require a D-1 relief.

Mr. Snowden reviewed his technical review letter for the Board. For off street parking and loading number one has been eliminated. The next one is in regards to curbs and no parking where the curb is proposed. The applicant has asked for a waiver, with regard to paving, the ordinance states 2inches of paving should be put down, however the applicant is proposing a stoned parking area. Mr. Gilmore stated with regards to Mr. Snowden's technical report, the applicant asked for a waiver for the 200ft topography, easements they will provide, with environmental there is a waiver request item number 6, the applicant will comply and work with Mr. Snowden, the lighting they will comply, with regard to parking they will work with Mr. Snowden, on the ADA spaces they will comply with electrical charging station, and they are requesting a side walk waiver. Mr. Sebastian asked in regards to the fence around the storm water basin if it will be 4ft chain link non climbable black on black, Mr. Conlin stated that yes, and on the front will be vinyl 8ft fence.

Public Hearings: (continued)

#509-SP- Conlin Family Limited Partnership- Preliminary & Final Major Site Plan

Motion passed to open the hearing to the public.

1. Kathleen Flaherty, 1050 Baywood Drive was sworn in by Mr. Coe. Ms. Flaherty just wants to comment on the chatter of the history of the property and the environmental assessment that the Board waived. She has 25 years conducting environmental assessments, and the machine shop will not get financing from the bank without doing a Phase I. The master plan is supposed to form the basis that guide the development of land in Monroe Township. The master plan addresses the potential for conflicting adjacent land uses multiple times. Based on the principles and assumption in the 2004 master plan land use, decisions must take into account and be guided by the goals of that master plan. Planning assumption number six states Monroe is a primarily residential community. Under planning assumption number ten, new development in the Township regardless of its character will be sensitive to the context of existing development. Again a stated goal of the master plan is to eliminate conflicts or other land uses. Several of the economical goals in the plan specifically speak to plan industrial development. She acknowledges that the zone is commercial but again the masterplan speaks to commercial zoning district and surrounding properties and one of the objectives in the commercial zoning district is to quote good context community design. She understands that there is a goal for the town. But Lot 11.02 does not front the Black Horse Pike. It should be the residential surrounding area that take precedence. Lastly, it has been 13 years since the housing market crashed Brookdale was hit very hard by the recession with a lot of foreclosures and she still has not recovered her 2008 property value. She doesn't understand how anyone can impact another's financial position and their quality of life by locating a loading and distribution operation in someone's backyard. As noted they have had numerous complaints, they don't deserve the benefit of the doubt when it comes to all these variances. Mr. Sebastian asked if Ms. Flaherty was stating that this application would increase traffic on Herbert Blvd. Ms. Flaherty replied, no what she is stating is that with Lidl being approved also the traffic would increase on Herbert Blvd and Brookdale as they are cut through streets.

2. Peter Stafford, 1051 Baywood Dr. was sworn in by Mr. Coe. He stated that he has been a customer of Great Railings for the past 15 years. Great Railings has already cut down between 6 to 8 acres of wooded land which is inconsistent with the variance. He stated that the cleared land is being used for dumpsters and trash and that Mr. Conlin is using Enterprise Rental as an office. There are dumpsters in the back area and 3 tractor trailers have recently been unloaded in the area as well. Mr. Stafford stated he does not think Mr. Conlin will not conform with the conditions. Mr. Conlin is unloading tractor trailers on the Black Horse Pike. Mr. Stafford has called the police several times regarding this matter. Mr. Conlin has been shut down for a burn operation that he had burning carcinogen plastics. Mr. Stafford believes, if given the use variance, it's not going to be a machine shop, he will be cutting plastic. Mr. Stafford distributed photos to the Board to document what he sees from Herbert Blvd. It was noted that Mr. Conlin is doing a 100 feet set back plus the easement. Mr. Stafford stated that the building for the sound barrier will not work as it only has rolled insulation.

