

**Mount Laurel Township Zoning Board of Adjustment  
Special Meeting Minutes  
April 25, 2022**

**Opening**

Chairman Gray called the second Special Meeting of the Mount Laurel Zoning Board of Adjustment April 25, 2022 to order at 6:00 p.m.

Pledge of Allegiance and Moment of Silence were observed

Suzanna O'Hagan, Board Secretary, read the Open Public notice

Roll call was taken

**Board Members in Attendance**

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

**Absent**

Mrs. Liciaga and Mr. Bhankharia

**Board Professionals in Attendance**

Joseph Petrongolo, Planner; Michael Angelastro, Traffic Engineer; Robert Hunter, Engineer; Brian McVey, Fire Marshal; Ed Campbell, Board Solicitor

Announcements and Review of Board Procedures

The Township Professionals were sworn in.

All witnesses were sworn in prior to their testimony.

All professionals testifying for the applicant were accepted by the board as experts in their field.

**Petitions before the board**

**1.) National Energy Partners**, ZB22-D-05, 2100 Deal Drive, Block 1101 Lot 3.02, SRI zone. This applicant is seeking a D-3 Conditional Use variances from section 154-21.F and 154-21.G as well as associated bulk variances and Submission Waivers

**Witnesses sworn in**

Dan Wacha, NEP; Andrew Coursen, Churchill Engineering; Allison Kimball, KMB Design Group and Gary White, Churchill Engineering

**Exhibits Entered:**

A-1, Site Plan sheet 1 of 2; A-2, Site Plan Sheet 2 of 2; A-3, Lighting Plan PV100; A-4, Lighting Plan PV600

**Mr. Stephen Boraske, Esq.** represented the applicant and summarized the application. He state that the application is for Conditional Use variance to allow two ground mounted solar arrays in

the front yard of Rogers Walk Clubhouse located at 2100 Deal Drive as well as Minor Site Plan approval. Mr. Boraske noted that the proposed carports do not overhang the drive isle.

### **Mr. Wacha's Testimony**

Mr. Wacha gave a brief history of National Energy Partners and noted prior and current projects. He testified that the proposal is for 2 solar arrays in the parking lot on the east side of the property. Both will have a minimum clearance of 14 feet and installation will not affect the drive isle, number of parking spaces or emergency access onsite. All conduits and risers will be installed underground and all AC gear will be installed out of sight, screened by existing landscaping, and connected to the buildings existing electrical network. The system is equipped with a remote monitoring system which allows NEC to monitor the health of the system and intervene if necessary. The panels are not reflective and do not produce glare. The arrays are designed with proper spacing to allow water to flow through and not pool. Snow guards will be installed.

### **Mr. Coursen's Testimony**

Mr. Coursen presented Exhibits A-1 and A-2. He demonstrated with the exhibits, the location and proposed positioning of the solar canopies. The low end of the panels will be in the southwesterly direction to take advantage of the sun and will have a minimum clearance of 14 feet. Each array will be 40 feet long and the columns will be at the intersection of the painted stripes of the parking spots. Each array will cover 2 end islands. The existing trees will be removed and replaced with lower shrubbery. He stated that the applicant is asking for a waiver from the screening requirement because there is nowhere to plant screening. The 25 foot wide drive isle is unaffected as is the water, sewer, drainage and impervious coverage.

### **Ms. Kimball's Testimony**

Ms. Kimball presented Exhibits A-3 and A-4. She testified to the locations of the transformers, inverters and panel board and stated they are locked and inaccessible by the public. Ms. Kimball stated that 4 existing light poles will be removed and under canopy LED lighting fixtures will be installed and will meet township ordinance requirements.

### **Mr. White's Testimony**

Mr. White testified that Solar has been deemed and inherently beneficial use. He stated that the applicant needs a variance from the conditional use because the panels will be in the parking lot in front of the building.

**Mr. Petrongolo** clarified that the roads within Rogers Walk are private roads, therefore the panels are actually in the rear yard. The condition of the ordinance that is not met is for the screening of the panels.

Mr. White continued that the panels are buffered by the clubhouse and back up to the NJ Turnpike. He stated that the arrays have been designed minimize any negative impact. The only people who could possibly see the panels are the residents of Rogers Walk and the neighboring property, Clarion Hotel, also has a solar array and that array is forward of the building. He stated that he believes the addition of the panels will not have a negative impact of the zone or the master plan. He further testified that in his professional opinion, notwithstanding the condition of screening, site is still appropriate for the proposed project.

**Mr. Petrongolo** reviewed his letter dated 3-3-2022. He stated that he has no objection to the requested submission waivers. The project will comply with all conditions except screening. He requested that the applicant submit revised plans that clearly show the panels will not overhang the drive isle.

