

Mount Laurel Township Zoning Board of Adjustment
Regular Meeting Minutes
March 2, 2022

Opening

The Second Regular Meeting of the Mount Laurel Zoning Board of Adjustment March 2, 2022 was called to order by Chairman Gray at 7:00 p.m.

Pledge of Allegiance and Moment of Silence were observed

The Open Public notice was read by Suzanna O'Hagan, Board Secretary

Roll call was taken

Board Members in Attendance

Chairman Gray, Vice Chairman Sharp, Mrs. Andersen, Mr. Blum, Mr. Francescone, Mr. Holmes, Mr. Kramer, Mr. Bhankharia.

Absent:

Mrs. Liciaga

Board Professionals in Attendance

Joseph Petrongolo, Planner; Michael Angelastro, Traffic Engineer; Ed Campbell, Board Solicitor; Todd Evans, Fire Marshall

Announcements and Review of Board Procedures

Chairman Gray opened a discussion with the Board members regarding a return to in person meetings. No board members objected. The decision was made to return to in person meetings beginning May 4, 2022.

Annual Report:

Chairman Gray asked for a motion to approve the Finding of Facts annual report for 2021:

Mr. Francescone moved the motion to approve the Finding of Facts annual report for 2021, Mr. Holmes seconded the motion. Roll Call Vote: All present voted affirmatively the motion was carried

Adopting the Minutes

Chairman Gray asked for a motion to adopt the first regular meeting minutes of 1/12/2022, Mr. Francescone moved the motion Mr. Sharp seconded, all eligible members voted affirmatively and the motion was carried.

Chairman Gray asked for a motion to adopt the Reorganization meeting minutes of 1/12/2022, Mr. Francescone moved the motion Mrs. Andersen seconded, all eligible members voted affirmatively and the motion was carried.

Chairman Gray asked for a motion to adopt the Closed Session minutes of 1/12/2022, Mr. Francescone moved the motion Mr. Blum seconded, all eligible members voted affirmatively and the motion was carried

Memorialized Resolutions

1. **R-2022-ZB01** - Mr. Francescone made a motion to approve R-2022-ZB01, Mr. Blum seconded, all eligible voted affirmatively and the motion was carried.
2. **R-2022-ZB05** – Mr. Francescone made a motion to approve R-2022-ZB05, Mr. Blum seconded, all eligible voted affirmatively and the motion was carried.

Professionals were sworn

Petitions before the board

1. **Grande Properties LLC, ZB21-D-28**, 550 Fellowship Rd., Block 1204 Lot 7, I zone. This applicant is seeking a D(2) expansion of non-conforming use variance as well as Amended Preliminary and Final Site Plan approval with a variance for parking stall width from section 154-69.A(1) to allow modifications to the traffic circulation, drive-thru, trash enclosure and site storage.

Richard Hoff Esq., Bisgaier Hoff, represented the applicant and summarized the application as an application to improve the stacking and vehicle circulation at the site.

Witnesses Sworn:

John Kornick, PE, K2 Engineering

Exhibits Entered:

Exhibit A-1, Site Rendering; Exhibit A-2 Vehicle Circulation Plan Pg. 2 of 2; Exhibit A-3 Previously approved Site Plan

Mr. Kornick's Testimony

Mr. Kornick shared Exhibit A-1. He testified that the site reconfiguration of the site includes some upgrades and improvements to the site. He stated that the uses on the site are permitted uses and the property previously received a use variance for the building height of the Aloft Hotel. Using Exhibit A-1 Mr. Kornick showed the change from the current vehicle stacking and circulation pattern to the proposed and the proposed 25' x 50' patio on the East elevation of the building which will provide approximately 30 seats. Additionally, the proposal includes relocating and upgrading exterior pre-menu (S2) and menu (S3) boards and ordering station. The menu board will be housed in a "DTS" station. The approved seat count for Starbucks is 52 seats with 6 employees currently there are 58 seats with the proposed 30 outdoor seats. The change in parking requirement requires variance relief to allow 580 parking spots where 609 are required. Also previously approved is an 18' bypass lane that pinched to a 15' bypass lane. Mr. Kornick stated that he has worked with the Board Planner and Traffic Engineer to assure that what they are proposing is no less than what was previously approved. The proposed plan reduces impervious coverage. The changes also include relocating the existing trash enclosure, relocating the loading zone, adding a 20' x 18' shed for maintenance equipment and adding a second trash enclosure.

