

The meeting was opened by Vice-Chairman Battista at 7:30 p.m.

Vice-Chairman Battista read a statement of compliance with the *New Jersey Open Public Meetings Law* as follows:

This is a regular meeting of the Zoning Board of Adjustment of the Borough of Tinton Falls and is being held in compliance with the New Jersey Open Public Meetings Law. Adequate notice of this meeting has been given by posting on the bulletin board of the Municipal Building and by publishing in the The Coaster and the Asbury Park Press.

Vice-Chairman Battista then led the meeting in a salute to the flag.

Ms. Connolly took roll call.

Present Vice-Chairman Battista, Mr. Lomangino, Mr. Porzio, Mr. McKinley, Ms Hatami, Ms. Berk, Mr. Kuzmin

Absent: Chairman Palmieri, Mr. Slazyk

Also present: Mark Aikins, Esq. for Mr. Hirsch
Mr. Neff, Board Engineer
Ms. Helen Zincavage
Ms. Connolly, Board Secretary

Vice-Chairman Battista read a statement of procedural guidelines.

Mr. Aikins swears in new member William Kuzmin as 2nd alternate and Sheila Hatami as full member.

Minutes

Vice-Chairman Battista states that the minutes from October 4, 2018 have been previously distributed via email for the Board to review.

Motion is made by Ms. Hatami and seconded by Mr. McKinley. All in favor by those eligible to vote.

Resolution

Vice-Chairman Battista states that the resolution regarding BA 2018-02 7th Day, LLC, Wardell Road and Rte. 33 for use variance and amended site plan has been reviewed by the board members.

Mr. McKinley makes a motion to memorialize this resolution and it is seconded by Mr. Porzio. Mr. Lomangino is not eligible to vote.

Ayes: Mr. McKinley, Mr. Battista, Mr. Porzio, Ms. Hatami, Ms. Berk,
Nays: None
Absent: Mr. Palmieri, Mr. Slazyk
Ineligible: Mr. Lomangino, Mr. Kuzmin

Continuing Business

BA 2018-11 Junior Athletes, Inc., Blk 126.02 Lot 1.01; 101 Tornillo Way

Jennifer Krimko states that she continues to represent the applicant in this matter. She also confirms that the board members that were not present for any of the prior meetings have listened to the CD's and executed affidavits to that end. It is confirmed by Mr. Akins that Mr. Lomangino, Mr. Porzio, Mr. Kuzmin have executed affidavits to that effect.

Ms. Krimko states that at the last meeting, the prior resolutions from Ocean Twp. were asked for and provided.

Since the last meeting, Mr. Boesch met at the site with Jen Beahm, Planner as well as Tom Neff, Engineer to walk the site and look at the existing landscaping.

Ms. Krimko calls Mr. David Boesch, who has been previously sworn in to discuss the site visit. Mr. Boesch states that the Borough Professionals and he spoke about the quality of the vegetation along the southwestern property line and how new and existing landscaping would co-exist.

The buffer and location of the buffer are further discussed along with setbacks.

Ms. Krimko further discusses that this use is not a permitted use anywhere in the Borough so there is no ordinance that requires a buffer. That ordinance that requires a buffer is for child day care. This is not child daycare. The area in which the area for use by the young children is 150 feet away not 20 feet. It is not an ordinance requirement. Mr. Neff agrees that it is not an ordinance requirement, it is not technically a child care center but it does operate very similar to one in his opinion. There are young children here, as young as three (3) years old.

Further discussion

Mr. Boesch discussed the lighting plan. Mr. Neff states that two design waivers would be needed as proposed due to the height of the poles – 18 ft. is permitted and 20 ft poles on a 2 ft. base – 22 ft. mounting height is proposed. The second waiver is minor maximum foot candles proposed is 5.56 whereas 4 is permitted.

Ms. Krimko confirms that the property line we are discussing with regard to the 20 ft buffer is the southern property line up against lot 1.02. Mr. Neff confirms. Ms. Krimko states that should the Board decide to vote favorably this evening, we would agree to the 20 ft. buffer for that location. Ms. Krimko states that she hopes the Board professionals would be generous with regard to how full it has to be buffered. Mr. Neff states that he would like to see something on the plan before anything is signed.

Vice-Chairman Battista asks if there are any additional questions or comments for Mr. Boesch. Vice-Chairman Battista asks if there are any public in attendance that have any questions or comments of Mr. Boesch, seeing none.