**Mr. Sharp** asked if the equipment on the building will be screened.

**Mr. Petrongolo** replied that it will not be, because there is limited room and it will not be visible.

**Mr. Coursen** added that there is currently some landscaping there.

**Mr. Angelastro** reviewed his letter dated 3-4-2022. He stated that the applicant will comply with his comments.

**Mr. Hunter** stated that his comments have been addressed.

**Mr. McVey** reviewed his report dated 2-16-2022. He stated that the applicant has satisfied or agreed to satisfy all of his comments.

Chairman Gray opened the meeting to the public for questions or comments. Seeing none he closed the public portion.

**Mr. Boraske** closed stating that they are requesting a minor site plan approval with submission waivers and conditional use variance to allow a deviation from the screening requirement.

Chairman Gray asked for an application from the board.

**Mr. Campbell** stated that a condition of approval would be that the applicant submit a revised plan showing that the panels would not overhang into the drive isles.

Mr. Francescone made a motion to approve the application, Vice Chairman Sharp seconded. Roll call vote, all present voted affirmatively. The motion was carried.

RESOLUTION ZB-CS-01: RESOLUTION AUTHORIZING A CLOSED SESSION OF THE MOUNT LAUREL ZONING BOARD TO DISCUSS PENDING OR ANTICIPATED LITIGATION AND OR MATTERS FALLING WITHIN THE ATTORNEY CLIENT PRIVILEGES

Zoning Board Administrator read Resolution as entitled.

Motion to Move Resolution ZB-CS-01: Chairman Gray, 2<sup>nd</sup> Mrs. Andersen, all present voted in favor.

Motion to adjourn closed session by Chairman Gray, 2<sup>nd</sup> by Mr. Kramer, all present voted in favor.

2.) **Allegro Development**, ZB21-D-11, 1009, 1013 & 1017 South Church Street, Block 1003 Lots 51, 52, 53 & 54 and Block 1003 Lot 50, R-3 Zone. This applicant is seeking a D-1 Use variance and Preliminary and Final Major Site Plan as well as relief relating to stormwater basins within landscape buffers and directional signage for a 172 unit Assisted Living Facility.

**Witnesses Sworn**

William Salmon, Vice President of PS&S; John Hosbach, ISA Certified Arborist; Donald Rosemann, applicants Architect and James Miller, Professional Planner

All those who testified were sworn prior to testimony

All professionals who testified were accepted by the board as expert witnesses

**Exhibits Entered**

B-1, Resolution R-2020-ZB13; A-1, existing conditions aerial photo; A-2, Site Plan Rendering R-02; A-3 Site Plan Rendering R-01; A-4 Existing Conditions and Demolition Plan; A-5, Landscape Section East; A-6, Elevation previously approved and A-7, elevation proposed

**Richard Hoff**, Jr. Esq., Bisgair Hoff, LLC. represented the applicant.

**Mr. Campbell** asked Mr. Hoff the following questions to be made part of the record:

**Mr. Campbell-** the property as subject of this application included the properties of the prior application is that correct?

**Mr. Hoff-** yes it is.

**Mr. Campbell-** You have added an additional lot?

**Mr. Hoff-** correct, the additional lot has been added solely for the purposes of access.

**Mr. Campbell-** to the extent that your application includes a use variance, you are requesting the same use variance as the prior application is that correct?

**Mr. Hoff-** that is correct.

**Mr. Campbell-** that approval relates to ZB#19-D-12 and resolution R-2020-ZB13, this approval embodies the prior decision granting the use variance is that correct.

**Mr. Hoff-** that is correct. He then clarified that this request is not a new use variance but a revised use variance. The use is the same use as has been previously approved.

**Mr. Campbell** stated that the board, in its prior decision, concluded that the proposed use then, which is the same use proposed now, was inherently beneficial. He directed Mr. Hoff to recognize that this application is a request for a use that is inherently beneficial and as such, the law presumes that he has met the burden of positive criteria. Mr. Campbell entered Exhibit B-1, resolution R-2020-ZB13. He noted to Mr. Hoff that if he can represent to the board that the number of units and the ingress and egress from the site are the same, there is no need to build a record as it relates to traffic.

**Mr. Hoff** responded that the only difference is that this application includes 172 units, he prior included 170 units. He said that the architect can explain the difference and reason for that change and that the building has not changed it is an internal change of bedroom count.

**Chairman Gray** reminded the board that the applicant is still required to provide proofs for the negative criteria and informed the applicant that the board has already decided to go until at least 10:00 pm and will evaluate at that time whether or not to continue.