Mr. Kornick noted that the expansion of use D2, variance is required due to the patio addition. He stated that it is his professional opinion that the proposed changes are consistent with the prior approval and will have no impact to the Townships Zone Plan or Master Plan. Mr. Kornick enumerated the requested C2 variance as being from 154-19.A.2 to allow the 360 square foot shed, 154-69.B to allow 580 parking spaces where 609 are required and from 154-164.C for design standards of the patio area.

Mr. Kornick stated he believes the application advances purposes C and I of the Municipal Land Use Law. He believes the approvals the applicant is seeking substantially outweigh any detriment and can be granted without any detriment to the public good and without substantial impairment to the intent and purpose of the Townships Zone Plan or Zoning Ordinance. The site currently has queuing and circulation issue that the proposed plan will relieve.

Mr. Kornick shared Exhibit A-2 and noted the 18' wide bypass lane. He stated that the Mount Laurel Fire Truck Circulation plan allows for adequate circulation without posing any conflicts.

Mr. Petrongolo reviewed his report dated 2/18/2022. Mr. Petrongolo stated he believes the intent of the proposal is to relieve onsite conditions and has no objections to the variances. He asked Mr. Kornick to confirm that the site currently has 2 signs and will maintain 2 signs.

Mr. Kornick responded affirmatively.

Mr. Blum questioned if the signs would comply with Chapter 84, Sign Safety Fabrication Bill.

Mr. Kornick responded that this application is for Site Plan and that will be reviewed with the construction applications.

Mr. Petrongolo continued that the remainder of the comments in his letter have been satisfied and he has no objections to the D2 variance.

Mr. Kornick asked if the DTS structure would be a 3rd sign.

Mr. Petrongolo responded that he would not consider the DTS structure a sign but the work “Starbucks” on the side of the structure as shown on sheet 8 of 8 of the submitted plan is a sign and he would have no objections to adding the relief necessary from section 154-92.6.C for a 3rd sign to the requested variances.

Mr. Angelastro reviewed his report dated 2/18/2022. He stated that with the original 2012 approval the applicant agreed that deliveries would be limited to time when the Starbucks was closed. He asked the applicant to confirm that that condition will still apply. Mr. Angelastro stated believes the condition should apply.

Mr. Kornick responded that he believes the condition is no longer necessary because the loading zone is no longer in conflict with the queuing lane.

Mr. Petrongolo stated that per the Township Ordinance, the drive isle is not allowed to be used for loading. The proposed plan still uses the drive isle for loading therefore Mr. Petrongolo believes the condition should remain in effect.

Mr. Kornick agreed to maintain the condition.

Mr. Angelastro continued that he has no objection to the requested variances.

Chief Evans reviewed Fire Marshal McVey’s letter dated 2/23/2022. Chief Evans stated that the Fire Department is agreeable to the variance to allow the drive isle to be 18’ where 20’ is required because it was previously approved and not changing. All other comments have been addressed.

Mr. Kramer asked if a variance for parking stall width is necessary.

Mr. Petrongolo responded that the parking stalls are 10’ x 18’ and complying with the prior approval

Mr. Kramer asked if the applicant will be replacing the no left turn sign that was previously at the Fellowship Rd. entrance as it was required in the previous approval.

Mr. Hoff replied that someone ran over the sign and it will be replaced.

Chairman Gray opened the public portion of the meeting for question or comment at 7:53pm. Seeing none he closed the public portion.

Mr. Campbell stated the conditions of approval.

1.) replacement of the No Left Turn Sign

Mr. Campbell enumerated the requested variances.

- 1.) 154-19.A.2 Shed size of 360 square feet
- 2.) 154-69.B Parking requirement relief to allow 580 spaces where 609 are required
- 3.) 154-92.6.C Third sign
- 4.) D2 Expansion of Use
- 5.) 154-164.C to allow deviation from the design standard in the patio area

Chairman Gray asked for a motion to approve ZB21-D-28 with the condition stated. Mr. Francescone moved the motion, Mrs. Andersen seconded. Roll Call Vote, all voted affirmatively. Motion is carried.