Ms. Krimko states that she has the architect here should there be any questions that need to be addressed by the architect.

Ms. Krimko states that her next expert is John Rea, professional engineer with McDonough & Rea Assoc., 1431 Lakewood Road, Manasquan, NJ. The Board accepts Mr. Rea's credentials. Mr. Rea has submitted an initial report dated August 2, 2018 and a supplemental report was dated September 20, 2018. He testifies that from 8:30 a.m. until 9:00 a.m. there will be nine (9) full-size school busses and two (2) 16 passenger mini-busses. The program starts at 9:00 a.m. All of the children attending the program are offered bus transportation. There are few parents dropping off the campers. Mr. Rea continues to review the highlights of his reports for the Board.

Ms. Krimko reviews that there are multiple conditions that can be agreed upon in conjunction with the use variance. Mr. Neff states that while that is true, it comes down to the Borough enforcing the conditions agree upon.

Ms. Krimko states that the Resolution could be recorded with the Deed so that if the property were to be sold, and there is a new owner, the purchaser would be aware of the conditions that are attached to the property.

It is stated by Mr. Rea that the busses needed for the transportation of the campers for day trips do not stay at the site.

Mr. Porzio reviews that there are multiple times throughout the day that busses will be entering and leaving the site.

Mr. Rea discusses his traffic count findings during the peak hours of 8:00 a.m. – 9:00 a.m. and 3:30 p.m. – 4:30 p.m. and his projections of future traffic along with levels of service.

Mr. Rea discusses that it is his belief that the 63 available parking spaces are enough to handle the needs of the facility.

The stacking of the busses is discussed. Mr. Neff asks if there is any possibility of busses backing up onto Tornillo way. There are nine busses proposed and eight busses can be stacked before there is any interference with the entrance on Tornillo way. Mr. Neff states that there is a lot going on in a small parking lot is further discussed

Mr. Kuzmin asks questions pertaining to the counts in Mr. Rea's report and questions that the counts would be higher when school is in session due to traffic on the roadway. Mr. Rea states that it is approximately 5% more during the morning peak hour and a little less during the afternoon peak hour.

Traffic impact is discussed pertaining to this and other uses.

Further discussion regarding the amount of parking spaces that are required and how this specific use was not anticipated.

Bussing is further discussed between Board members and the professionals and it is reviewed that enforcement of 85% participation in the bussing program, as previously stated, is not enforceable.

Parking is further discussed and spaces that are needed. Possible events at the camp are discussed where parents may be in attendance and the possible parking needs of same.

After-care is discussed, wherein approximately 100 campers stay until 6:00 p.m. There are not varying times for after-care. These campers stay until 6:00 p.m. The majority of these children will be bussed home with minimal parental pick-up.

The Gindi Games are discussed and that parents are not in attendance as per Mr. Gindi.

Vice-Chairman Battista asks if there are any further questions for the traffic engineer or Mr. Gindi.

Mr. Neff states that he still has concerns about the bus queuing and stacking and explains why with regard to the campers. Mr. Gindi responds to Mr. Neff's concerns.

Ms. Krimko states that she feels that this is the first application she has handled before this Board where she feels she is fighting against and arguing with the Board professionals. Further discussion ensues. Mr. Akins states that he does not sense a combativeness this evening. If Ms. Krimko would like it to be more formal, we could do that. There is further discussion regarding questions and comments by the Board professionals.

Mr. Neff asks for Mr. Rea's opinion regarding the parking variance for the remaining manufacturing facility. Mr. Rea gives his opinion.

Water quality management standards are discussed.

Ms. Hatami feels she is not hearing clear testimony on exactly what is required with regard to the parking. She states she has concerns about banking parking spaces and that there will be enough parking when needed. Ms. Krimko states that there is no variance requested pertaining to camp use. We are presenting our testimony that the 63 spaces is sufficient and will always be sufficient. By converting the existing parking lot into the camp parking lot we are taking parking away from the existing industrial use. For the remaining square footage of industrial use, we are short on parking. We are saying that if, in the future, there is another industrial user going into that space and it needs more parking, those spaces can be banked. There is further discussion.

Ms. Zincavage asks for further clarification as to where exactly the campers will be dropped off and the bus drop off procedure.

Off the record break from 8:47 p.m. until 9:01 p.m.