**Mr. Campbell** stated that negative proofs are that the proposed use will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

**Mr. Hoff** gave a brief overview of the proposal. He stated that the application is for a senior living facility, which includes 172 units where the previous approval is for 170 units. Testimony for the previous application included testimony related to operations including the scale of the project, employee count and all operations related to the facility. Those operations that were heard and approved by the board remain the same as does the height of the building. The previous approval was for Use variance only and required the applicant to come back to the board for Site Plan approval. In order to expedite the process the applicant made application to outside agencies as well as to this board. Based on the applications to New Jersey Department of Environmental Protection it was learned that there were things that would have an impact on the development of the site. Specifically, flood elevation concerns. The use is required to have access point above flood elevation however, South Church Street is below flood elevation therefore a compliant access point was required. This requirement is what implicates the new lot 50. Additionally, any development in a floodplain requires mitigation by creating floodplain storage on other portions of the property. The nature of the DEP requirements is such that trees will need to be cleared and replanted. Mr. Hoff stated that due to those two changes and out of an abundance of caution the applicant is seeking and amended use variance. The overall use and operations have not changed, the changes are driven by the Site Plan aspect of the application.

Much of the following testimony was presented in question and answer format.

#### **Mr. Salmon's Testimony**

Mr. Salmon gave a brief overview of his education and professional background to include that he is a Licensed Civil Engineer and Certified Floodplain Manager. Mr. Salmon presented Exhibits A-1, A-2, A-3, A-4 and A-5. He described the project area and surrounding properties. He noted the Pennsauken Creek to the South. He stated that there are 6-7 acres of usable space and the balance of the property is about 14 acres of wetlands and 19 acres of floodplains. The 100 year floodplain along the Pennsauken Creek has been delineated by FEEMA at elevation 27 feet. The NJDEP adds a foot to the FEEMA floodplains resulting in a floodplain of 28 feet. The elevation at South Church Street is 27 feet. Using Exhibit A-2 he showed the proposed building footprint of approximately 58,000 square feet and noted the previous was about 57,000 square feet. The floor area is 215,400 square feet which is the same a previously approved. The building has 172 units with 195 beds. The building has an average setback of 180-190 feet from South Church Street. Mr. Salmon explained the ingress and egress of the site as well as the traffic pattern including pick up and drop off. He showed the proposed emergency access through lot 50 to Birchfield Drive. He testified to the parking requirements and the proposed parking as well as the utilities that will serve the site. He stated that the facility will be built above the floodplain

and will drain to Pennsauken Creek. The stormwater management plan submitted is below grade. The original approval included 2 detention basins that have been modified to become all under the parking lot. Additionally, the applicant is proposing pervious pavement to provide water quality. He noted a comprehensive hardscape plan that includes sidewalks along South Church Street and throughout the property. He noted features of the proposed grounds including vehicle charging stations. Mr. Salmon stated that they would be removing approximately 130 trees in the western portion of the property and planting 393 trees. Additionally, he stated about 800 shrubs will be planted as well as perennial flowers. Mr. Salmon described the proposed lighting. In response to a question from Mr. Hoff, Mr. Salmon stated that the requirement of the new emergency access being above floodplain is associated with the nature of this use and there was no alternative on the applicants part. The use is considered a "critical structure" and therefore needs at least one point of access at least 1 foot above the 100 year floodplain. He stated that the existing vegetation being removed in the Westerly area is being removed partly for the emergency access and being compensated for throughout the property. Using Exhibit A-3 Mr. Salmon showed the clearing necessary to compensate for flood volume for the 100 year floodplain at the north branch of the Pennsauken Creek. This is for flood storage during a 100 year storm which is approximately 8 inches in 24 hours. There is a clearing area of approximately 2 acres where the vegetation and 2 feet of soil will need to be removed in order to provide that flood storage. Once that storage is provided the area will be replanted with approximately 5-6 trees more than were removed. Additionally they would supplement the area in the 50 foot rear yard setback because it is currently void of tree vegetation.

**Mrs. Andersen** asked Mr. Salmon to explain flood storage and asked if this is something that would be required for any development of the property.

Mr. Salmon responded that flood storage is an area that, in a major storm event, water can go and either travel or be stored until the creek subsides and the water makes its way back to the creek. He described a creek being flat and as it rises it becomes wider, that is the storage. It would be required for any development in that area.

**Chairman Gray** asked if this was developed into 13 homes would the requirement be the same.

Mr. Salmon responded it would be very similar with the same access considerations.

In response to a question by Mr. Hoff, Mr. Salmon explained the way by which the calculation is derived.

