

**TOWNSHIP OF BORDENTOWN  
ZONING BOARD MEETING**

**July 28, 2016**

The Bordentown Township Zoning Board Meeting was called to order at approximately 7:30 PM in the main meeting room of the Municipal Building on Municipal Drive.

**PRESENT:** Michael Carney, Chairman  
David Caldwell  
Rick Simpson, Vice-Chairman  
Mark McTamney  
Danielle Esser  
Erica Bowyer  
Linda Schiano, Alt. #1  
Brian J. Carlin, Attorney, Law Office of Brian J. Carlin  
Brian Boccanfuso, Engineer, CME Associates  
Megan Stanley, Planner, Landscape Arch., CME Associates  
Brian K. Johnson, Secretary, Dir. of Community Development  
Pamela Keintz, Recording Secretary

**ABSENT:** Amadeo Dela Cruz

The meeting was opened by Chairman Carney. The Board and public participated in the salute to the flag. The open public meetings announcement was read by the Chairman. Roll call was taken by the Recording Secretary, Pamela Keintz.

Mr. McTamney entered the meeting at 7:36.

Mr. Dela Cruz was excused from this meeting.

The Oath of Office was simultaneously administered by Attorney Brian Carlin to Danielle Esser, Erica Bowyer and Linda Schiano.

Zoning Board Professionals Brian Boccanfuso, Engineer and Megan Stanley, Planner/Landscape Architect were sworn in by Zoning Board Attorney Brian Carlin.

**MINUTES:**

The minutes from the meeting dated January 28, 2016 were discussed. Mr. Caldwell made a motion to approve the minutes; seconded by Vice-Chairman Simpson.

Roll call: AYE: Schiano, Bowyer, McTamney, Caldwell, Simpson, Carney  
NAY: None  
ABSENT: Dela Cruz  
ABSTAIN: Esser  
NOT VOTING: None

**RESOLUTION(S):** Appointing Zoning Board Professionals  
Z-2016-03 ó Appointing a Professional Engineer  
Z-2016-04 ó Appointing a Professional Planner  
Z-2016-05 ó Appointing a Professional Traffic Engineer  
Z-2016-06 ó Appointing a Professional Attorney

A motion to approve the Resolutions appointing the Zoning Board Professionals was made by Vice-Chairman Simpson; seconded by Chairman Carney.

Roll call: AYE: Schiano, Bowyer, Esser, McTamney, Caldwell, Simpson, Carney  
 NAY: None  
 ABSENT: Dela Cruz  
 ABSTAIN: None  
 NOT VOTING: None

**NEW BUSINESS:**

<p><b>ZB-2016-0001</b>                   Received 1-6-16                   Noticing: Complete                   Escrow Fees: PAID                   Taxes: PAID</p>	<p><u><b>MEET 12, LLC</b></u>                   Applicant is requesting a Use Variance approval with a waiver of Site Plan approval   <u><b>REPORTS BY BOARD PROFESSIONALS:</b></u>                  Paul Kittner, Jr., Engineer: 2-11-2016                  Megan Stanley, Planner: 2-11-2016   <u><b>APPLICANT SUBMISSIONS:</b></u>  <ul style="list-style-type: none"> <li>• Application packet/plan</li> </ul> </p>	<p>Block 129                  Lot 17.02                   1077 Rte. 206 North   <b>Zoned: CC</b>                   Community Commercial</p>
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Present representing the applicant were:

Jonas Singer, Esquire  
 Sunpreet Singh, applicant Meet 12, LLC  
 David Hodulik, Planner/Engineer

Representatives for the applicant were sworn in by Zoning Board attorney Brian Carlin.

All submission items have been provided regarding the application.

Chairman Carney made a motion to deem the application complete; seconded by Mr. McTamney.

Roll call: AYE: Schiano, Bowyer, Esser, McTamney, Caldwell, Simpson, Carney  
 NAY: None  
 ABSENT: Dela Cruz  
 ABSTAIN: None  
 NOT VOTING: None

Mr. Singh gave his testimony on the application. He became a tenant in 2015, renting the service station, and they made improvements on the site. He spoke about these improvements to the Board members, including concrete improvements and cleaning up of the junk cars on the property, which are from the garage being rented by another tenant.

Mr. Singh continued his testimony regarding the canopy and how this is an update to the site and will protect his customers from inclement weather. The gas station is a permitted conditional use.

Submission of the proposed canopy and proposed lighting were received by the Board members.

Installation of a separate diesel fuel island is also being requested by the applicant.

Chairman Carney called for a 2 minute recess.

The meeting was called back in session.

Attorney Singer reviewed the application. The reason they are in front of the Zoning Board is for pre-existing conditions. The proposed canopy and proposed diesel island does not call for additional conditions.

The landlord of the property has given his approval of the application.

The tanks that are in place are under DEP standards. No underground tanks will be changed. The tanks are monitored by the DEP yearly.

The hours of operation for the service station are 5 a.m. to 10 p.m. He has three full-time employees and one part-time employee. The fuel delivery is between midnight and 6 a.m.

Mr. Carney questioned the applicant regarding tires being stored outside of the garage. Mr. Singer stated the applicant is not in control of the garage. The garage is a separate tenant from the service station. However; the condition of the site is the applicant's responsibility. Mr. Singh monitors the site and informs the owner of the property if the site gets out of control with cars, trash, tires etc.

Mr. Caldwell asked about the new diesel dispenser. It is a high quality and quick flowing dispenser. The current diesel pump and the new diesel pump will be from the same tank.

Testimony was given by David Hodulik, Planner/Engineer for the applicant.