2. Kyle Seidelmann, ZB22-C-02, 3816 Church Rd., Block 1303 Lot 21.02 R-1 zone. These bulk variances are being sought from ordinance 154-65.E to allow an accessory building with a height of 20' where 12' is allowed, 154-19.A(3) to allow a pole barn 1,200sf where 1,000 sf is allowed. If approved the applicant will remove one of the existing sheds on the lot.

Witnesses Sworn

Kyle Seidelmann, homeowner/applicant

Mr. Seidelmann's Testimony

Mr. Seidelmann testified that his home does not have a garage. Due to the lack of storage their belongings are out in the open. The two existing sheds are too small because he and his in-laws have moved combined homes, as a result more storage is required. The application was previously approved but has expired. Mr. Seidelmann stated they had some financial setbacks then COVID hit so the approval expired.

Mr. Petrongolo testified that he did not prepare a review letter however, he did review the application. He stated that the previously approved pole barn was approved for 25' high the current proposed is 20' high. He stated that if approved the applicant will remove one of the existing sheds leaving a total of two which complies with our ordinance. Mr. Petrongolo stated that the applicant also is applying for a variance from the requirement of Site Plan approval and asked if the applicant is going to comply with the condition on the previous approval of an evergreen buffer.

Mr. Seidelmann responded that he does not plan to install an evergreen buffer because the neighbor that asked for that no longer lives in their home and the new neighbor/homeowner does not have any objection to the proposed projects moving forward without the buffer.

Mr. Angelastro asked Mr. Seidelmann which neighbor he was referring to, it seems like the surrounding properties are very wooded.

Mr. Seidelmann responded that there are homes surrounding his and that previous homeowner who has moved was the only one with an issue. He is friendly with the new neighbor. The property in question is at the bend of his driveway on the side.

Mr. Kramer asked if the pole barn would have a loft and electric.

Mr. Seidelmann responded that there will not be a loft but will have electric.

Mr. Sharp asked if there will be outside lights.

Mr. Seidelmann responded there will be under soffit lights

Mr. Sharp asked if the applicant considered placing the pole barn on the lot further from the proposed 8' from the property line.

Mr. Seidelmann responded that the proposed placement is as far from other homes as possible. He believes property to the side is wetlands and the property to the rear is landlocked so as far as he knows the land cannot be developed for a home.

Chairman Gray asked Mr. Petrongolo if the application is impacted by the easement on the property or if there is any issue with the access to the adjacent lot

Mr. Petrongolo responded that the proposal does not impact the easement or access to the adjacent lot.

Mr. Holmes asked the applicant which existing shed will be removed.

Mr. Seidelmann responded the wood shed.

Chairman Gray asked for a motion.

Mr. Francescone made a motion to approve ZB22-C-02, Mr. Kramer seconded. Roll Call Vote, all voted affirmatively and the motion was carried.

Chairman Gray called for a break at 8:14pm. The meeting was called back into order at 8:21.

3. **Safari Energy ZB21-D-34**, 303, 305, 307 & 309 Fellowship Rd., Block 1201.02 Lots 1, 2, 1.02 & 3, 700 & 701 East Gate Drive Block 1201.02 Lot 4 and Block 1201.01 Lot 1 and 161 Gaither Dr. Block 1201.06 Lots 2 & 3, I zone. This applicant is requesting a Conditional Use variance from section 154-76.D as well as associated bulk variances and Preliminary and Final Site Plan approval to allow solar carport structures in the front yard.

Michael Vitiello Esq., Giordano, Halleran & Ciesla, P.C., represented the applicant. Mr. Vitiello summarized the application as an application to add solar carport structures within the parking lot area. The structures do not provide enough electricity to provide all the needs of the property, they only offset the need. There are two properties involved that are not contiguous.

Witnesses Sworn:

Christopher Rosati, Civil Engineer & Elizabeth McManus, Kyle and McManus Associates

Exhibits Entered:

A-1, Aerial PDF; A-2 Color Site Rendering with solar array designations and A-3, 3D exhibit photo #'s 5, 6, 7 & 8

Mr. Rosati's Testimony

Mr. Rosati stated his credentials and was accepted as an expert.