**Mr. Hoff** stated that that calculation yields the approximately 2 acres depicted on Exhibit A-3.

**Mr. Kramer** asked if there has been any kind of flooding problem to the houses in the area of the space shown on A-3 as Net Fill Compensation Area and he asked what the walkway shown on A-3 is.

Mr. Salmon responded that he is not aware of any flooding. He said the walkway shown on the exhibit is a gravel drive to get back to the rear of the property for maintenance.

**Mr. Sharp** asked why that spot was chosen for the Net Fill Compensation Area.

Mr. Salmon explained that the shown area is the only possible spot due to the wetlands and wetland buffers. He noted that the hashed area on the exhibit is all wetlands. Mr. Salmon shared Exhibit A-4 to show the trees marked for removal.

**Chairman Gray** asked where the average 2 foot drop into the Net Fill Compensation Area will occur.

Mr. Salmon explained that at the 50 foot setback line the ground will be at grade and trees will be added. The property will then go to a 3 to 1 slope.

Mr. Salmon shared Exhibit A-5 showing the elevation of the area of the Net Fill Compensation Area, 50 foot buffer and block 1406 Lot 2. He showed what the elevation will look like at time of replanting and what it will look like after the trees are fully mature, approximately 20 years. Mr. Salmon stated that the reason they are requesting a 40 foot buffer when 50 feet are required is that county requires an easement from which the buffer is measured. Additionally, the ordinance does not allow a stormwater basin within the landscape buffer easement, the applicant is proposing stormwater management below ground within the buffer easement that will not be visible. Lastly, a variance is required for the size of wayfinding signs within the property.

Chairman Gray asked Mr. Salmon why the building could not have been built 10 feet further back.

Mr. Salmon responded because of the wetlands and floodplains.

Mr. Salmon listed the outside approval the applicant has received.

**Mrs. Andersen** asked if it is correct that in a 100 year storm the water would collect in the Net Fill area and if, in a severe storm the vegetation in the area could be damaged by the flooding.

Mr. Salmon responded that this is not a detention basin, it will have positive flow, as soon as the flooding subsides the water will go back to the Pennsauken creek. He stated that he does not believe the vegetation would be damaged because the water would evacuate within a 24-32 hour period. The trees will not be saturated.

**Mr. Petrongolo** stated that the younger the trees the more apt they are to be damaged and explained that the property would be under bond to repair any damage.

**Mr. Kramer** asked if the Net Fill Compensation Area would be good for the properties behind it.

Mr. Solomon responded that there will be no more benefit than what is there today.

**Mr. Sharp** asked if they are digging down 2 feet in the rear of the property because they are building up 2 feet in the front.

Mr. Salmon said yes.

### **Mr. Hosbach's Testimony**

Mr. Hosbach testified that he was brought on by the applicant to review the mitigation plan. He stated that the sole purpose for the clearing is for the required stormwater management/floodplain mitigation zone repairs. He stated that the current conditions of the site are fair with a prolific understory. He stated that there is minimal regeneration due to the extensive deer browse and vine penetration throughout the woodlands. Mr. Hosbach testified that he believes the landscape species to be used for the reforestation plan will provide a suitable base for reforestation and an adequate buffer. He stated that he would work with Mr. Petrongolo's office to ensure that landscape species that may be swapped out will address any and all of the concerns brought up including wildlife and water tolerance. He testified that he will ensure longevity and sustainability and also to recreate a proper wildlife management area.

**Mr. Hoff** stated that he wants the board members and public to know that a qualified professional, Mr. Hosbach, has been brought on as part of the team to ensure the viability of the buffer area.

Chairman Gray called for a 5 minute break and reopened the meeting at 8:30

### **Mr. Rosemann's Testimony**

Mr. Rosemann used exhibit A-6 to show the baseline in regard to height and mass for the current proposal. He then shared exhibit A-7. He explained that the major consistent items are the massing configuration, height, the use of the mansard roof and the general configuration of the entrance. The modifications include the addition of balconies for the independent living units on either side of the entrance. He stated that the change was made to afford the independent living units a view and to restrict the use of the balconies for the assisted living or memory care residents. He stated that the changes are in direct response to COVID. In regard to the proposed building footprint compared to the current, Mr. Rosemann explained that the building massing has been refined and certain implication from the state have been incorporated into the area of the units and the area of them has increased slightly in response to COVID. He stated that they have kept the gross building area and included a refinement to the back of the building and utility area. He stated that the square footage of the first floor has increased less than 3% but the overall square footage of the building has not increased at all. The change is due to code requirements and minor design changes. Mr. Rosemann stated that the change in total units from 170 to 172 is due to the staffing requirement guidelines set by the state and to industry changes over the last couple of years. He stated that the materials being used for the exterior have not changed and that the design of the exterior is intended to reduce the visual impact.