Mr. Hodulik stated the canopy and the location of the new pump are not creating any new variances.

The impervious coverage is greater than 75 % which is the maximum permitted within the zone.

The dumpster area was discussed and the applicant agrees to build a trash enclosure and also provide some landscape within the grass area. Trash dumpster enclosure will be located in the rear of site near Dunns Mill Road.

Mr. Hodulik testified that the new diesel pump fueling location will be located closest to the highway. This will not impact the back portion of the property. There will be sufficient parking in the rear lot.

Mr. Boccanfuso asked about the new diesel pumps gas hose. He asked if the hose was long enough to reach a gas tank on the opposite side of a truck. The applicant stated it was sufficient. The way the pump is constructed is there is just one location on the side of the pump facing the highway. The nozzle is actually on the inside of the pump.

Mr. Hodulik also gave testimony regarding the parking spaces on the property. He stated there are more than adequate parking spaces on the property.

Mr. Singer asked Mr. Hodulik to testify about the positive criteria for the conditional use variance and Mr. Hodulik stated conditions permitting a use variance establish reasons or proof do not have to be stringent as a normal straight use variance. Mr. Singer also stated positive criteria can be satisfied if the site can accommodate the problems associated with the use even though proposal doesn't comply with all the conditions imposed by the ordinance. He continued that because the site can accommodate the use even though the conditions imposed by the ordinance are not met, and the site conditions are all pre-existing, the applicant is not adding anything to it.

Mr. Hodulik stated almost all conditions are pre-existing. The applicant asked for relief in respect to the diesel dispenser which will provide a site that is more attractive and safer due to the segregation of the different types of vehicles from each other. Mr. Hodulik stated these are special reasons that under the MLUL, 40:55D-2a ó To encourage municipal action to guide the appropriate use or development of all lands in this state, in a manner which will promote the public safety, and 40:55D-2i, to promote a desirable visual environment through creative development techniques and good civic design and arrangement. These reasons can be used to guide the Board members to grant the relief that was requested.

Mr. Hodulik stated in his opinion because of surrounding uses there are no detrimental issues with respect to the positive criteria. Mr. Singer asked Mr. Hodulik with respect to the negative criteria, can the variance be granted without substantial detriment to the public good, and he answered yes.

Mr. Singer stated this is an existing station and no new variances are created other than the construction of the island.

Mr. Hodulik stated there is no negative impact on the surrounding properties. He also stated this use is allowed within the zone and the benefits of the deviation of the ordinance substantially outweigh any detriments.

Chairman Carney asked Mr. Singer if the applicant would be making changes to the pre-existing conditions in exchange for waiving of the site plan. Mr. Singer stated they are always considering reasonable changes.

Ms. Stanley, planner for the Zoning Board, referred to their review letter and its conditions with the applicant. She asked if the applicant will or will not be able to comply.

Mr. Singer reviewed for the record the professionals review letter in depth.

Ms. Esser asked where the existing diesel was located. Mr. Hodulik told her it was on the inside of the pump locations. The existing diesel pump will be used for cars and pickup trucks. This pump has two nozzles.

The new diesel pump island will be marked "Trucks only".

The applicant is asking for a variance for the amount of diesel nozzles at the gas station.

Mr. Boccanfuso asked Mr. Hodulik if there were any issues with drainage on the property. Mr. Hodulik answered no there are not.

Mr. Carney spoke about the wood fence around the dumpster area, he is asking for a masonry enclosure with a gate. The applicant will comply with the Board's request.

The Zoning Board professionals and the applicant's planner will decide on the appropriate landscape design for this site. The plan that will be proposed will be for the enhancement along the frontage of the property.

The Zoning Board members were in agreement not to have the applicant tear up the pavement for more landscaping. They are satisfied with all the improvements the applicant is making and will continue to make regarding the property that he rents.

Brian Johnson discussed with the board that the applicant will need to obtain a construction permit for the canopy and the diesel isle. He recommended that the landscaping and the trash enclosure be completed before obtaining the permits. The applicant agreed to this as a condition of approval.

Brian Johnson also expressed that the applicant will need to provide additional escrow money.

Motion to approve the conditional use variance application with conditions was made by Chairman Carney; seconded by Ms. Esser.

Roll call:        AYE: Schiano, Bowyer, Esser, McTamney, Caldwell, Simpson, Carney  
                     NAY: None  
                     ABSENT: Dela Cruz  
                     ABSTAIN: None  
                     NOT VOTING: None

Motion carried.

Motion to approve application for waiver of site plan with conditions was made by Chairman Carney; seconded by Mrs. Schiano.

Roll call:        AYE: Schiano, Bowyer, Esser, McTamney, Caldwell, Simpson, Carney  
                     NAY: None  
                     ABSENT: Dela Cruz  
                     ABSTAIN: None  
                     NOT VOTING: None

Motion carried.

Meeting was opened to the public for public comment. No one was there from the public. Meeting was closed to the public.

Items for discussion:

A tabulation of the variances that the Zoning Board granted in 2015 was discussed. No revisions were needed. The Zoning Board members were in agreement. Brian Johnson will inform the Planning Board and the Township Committee of this discussion.

Meeting was opened to the public for public comment. No one was there from the public. Meeting was closed to the public.

Motion to adjourn was made by Chairman Carney; seconded by Mr. Caldwell.

Roll call:        AYE: Schiano, Bowyer, Esser, McTamney, Caldwell, Simpson, Carney  
                     NAY: None  
                     ABSENT: Dela Cruz  
                     ABSTAIN: None  
                     NOT VOTING: None

Meeting ended at 9:45

Zoning Board Meeting Minutes

July 28, 2016

PAGE 6