Using Exhibit A-1 Mr. Rosati showed the location of the subject sites. Using Exhibit A-2 he showed the map of the proposed arrays with their designation letters on each lot and stated the lots locations and sizes. He testified that the proposed solar arrays would provide approximately 90% of the sites' electricity needs. Each sub-system will have its own connection point, electric switch gear and system shut offs adjacent to the buildings that each one serves. Mr. Rosati explained the mechanics of system and stated that it will all be in accordance with applicable code including safety measures and signage. The equipment pads will be surrounded by landscaping and a 7' fence as required by NEC code. The 7' fence will require a variance. The solar arrays will not result in loss of parking spaces or interfere with any ADA access paths. The structures will be a minimum of 14' high with a highest point of 18' 6" above grade. The columns will be situated in the middle of the head to head parking stalls and the arrays will be tilted to the south about 3 degrees. Mr. Rosati further testified to the design of the arrays. Arrays E, F and G at 161 Gaither Drive will be configured differently with the columns being located at the head of the stalls and the arrays cantilevered over the parking stalls.

Mr. Rosati testified that the plan calls for the arrays to project over the drive isle approximately 30" on either side but will maintain the minimum of 14' height. In his opinion the overhang will not have a negative impact on the circulation of the site. Mr. Rosati listed the required variances as 1.) conditional use 2.) fence height 3.) overhang in the drive isle and 4.) solar facility in the front yard. He stated that the panels will be fixed with LED ceiling mounted parking lot lights. The panels are typically 20 degrees warmer than ambient so snow does not accumulate. The arrays are not weather tight, they have gaps between each panel so rainwater drips of the edge. Maintenance typically involves a once a month site visit for initial trouble shooting and then a once quarterly visit. The system is equipped with a telemetry system which informs Safari Energy how each panel is

performing. A total of 59 trees are slated to be removed, the bulk of those are in the parking lot islands on Block 1201.02 Lot 4. The plan calls for 43 trees to be added and evergreen planting around each equipment pads.

Mr. Rosati stated that it is his opinion that the board can grant the requested waivers because the applicant is asking for only an accessory use on an already approved site and not a full site plan.

Mr. Petrongolo agreed with Mr. Rosati's opinion and stated he has no objections to the submission waivers.

Mr. Rosati continued. He explained the changes from the initial submission to the current submission based on professional's review letters. He stated there will be no construction trailers. All equipment will be stored offsite. Mr. Rosati testified that there is a discrepancy on the submitted plan that calls for site lighting to be relocated, in fact sight lighting is being removed and replaced with the LED lights mounted under the arrays.

Ms. McManus's Testimony

Ms. McManus stated her credentials and was accepted by the board as an expert. Ms. McManus testified that the applicant is seeking a D3 Conditional Use variance. She stated that Solar panels are an inherently beneficial use and therefore create a lesser burden than traditional D1 Use variance. The MLUL defines Solar as inherently beneficial therefore the positive criteria is automatically addressed. Ms. McManus stated that as a conditional use the applicant is not subject to the traditional positive and negative criteria. Instead the variance criteria for conditional uses is whether or not conditions can be imposed on an approval that ensure any deviations from the conditional use standards do not cause substantial detriment to the public good. She stated that the lots on this application can clearly accommodate the proposal in a way that does not impose a substantial detriment to the public good. She stated that the most significant negative impact is visual. The first condition that the application does not meet is the setback requirement on several of the lots in both the front and rear yards. Ms. McManus used Exhibit A-2 to demonstrate the areas of deficient setback.

Mr. Petrongolo stated that the key setback issues are the perimeter arrays because all the lots are owned by the applicant so the interior lot lines are not an issue. He also clarified that the ordinance prohibits solar arrays in the front yard meaning anything in front of the building. The front yard is any yard adjacent to a street. Therefore, all arrays at 161 Gaither Drive are in the front yard.