**Chairman Gray** asked Mr. Rosemann to show the renderings that show different elevations.

**Mr. Rosemann** used exhibit A-7 to show and explain the building.

**Mr. Sharp** asked if this is the view from Cobblestone Drive.

**Mr. Rosemann** explained that the rendering is shown without trees. There is not a rendering of the building as would be viewed from Cobblestone Drive.

### **Mr. Miller's Testimony**

Mr. Miller testified that he was the planner for the original approval and he agrees that the positive criteria of the application has been established and the question at hand is whether or not the changes to the plan have any impact on the negative criteria. Mr. Miller stated that this request is for an amended use variance and he believes the height variance is subsumed in the D1 use variance. He testified that changes relate to the emergency access drive and clearing at the rear of the site. Mr. Miller stated that the use is inherently beneficial and therefore meets the positive criteria. He explained the SICA balancing test to the board. He state there are 4 steps to the process. First identify the benefits of the use, second identify any detriments the use may have, third apply mitigating measures and fourth show the benefits of the use outweigh the detriments. He stated that the benefits remain the same as the previous approval and they are purposes A, G and L of the Municipal Land Use Law. Mr. Miller stated the needs



met by the project and stated that he believes it continues to be a site particularly suited for the site. It can accommodate all of the proposed improvements, will not have an adverse traffic impact and it provides a means of developing and otherwise blighted property. Additionally, the project involves remediation of environmental conditions resulting from the prior use as a nursery. Mr. Miller stated that the amendments to the prior approval also involve significant public benefits. For example, he stated, the emergency access drive will enhance the safety of the site and address EPA standards. Secondly, he stated, there are significant flood control benefits. He testified that these measures would be necessary no matter how the site is developed based on current regulations. The emergency drive isle has no negative impact and the trees being removed for it are being compensated for elsewhere. He stated that the impact of the required clearing will be offset by the landscaping measures described earlier. He believes the impact of the project will remain appropriate and consistent with the prior approval. He stated that significant mitigation will take place. The first mitigating factor is the location. The location of the area to be cleared is toward the northern edge of the site. Only one home will have a potential impact. The rest will be screened by mature trees. Secondly is the setback, there is approximately 835 feet between the developed portion of the property and the property line. The third mitigation measure is the additional screen plantings that will be installed creating a thicker barrier than exists currently. He believes any impact of the clearing would be fully mitigated. Mr. Miller stated that the benefits of the amendments will far outweigh any detriments and the projects remains and efficient and appropriate use of the site. In response to a question from Mr. Hoff, Mr. Miller stated that the amended D1 variance would include the addition of lot 50 but it does not impact the scale or intensity of the use. He noted that the C(2) variance for the 10 foot deviation from the buffer requirement is a result of the easement and the stormwater basin is underground so there will be no visual impact. Mr. Miller noted that the applicant needs relief for 4 x 13 façade signs depicted on the rendering. He stated that they are appropriate for the institutional use and are wayfinding signs. Additionally, they need relief for directional signs that will be totally contained onsite and not visible off site. The signs advance purposes A, G and L. He stated that the benefits far outweigh the detriments for both the use and bulk variances and there are no substantial detriments to the public welfare or zone plan.

**Mr. Hoff** asked Mr. Miller if the Net Fill Compensation Area violated any code for Mount Laurel.

Mr. Miller responded that he does not believe so as long as the trees are replaced in kind and they will be.

**Mr. Campbell** asked Mr. Hoff to confirm the variance requested as 1.) D-1 use 2.) D-6 height 3.) C variance for buffer depth of 40 feet 4.) C variance for stormwater facility within the buffer and 5.) C variance for signage.

**Mr. Petrongolo** clarified that the façade sign proposed is 4 x 13 or 52 square feet, the zone allows 32 square feet for institutional use. The variance necessary would be from 154-92.5.C. He stated that the "C" variances would be for 1.) the buffer 2.) buffer width 3.) façade signs and 4.) directional signs.

**Mr. Miller** noted that the prior plan was for an above ground basin within the setback along Church Street. The current plan is for the basin to be underground allowing for more plantings in the space and a more substantial buffer.

**Mr. Petrongolo** stated that the ordinance requires 25 of the 50 feet of buffer to be landscaped and asked the applicant if they will meet that requirement.

**Mr. Salmon** replied that more than 25 feet will be landscaped.

**Mr. Sharp** asked if it is correct that there is no current flood hazard and in fact this project would create one then remediate it.