Public Hearings: (continued)

3. Wanda Haynes, 1074 Baywood Dr. was sworn in by Mr. Coe. Ms. Haynes' concern is regarding environmental impact. She has seen 2 pair of Red Tailed Hawks and 3 woodpecker's habitats in the wooded area of the lot in question.

4. Carrol Mason, 1044 Baywood Dr. was sworn in by Mr. Coe. She noted that she had submitted a written letter and police reports. She believes that Mr. Conlin will not comply with regulations. From her residence, Ms. Mason can only see junk and sun glare. She believes in the betterment of small businesses but not at the detriment to surrounding residents and property values. As a resident of Williamstown for 20 years, she questioned the board member's nominations and requested consideration for her request. Ms. Mason questioned if Mr. Conlin would continue to move the trash cans back and if she would have to file additional police reports as a result if this variance is approved.

5. Amy McClain, 1048 Baywood Dr. was sworn in by Mr. Coe. Ms. McClain main concern as a resident is property values and quality of life. She is concerned with the traffic, back up sensors on trucks and forklifts. She has lived at her current residence for 16 years and is concerned with resale opportunities.

Mr. Coe asked for confirmation from the applicant on hours of operation. Mr. Conlin confirmed the hours are 7:30am to 4:30pm Monday through Friday and Saturday 7:30am to 1:00pm.

Mr. Kozak questioned Mr. Conlin on how a metal pole barn would be used as an effective sound barrier. Mr. Conlin replied that fiberglass insulation with 4-inch rigid foam would be used for this purpose unless the board had further recommendations. Mr. Kozak stated that the Township zoning office along with the police department are trained for sound verification to confirm decibels if there are complaints from residents. If its found that the decibel levels are higher than what our ordinances allow, then further insulation would then be needed. Mr. Cummiskey questioned the smell previously mentioned by residents and if plastic welding is being done on premise. Mr. Conlin denied any plastic welding is done.

Mr. Coe reviewed the use variance request for the Board. Motion by Mr. Cummiskey, seconded by Mr. Rybicki. First motion will be on the variances, both the use variance as well as the bulk variance the waivers pertain mostly to the site. The first motion this evening will be the approval of the certificate of non-conformity as well as the use variances as analyzed by the Board planner summarized in section 3 of the Board planner's report. There was one strike out of item number two near the end of the analysis. The conditions which are appropriate on the variance approval or any that are identified on the Board planner's report but I am going to state certain ones for emphasis. Number one that there is no access to Herbert Blvd, the only access will be on Black Horse Pike, number two, all business operations on the property including vehicular traffic, delivery and trash trucks shall be limited to the hours of 7:30am and 4:30pm Monday through Friday 7:30am to 1pm on Saturday. There will be lot consolidation on 17 and 18 and then 20 and 11.02. Access easements to be provided and lot consolidation deeds to be provided to Board professionals for review. All work done at the property shall be done in accordance to Township permits and approvals including construction permits. The applicant shall satisfy all escrow requirements, the applicant will obtain all outside agency approvals and the applicant will obtain all preliminary and final site plan approval, that will be a condition to the variances being granted. Roll call vote: Ayes- Mr. Cossaboon, Mr. Kozak, Mr. Rybicki, Mr. Salvadori, Mr. Sebastian, Mr. DelCampo. Nays- Mr. Cummiskey. Abstentions- Zero.

Public Hearings: (continued)

#509-SP- Conlin Family Limited Partnership- Continued

Mr. Coe stated the second motion this evening is for preliminary and final major site plan approval. The applicant has agreed to comply with all of the items in the professional's reports as testified here this evening. There is one condition referenced here this evening that applies to the use variance approval. Additionally, the applicant will prepare and submit a revised plan within 90 days of approval addressing all of the issues discussed this evening and the applicant will provide site improvement bond. Roll call vote: Ayes- Mr. Cossaboon, Mr. Cumiskey, Mr. Kozak, Mr. Rybicki, Mr. Salvadori, Mr. Sebastian, 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:

Approval of Minutes:

None

Adjournment:

The meeting was adjourned at 10:20 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.