Ms. McManus continued her testimony stating that she believes the application can be approved without substantial detriment to the public good. She added that the applicant also needs relief to allow the panels to extend into the drive isles by approximately 2 ½ feet but have a minimum clearance height of 14'. She stated that the 14' clearance allows delivery trucks to safely pass through. Ms. McManus stated that she believes the largest impact of the application is the visual impact along the roads. But she believes that the visual impact is mitigated by the existing vegetation including mature street trees along the roads. The street trees will filter the view but not completely hide the canopies. The solar canopies will be a maximum of 18' high which is shorter than most if not all of the mature trees. The applicant is also adding more trees than they are removing and adding trees in the locations closest to the right of way. Ms. McManus stated that the use of the solar panels is one way a property owner can modernize the property and enhance economic viability. Additionally, the solar panels reduce the impact on climate change and help stabilize and reduce monthly energy cost. Ms. McManus highlighted goals in the Township Master Plan that she believes the application meets. The first being the goal to guide future development to meet the needs of residents and the second being to provide for a variety of residential, commercial, public open space and conservation uses. The third goal is to provide for a balanced economic base and source of employment through utilization of nonresidential plans. Ms. McManus stated that the application is consistent with the State's efforts to advance renewable energy as expressed in their 2020 Master Plan. Specifically, the objectives to accelerate the deployment of renewable energy and to maximum local solar development and energy resources.

Ms. McManus address the fence variance being requested by stating that the 7' fence is necessary for the safety and security of the equipment. She stated that the proposed fence meets purpose N of the Municipal

Land Use Law. She stated the benefit of the advanced safety outweighs the detriment of the 1' additional height.

Mr. Petrongolo reviewed his report dated 2/18/2022. Mr. Petrongolo stated that the submission waivers requested should be granted. He explained the function of a conditional use and stated that the township was very clear in the ordinance that they did not want ground mounted solar facilities in the front yard and clarified that that is any panel between the panel and the street. Mr. Petrongolo shared his screen and pointed out which panels that do not comply with this ordinance. He stated that he has asked for additional landscaping and believes it should be provided in part because you can see under a shade tree so the arrays will be clearly visible to drivers. He testified that he cannot recommend approval of the drive isle overhang. He stated that the board has been consistent in denying this variance and the township believes it is a site safety hazard. There are some vehicles including fire apparatus that are higher than 14' posing a serious safety hazard. He stated that Township Council was very specific with this concern. Mr. Petrongolo stated that all the panels will overhang by approximately 30". He reiterated that he cannot recommend approval of the overhang and relief for same should not be granted. Mr. Petrongolo stated that they have not yet received the requested visual impact assessment or architectural renderings. Mr. Petrongolo stated that the 0' setback of arrays impact the adjacent property owners. He disagreed that the existing landscaping would mitigate the visual impact and believes that additional landscaping and screening is necessary. As proposed he does not believe the application meets the intent of the ordinance or the goals and objectives of the Master Plan but the issues can be addressed with the exception of the panels overhanging the drive isle.

Mr. Rosati responded to Mr. Petrongolo's comments stating that he agrees to add landscaping to enhance screening. He shared Exhibit A-3, photo renderings of the proposed arrays. Showing the view of the arrays from 8 directions. Mr. Rosati clarified that the same owner owns the lot adjacent to Block 1201.02 lot 4. That lot is in Moorestown and the applicant is currently before Moorestown with a similar application. He further stated that they can remove a row of panels at row of panels on array A on block 1201.02 Lot 1.02 and a row of panels on array A at Block 1201.02 Lot 4 to give a 6' setback from the property line. Mr. Rosati stated that they may have to lose a row and rotate the panels to put them in a landscape orientation reducing the number of panels and output to ameliorate the concern of the overhang. He stated that there is nothing they can do for the front yard area at 701 East Gate other than enhance the buffering along East Gate Drive. Mr. Rosati stated that they could raise the panels higher than 14' if that is a safety issue.

Mr. Petrongolo reiterated that he cannot support the panels over the drive isle.

Mr. Vitiello stated that the panels are an inherently beneficial use and it is better to have the sun hit the panels than the hot asphalt in the parking lot.

Mrs. Andersen asked why the entire parcel is not being covered by solar panels

Mr. Rosati responded that they are not permitted to produce more energy than can be used by the primary buildings.

Mrs. Andersen asked if the panels can be extended and made narrower to make up for the loss of panels and production.

Mr. Rosati responded that yes, they can do that.

Mr. Francescone stated that he thinks it would be ridiculous not to approve array A on Block 1201.02 Lot 1 because the same owner owns the adjacent Moorestown lot. He asked Chief Evans how high would be high enough to not interfere with emergency vehicles if they want to recommend an ordinance change to council.

Chief Evans responded the 14' is a DOT height that is high enough to accommodate over the road vehicles. A concern is that each array is a fire area in itself. Part of the structure is combustible and part noncombustible. There is no way to separate them to avoid a conflagration where a fire

extends from one to the other. He stated that there is only a matter of when they fail not if they fail and how do you manage that.