**Mr. Miller** responded that he used wrong terminology and clarified that what he means to say is that the property's ability to hold water would be consistent with its predevelopment capability.

**Mr. Salmon** stated there is an existing floodplain today.

**Mr. Sharp** stated that the previous approval was for the building to be at the same level as South Church Street but the current plan is to raise the building up 2 feet for the floodplain mitigation. He asked how that changes things from a zoning perspective.

**Mr. Miller** replied that it does not change things from a zoning perspective because the height of the building is measured based on the surrounding topography.

**Mr. Sharp** asked if the grass and parking lot along South Church St. will also be raised.

**Mr. Salmon** responded they are raising the grade in relationship to South Church St.

**Mr. Petrongolo** asked Mr. Salmon to confirm that the grade along South Church St. will be raised.

**Mr. Salmon** responded that the grade is approximately 3-4 feet higher than South Church St.

**Mr. Petrongolo** stated that the grade of the landscaping is being raised commensurate with the height of the building.

**Mr. Kramer** asked what the emergency access area on the former plan will be on the current plan.

**Mr. Salmon** replied it will remain an emergency access.

**Chairman Gray** asked if it correct that the new emergency access drive and the flood control area are for the Allegro property only.

**Mr. Salmon** responded that is correct.

**Chairman Gray** asked how many trees will be removed for the access road.

**Mr. Salmon** responded that 29 trees will be removed.

**Mr. Petrongolo** reviewed his letter dated 4-25-2022. He asked if the applicant agrees to comply with the request and comments and if they will submit the missing submission items as a condition of approval.

**Mr. Hoff** agreed to both.

Mr. Petrongolo stated this is an amended use and he agrees with the SICA Test testimony. Mr. Petrongolo summarized the applicant's testimony and read purposes A, G and L from the MLUL. He stated that the changes are a result of the State requirement. Mr. Petrongolo stated that the original use variance is still viable the only question is the impact of the changes. He stated that the basin is not typical, the basin is more often a hole, this basin will be landscaped with appropriate plant material that are able to handle the conditions of the depressed area. Mr. Petrongolo asked what the percentage of frontage the 52 square foot sign will take up and noted the additional sign variances stating he has no objection to those. He recommended to the board that if it does grant an approval it be conditioned that the building match what was presented at this meeting. He asked if there will be construction or sales trailers onsite.

**Mr. Salmon** replied there will be a construction and a sales trailer and they are shown on the plans submitted.

**Mr. Hoff** stated that the applicant would like to amend the applicant for façade sign and propose a 32 square foot sign thereby complying with the ordinance.

He asked that submission item the #39, tree location 8" in diameter outside of limit of disturbance, be allowed to be submitted as a survey area due to the large scale of the site.

**Mr. Petrongolo** agreed to the allowance.

**Mr. Gray** referring to Exhibit B-1, stated that Mr. Miller's testimony in the prior hearing was that the nearest home to the proposed facility is over 800 feet, but now there will be disturbances within 50 feet of the properties in Birchfield.

**Mr. Petrongolo** responded that is correct.

Mr. Gray referring to Exhibit B-1, stated that Mr. Esposito's testimony was that there are 80 foot trees in the rear of the property. He asked if those trees are the ones that will be removed and replanted and be much smaller for 25 years.

**Mr. Petrongolo** responded yes. He would never recommend planting trees over 10 feet tall because the larger they are at installation means the survivability and growth rates are lower. If one were to install a 6 foot tree and a 10 foot tree, 10 years from now the 6 foot tree would be taller.

**Mr. Francescone** asked if the allowed storage and processing in the zone is related to one of the allowed uses.

**Mr. Petrongolo** responded that the storage and processing of farm products on the property where grown is allowed.

**Mr. Sharp** asked Mr. Petrongolo to explain, "Property is particularly suited"

**Mr. Petrongolo** replied that the board decided previously that the property is particularly suited for the use. This property has unique environmental conditions onsite the question is does this applicant have the ability to develop the site, alleviate and offset the environmental conditions and build what they are proposing. He stated that he believes the property could support 13 homes with the environmental condition. The problem is that that is not profitable and no one can clean up the site and put in 13 homes. This applicant has the ability to make the improvements and clean up the site.

**Mr. Sharp** stated let's say someone wanted to build affordable housing and is able to screen it from South Church St., Birchfield and Cobblestone Drive. Wouldn't that be a better use.

**Mr. Petrongolo** responded he wouldn't say better, it would be a use. Affordable's are very limited in profitability so 100% affordability is usually a situation where the Township is contributing to that. He explained that inclusionary projects require the affordable's to be 1/5<sup>th</sup> of the units. It would be an option but they would also need variance relieve because this is a single-family zone the criteria would be the same. He compared the impacts of the Allegro proposal to the affordable housing scenario including impacts of school children and offsite impacts.