Ms. Krimko brings her last witness, Andrew Janiw, Beacon Planning, 315 Hwy. 34, Colts Neck, NJ, professional planner to testify. Mr. Janiw's credentials are accepted by the Board and he is sworn in by Mr. Akins. A-6 is an aerial from Google Earth prepared by Beacon Planning and A-7 is a packet consisting of 9 sheets produced by Mr. Janiw are entered into evidence.

Mr. Janiw states that many times town ordinances do not consider day/summer camps as a defined use. We are proposing two uses on the site as well as within the building. Mr. Janiw speaks as to the suitability of having two uses on the site as well as the interaction of the two uses on the site. Mr. Janiw reviews what is being proposed on the site being a summer day camp with 33,999 sq. ft. space with 22,799 will be first floor space and 11,200 sq. ft. mezzanine that will co-exist on the site with 70,500 sq. ft. commercial industrial facility known as East Coast Power System. The interior space will be configured to provide basketball courts, cafeteria, classrooms, baking room, locker rooms an all-purpose room with an adjoining kitchen, restrooms, offices, nurse's office, classrooms, indoor playground, music room, karate room, art room, gymnastics room, dance room. Mr. Janiw states that this is a hybrid type of use and is consistent with what this IOP zone permits within Tinton Falls. They would also be utilizing the outside area for the campers. Mr. Janiw states that day/summer camps are not defined. Mr. Janiw states what is defined and how he believes these two uses are compatible and creates a safe operation climate on this site.

Mr. Janiw describes the aerial marked into evidence known as A-6 and describes the uses that exist in the area and nearby of the proposed application and how he believes this application would fit into this area by reviewing the master plan of the Borough. He also states that this building is underutilized and this application for a seasonal camp would repurpose this space. He further discusses the benefits of this application and why this is a good space for this use.

Mr. Janiew discusses at length the A-7 handout reviewing what he deems to be similar scenarios to this application.

Ms. Zincavage asks about the operation of these facilities relating to the number of patrons at one time, busing, indoor vs. outdoor fields and facilities regarding these examples in the A-7 packet. Mr. Janiew states that he doesn't have that information with him. Ms. Krimko states that Camp Allsport is a similar operation and discusses same.

Ms. Krimko and Mr. Janiew discuss the traffic impact of this use in relation to uses that are permitted.

Mr. Kuzmin discusses one of the sports facilities contained in the A-7 packet is located off of Roller Rd/Deal Avenue and reviews this location and that Deal Avenue dead-ends at this location. The size of the similar facilities contained in A-7 is discussed in relation to this application.

Ms. Zincavage discusses the term "inherently beneficial" as it relates to child care.

Mr. Janiew states that schools are permitted. Mr. Neff states that schools would still have to have certain requirements, saying this is similar to a child care facility, there are three requirements that are required for site plan approval for child care centers. This site does not meet any of those requirements.

Mr. Janiew reviews the resolution regarding Capelli Sports that went before the Planning Board and reads parts of it into the record.

Mr. Janiew reviews certain MLUL sections that he believes pertain to this application.

Mr. Janiew reviews the D1 variance requested. He discusses in detail why this use is particularly suited to this space.

Mr. Janiew reviews that there are multiple variances requested and there is discussion regarding the variances.

Mr. Janiew sums up his testimony with a short review of all of the variances.

Ms. Zincavage asks Mr. Janiew if he is familiar with the portion of the Borough's ordinance that does discuss when multiple uses can be sited on one lot. Both Planners discuss what the three circumstances cited in the ordinance are. There is further discussion regarding different uses operating together.

Ms. Hatami asks why this day camp and the light industrial use are particularly suited together. Mr. Janiew states that it is the property that is well-suited and the unique characteristics of the vacant space in this building and the ability to repurpose that vacant space. There is further discussion confirming that there will be no interaction between the two uses.

Mr. Kuzmin asks if there were other sites that were looked at by the applicant in different zones and towns. Mr. Gindi stated that multiple sites were looked at.

Truck traffic in this area is discussed.

Ms. Krimko discusses the two uses further and states that if there was any detriment because of the second use variance, it does not rise to the level of substantial because of the unique ability to separate the uses so distinctly.

The Capelli site located on Wayside Road is brought up by the applicant's Planner. Mr. Neff states that he had done the initial review on that site. He states that the reason it was determined a permitted use is because the principal use is the building that will be built is an indoor gymnasium. There is further discussion concerning the similarities and differences of the Capelli site and this site among all concerned.