Mr. Francescone stated that at the end of the year perhaps the board should recommend the ordinance be updated to represent true safety as opposed to just a height. He stated that he does not see a difference between seeing a solar array in an industrial parking lot and looking at a building in the same parking lot.

Chairman Gray asked the board for a consensus to extent the hearing beyond 1 ½ hours. The board agreed to extend the hearing for another ½ an hour.

Mr. Angelastro reviewed his report dated 2/18/2022. He stated that the only open item is the overhang in the drive isle.

Chairman Gray asked if there are any issues with the arrays being split between properties.

Mr. Angelastro stated that Chief Evans will comment on that topic.

Chief Evans reviewed Fire Marshal McVey's report dated 2/18/2022. He stated that carport style arrays are a concern in general the overhang into the drive isle is a particular concern. He explained how the overhanging array will impede the use of the articulating fire apparatus. On an everyday basis they are not a problem but Fire Department has to plan for the worst day. He stated that the applicant has agreed to label the arrays with addresses and panel letters. Chief Evans stated that panels A, C and A at 305 Fellowship Rd are split between 305 Fellowship and 307 Fellowship. If a fire situation occurs in one of those arrays the whole array is a fire area and to have to go to both addresses to try to figure out which disconnect controls which panels could be problematic in an emergency. He stated that it is the Fire Departments preference not to have those arrays split in half between properties. The same problem exists with array G at 307 Fellowship and 700 East Gate. He said if the applicant can testify that they are able to separate those arrays so they are specific to the building and not split between buildings that would be amenable to the Fire Department. Chief Evans reiterated that the encroachment into the drive isle presents operational challenges. He questioned the ability to secure the panels should they have an emergency issue because the DC power continues as long as there is light on the panels and inverters. As it is the only way to render the panels safe without an engineer or professional on scene is to place opaque material over the panels and inverters.

Mr. Rosati responded that there is no other way to shut off the power.

Mr. Rosati testified that the panels are a fixed size so they will try to rotate them and have less panels side to side. He asked what do Minimis overhang the board will accept.

Chief Evens suggested raising the pitch to decrease the horizontal space.

Mr. Petrongolo responded there is some flexibility, there are places the arrays can expand to make up for narrowing the arrays and that they may be able to get to the point of a net 0 reduction. He stated that there are a lot of canopies that do not overhang so it can be worked out.

Mr. Angelastro replied that if Chief Evans could live with 1" or 2" encroachment that would be reasonable.

Mr. Gray asked the applicant to address Chief Evan's concern about the split panels.

Mr. Vitiello responded that they can set up the panels with a manor of control to alleviate the worry about shutting down only ½ of the panel. He stated there are a couple different ways to accomplish that but they would take care of that concern.

Chief Evan's stated that as long as they are going down to one disconnect per array and it is properly labeled.

Mr. Rosati confirmed that they will work with the Fire Department regarding the disconnects.

Mr. Vitiello stated that the applicant made changes to the plan in response to the professional's comments and they have made further changes tonight. He respectfully requests that the board approve the application.

Mr. Campbell enumerated the conditions of approval as follows.

- 1.) The applicant will work with the planner regarding additional landscaping.
- 2.) The arrays shown to have 0' setback abutting properties that the applicant does not own will be modified to provide a 6' setback.
- 3.) The arrays will be redesigned so they will not overhang the drive isle and work with the professionals if there is a do Minimis overhang.
- 4.) The applicant may extent the arrays over parking areas not shown on the plan to compensate for redesign and removal of other panels.
- 5.) The applicant will work with the Fire Department concerning the disconnects.

Chairman Gray opened the meeting to the public for question or comment. Seeing no one, he closed the public portion.

Mr. Sharp moved to approve application ZB21-D-34 with the conditions stated. Mr. Francescone seconded. Roll Call Vote, all voted affirmatively, the motion was carried.

Adjournment:

Chairman Gray asks for a motion to adjourn at 10:15 p.m., Mr. Blum moved the motion, Mr. Francescone seconded, all present voted affirmatively and the motion was carried.

Adopted on: April 6, 2022

Suzanna O'Hagan, Secretary
Zoning Board of Adjustment