**Mr. Sharp** stated that his concern is the visual impact on South Church Street.

**Mr. Petrongolo** stated that one of the reasons the building is close to S. Church Street is the wetlands.

**Mr. Sharp** asked doesn't that go to the suitability of the property.

**Mr. Petrongolo** said it goes to the constraints of the land itself which is one of the reasons to grant a typical variance. Any project here short of single family residential would need a buffer variance along South Church Street.

**Mrs. Andersen** asked if the property being particularly suited is part of the enhanced standard.

**Mr. Petrongolo** responded yes but it is also part of the 4 prongs of the proofs.

**Mr. Francescone** stated that in his years of experience there is no way affordable housing could be viable on this property.

**Mr. Petrongolo** agreed

**Mr. Angelastro** reviewed his report dated 4-25-2022. Mr. Angelastro testified that he has worked very closely with the applicant's engineers to ensure the project is in compliance with the new stormwater regulations and ordinance. There is one area that will need additional testing and the applicant has agreed to perform that test. He asked the applicants attorney to confirm that they have received the 4-25-22 letter and agree to comply with all the comments.

**Mr. Hoff** replied that they have and they do.

Mr. Angelastro asked for the status of easements or rights of access on the additional parcel, Lot 50.

**Mr. Hoff** responded that they have Consent of Owner to file the application and can provide the easement as a condition of approval.

**Mr. McVey** reviewed his report dated 2-22-2022. He stated that since his report he has had the opportunity to work with the applicant's engineer. Based on the updated plans and testimony, the applicant has satisfied or agreed to satisfy all of his comments. He noted that the project has 3 emergency accesses, ample water supply, the building will be sprinklered and the applicant has submitted a plan showing fire apparatus can move around the site unhindered.

Chairman Gray poled the board at 9:55 as to whether they would like to continue.

The board decided to continue for 1 hour.

Chairman Gray opened the meeting to the public for questions or comments.

**Katherin Kaplan**, Usinia Court, stated that her property backs to Pennsauken Creek and asked if this plan would make it more likely for the creek to flood. She additionally asked if the lights will be on at night, how bright and will the lights go into window.

**Susan Moore**, 10 Elmwood Rd. asked will the trees that are natural to the area be replaced with ornamental or native trees.

**Mr. Petrongolo** replied the trees will be native species and will be shown on the plan. Ms. Moore stated her concern that the benefit of the trees will not be seen for 20 years. She asked if the landscaping will create more runoff and what staffing guidelines are required for 2 more units in response to COVID. She stated her concern for the local wildlife.

**Mike Falciani**, 16 Snowball Ct. stated that his property is 400 feet from the Allegro property and is on the board of trustees for Birchfield. He stated his concern with the Net Fill Area and stated that this plan contradicts what Allegro told their community in December 2020 and that this plan means they will clearly see the building. He stated he does not think it is fair to hold meetings via Zoom. He stated he is concerned about the current dead tree issue in Birchfield. He does not believe the project will not have a negative impact. He stated that the greatest area of impact is about 600 feet from the proposed project. There is a natural depression that filled with water and killed trees, he is concerned that the project will also fill with water and kill trees.

**Rebecca Guatieriez**, Cobblestone Drive. Stated her concern for wildlife in the area and the impact of the removal of mature trees. She moved into the area because of the mature trees and wildlife. She stated that there is significant tree die off and every storm more limbs fall.

**Rick Sibley**, 334 St. Clair Court stated he is concerned about how the water will feed into the underground storage, removal of the large trees and if the emergency access road will further degrade the buffer.

**Martin Levin**, 14 Birchfield Drive stated that he has questions regarding 1.) energy use including solar panels 2.) Why the Environmental Committee did not review the project

**Mr. Gray** stated that the project predates the Environmental Committee. 3.) was there analysis done on wildlife impacts 4.) Flooding on adjacent property 5.) Allegro in Harrington Park is tax assessed only 1% of the land and building and wants to know why.

**Carole Sibley** 334 St. Clair Court asked if there is a plan for rehoming the wildlife.

**Judith Burr**, 29 East Blue Bell Lane, asked what the disposition plan for the excavated soil is.

**Martin Levin**, previously sworn, asked if there is an amelioration plan for the pesticides and other materials onsite.

**Kristen Andersen**, 28 West Daisy Lane, stated that she is not happy about the trees being removed and is concerned with the pesticides to maintain the new landscaping and light pollution.