Mr. Neff states that the principal use on the Capelli site is permitted versus the day camp that is not permitted and the Capelli site is open to the town schools and clubs and it could be considered more beneficial. Mr. Neff asks if Junior Athletes is open to different clubs. Ms. Krimko states that during the technical review conference, Junior Athletes was told to not do that and to only go for the camp. If the site gets rented out during the year, it will be turned into something different than a day camp. Junior Athletes, LLC was told to go for the camp first and, if it is successful, to come back before the Board to expand to allow for these uses. Mr. Neff states that this Tornillo site cannot handle those uses like Capelli can.

Ms. Krimko states that ideally, Junior Athletes would like to use the site as a day camp in the summer and in the winter time use it as an athletic training site but because it raised so many other issues based upon the limitation of this site, according to the Board's professionals, we agreed to just go for the summer camp, which is the most important to the applicant.

Further discussion continues about both sites being beneficial.

Ms. Krimko's client, Mr. Gindi gives a closing statement to the Board. Ms. Hatami asks Mr. Gindi after his closing what drew him to this site and how lengthy was his search. Mr. Gindi states his reasoning for choosing the site. Mr. Gindi states that he looked at a few other sites, but they had problems associated with them that he did not feel he could overcome.

Ms. Krimko gives a detailed closing statement reviewing the application and representations that have been made by her client in response to the Board's professionals' recommendations.

Vice-Chairman Battista asks if there are any further questions or statements from the public or board members; none heard.

Discussion commences upon Board members. Mr. Porzio states that he is not 100% convinced that this camp is the right fit for this spot. He states that there is a lot going on for this one space. Also, there would be quite a few conditions that would be put into place and it would seem that it would be a burden for the town to have to be monitoring this site. Ms. Hatami states that she has concerns regarding the parking and the traffic. Ms. Hatami also understands that this specific area is changing, as far as different uses in an IOP zone. Mr. Battista states that this property falls across from the MOESC school and it seems to be in an area of the town that is changing. Ms. Berk states that she is struggling with this application on this site. She has been to the site twice and does not think there is enough room for what has been proposed and the site is located on a bad corner. Mr. Kuzmin states that he doesn't see traffic as an issue and the building would be a suitable use, the difficulty, as he sees it, is the size of the outdoor area. Mr. Kuzmin states that Capelli has tremendous space for their fields. He feels there is not enough space for this camp. Mr. McKinley states that he likes the location a lot. It is a right off of Shafto Road which is easy bus access from Shafto. He is not concerned about the traffic during peak hours. Mr. Battista states that he is concerned about the outdoor area, He believes Mr. Gindi has a decent understanding of what the campers would need, so maybe it is enough for the day camp. Mr. Kuzmin asks how many children would be outside at any given time. Mr. Giindi responds that he has the ability to keep everyone inside if he needs to and will not be over-crowding the outside space.

Ms. Hatami makes a motion to approve this application with all conditions and constraints that we have discussed to be operating as a day summer camp from Memorial Day to Labor Day. At least 85% of the camper population will utilize the busing program; the applicant will add a 20 ft. buffer along the south side of the property, the 6 ft. fencing will be all the way around the property and there is an area that it would be moved to a 10 ft. setback; a lighting plan would be submitted, subject to the review and approval of the Board's engineer and planner; a landscaping plan would be submitted subject to review and the applicant would agree to enhance that landscaping as needed, based upon site visit with the Board professionals; the maximum number of campers is 500 and an increase over that would require coming back to the Board. Seconded by Mr. McKinley.

Ayes: Ms. Hatami, Mr. McKinley, Mr. Battista, Mr. Kuzmin

Nays: Mr. Lomangino, Mr. Porzio, Ms. Berk,

Abstain: None

Absent: Chairman Palmieri, Mr. Slazyk

Mr. Akins states that the vote is 4-3, motion carries but the variance is not granted. Five affirmative votes are needed to grant a use variance.

Motion is made by Mr. Porzio and seconded by Mr. Lomangino to adjourn the meeting at 10:35 p.m. All in favor.

Motion to Close

Motion to close the meeting at 10:35 p.m. by Mr. McKinley and seconded by Ms. Berk .
All in favor.

Respectfully submitted,

Colleen Connolly
Zoning Board Secretary

Approved at Board of Adjustment
Meeting on December 6, 2018