**Alison Keating**, 7 snowball Court, stated that she wants to make sure the board will but the memorialization of the resolution on the agenda because she said that it was not on the agenda in October of 2020.

Chairman Gray, seeing no one else from the public wishing to speak, closed the public portion.

Mr. Hoff responded to the public comments

**Mr. Salmon** testified that there is no risk of the mitigation area causing additional flooding in the area.

Mr. Salmon stated that the site lighting is fairly low at an average of about 16 feet and will work with Allegro and the Township to ensure the timing of the lighting is appropriate.

**Mr. Petrongolo** confirmed that the applicant will be using “dark sky compliant” lighting meaning that all lights will be pointed downward and the light source itself is within the housing.

Mr. Salmon confirmed that they will use “dark sky compliant” lighting. He stated that the lighting plan shows the photo metrics go to 0 pretty close to the property line.

**Mr. Angelastro** confirmed hardly any lighting spilling beyond the parking area.

**Mr. Salmon** testified, in reference to the question of pesticides and runoff due to proposed landscaping, that an Environmental Impact Study is required for application to the DEP including flora and fauna. All measurements implemented during construction are indicated in the EIS report and must be shown to meet certain standards.

**Mr. Francescone** asked if the intention is to will go above and beyond the requirements and use “green” ways of maintaining land naturally.

**Mr. Petrongolo** responded that one of the benefits of using native species is the reduction of the need for fertilizers and pesticides.

**Mr. Hoff** reiterated that the applicant does not want to remove the trees, it is required for floodplain mitigation and any development on the site will impact the floodplain. The site is approximately 25 acres and the mitigation area proposed is approximately 2 ½ acres. The wetlands and wetland buffers are not proposed to be disturbed. In response to a question about tree survivability, Mr. Hoff reiterated that the applicant will have to identify species that will be tolerant in the area and upon maturity will be able to handle the 100 year storm. There is no wildlife mitigation plan however, large portions of the site will remain undisturbed.

**Mr. Salmon** testified that when the runoff from the site will go into an underground system that will reduce the flow into the system to match the current condition. Additionally, the parking stalls will be pervious pavement. Runoff management has been accounted for in the design of the site.

**Mr. Salmon** testified that 29 trees would be cleared for the emergency access and will have an emergency gate on the Birchfield side of the access.

**Mr. Salmon** stated that 20+ Electric Vehicle Charging stations will be provided and no solar is proposed.

**Mr. Hoff** stated that this property will pay taxes normally with no special considerations.

**Mr. Salmon** testified that the removed soil will be used onsite, no soil will be exported.

**Mr. Hoff** responded to a question about remediation of the site by stating per the testimony in the prior hearing and tonight, there is environmental cleanup associated with this site. They have retained the services as a Licensed Site Remediation Professional who works on behalf of the DEP. A remedial action plan will be prepared per DEP cleanup requirement.

**Mr. Sharp** asked if there will be an increased risk of wind damage due to the removal of trees.

**Mr. Hosbach** responded that there will be an assessment completed and the issue will be managed accordingly.

**Mr. Petrongolo** reiterated that an arborist has been brought in for the project. The clearing to take place will be at least 50 feet from a property line.

Mr. Hoff closed by summarizing the requested variances and approvals being requested.

**Mr. Petrongolo** stated that conditions of approval should include coordination with the professionals regarding preservation of existing vegetation and reforestation

**Mr. Kramer** asked Mr. Salmon to show the part of the property they are not permitted to touch.

**Mr. Salmon** shared Exhibit A-3 and showed the area.

Mr. Kramer asked if the building is in the only place it can be.

**Mr. Salmon** responded that it is.

**Mr. Campbell** asked Mr. Hoff to confirm that the conditions of the fence installation around the contaminated area and the number of employees agreed to in the previous approval will carry forward and remain in effect.

**Mr. Hoff** agreed the conditions would carry forward.

Chairman Gray asked for a motion for the amended use variance.

Mr. Francescone moved that the amended use variance be approved, Mr. Blum seconded. Roll Call vote. Affirmative votes by Mr. Francescone, Mr. Blum, Mr. Holmes and Mrs. Andersen. Negative votes by Mr. Kramer citing concerns regarding the access drive, tree removal and the environment, Vice Chairman Sharp citing substantial change to the original approval and Chairman Gray citing he does not believe the negative criteria has been proven.

The motion was denied.

**Adjournment:**

Vice Chairman Sharp made a motion to adjourn. Mrs. Andersen seconded the motion. All present voted affirmatively. Meeting adjourned.

Adopted on: June 1, 2022

*Suzanna O'Hagan*

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Suzanna O'Hagan, Secretary  
Zoning Board of Adjustment