

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

Vice-Chairman 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            Mr. Slazyk, Mr. Lomangino, Mr. Battista, Mr. McKinley, Ms. Hatami,  
                         Mr. Porzio, Mr. Brawner

Absent:            Chairman Palmieri, Ms. Berk

Also present:    Mr. Hirsch, Esq.  
                         Mr. Neff, Board Engineer  
                         John Barree, Board Planner  
                         Ms. Connolly, Board Secretary

Vice-Chairman read a statement of procedural guidelines.

### **Meeting Minutes**

Vice Chairman Battista states that the Meeting Minutes of November 3, 2016 have been previously distributed for review. Vice-Chairman Battista asks if there are any comments regarding same. There are none.

Motion is made by Mr. Brawner and seconded by Mr. McKinley to accept the meeting minutes of November 3, 2016. All in Favor by those eligible to vote.

### **Resolution(s)**

#### **BA-2015-22 7<sup>th</sup> Day, LLC, Rte. 33 and Wardell Road, Block 146 Lots 6.01 & 7**

Mr. Hirsch states that he has spoken to Peter Falvo, Esq., who represents the applicant, wherein the resolution was discussed. There were three hearing dates and Mr. Hirsch

states that he was able to attend one of the three. Mr. Hirsch states that he has read all of the transcripts in order to prepare the Resolution. In so doing, this lengthy Resolution has not been previously forwarded to the Board members for review. Mr. Hirsch states that he has recommended to Mr. Falvo that the Board review this resolution and if there are any changes, they be incorporated. This way the motion is can be adopted by title instead of being read into the minutes. Mr. Falvo is in agreement.

**Resolution Listing 2017 Meeting Dates.**

The next matter of business is the Resolution to approve the 2017 Meeting dates. With the exception of November, every month has two hearing dates listed. These dates are the first and third Thursday of the month.

Motion is made by Mr. Porzio and seconded by Ms. Hatami to approve the Resolution listing the 2017 meeting dates.

Roll Call:

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

**BA 2016-11 Wawa Store #996 Blk. 120.01 lot 1. Application for expansion of the current use and amended site plan approval - continuation**

Mr. Hirsch states that service has previously been accepted. Duncan Prime, Esq. represents the applicant and gives an opening statement pertaining to this application.

Mr. Prime also states that Wawa will prohibit the sale of diesel to tractor trailers from a site, safety and circulation standpoint. Their employees will be trained to turn away any tractor trailer that tries to do so. Mr. Prime further explains that the Wawa equipment will not pump the diesel fuel at a fast enough rate to fill up a tractor trailer in a satisfactory manner. For example, at your average truck stop, diesel fuel is pumped at the rate of approximately 80 gallons per minute and Wawa averages ten (10) gallons per minute. Mr. Prime also explains that their equipment is single nozzle rather than double nozzle and that Wawa does not take truck stop payments.

Mr. Prime calls his first witness, Ronald E. Klos, Jr., PE of Bohler Engineering, 1600 Manor Drive, Ste 200, Chalfont, Pa. Mr. Klos is sworn in by Mr. Hirsch and the Board accepts his credentials. Mr. Klos testifies as to the site improvements.

First, a 22,000 gallon underground storage tank for diesel is proposed and discussed. Secondly, the dispenser modification is discussed. Also, there will be a 3' x 5' concrete pad placed just behind the curb line which is a vent stack pad required for the diesel fuel.

The diesel fuel price is required to be identified on the sign. Therefore, the sign will be replaced to identify the regular price of the gasoline along with the diesel price.

Further discussion ensues between Board members and Mr. Klos regarding circulation of Wawa refueling trucks and the details of the new signage.

Also questions about the definition of a tractor trailer are discussed in detail as to what is permitted and what is not. Mr. Klos further discusses the Wawa policy pertaining to how the tractor trailers would be turned away. Also, Mr. Klos addresses as to why a sign stating that tractor trailers are banned from refueling is not beneficial. There are no Wawa locations in New Jersey that pump diesel for tractor trailers.

Mr. Hirsch addresses the variance for a lot coverage increase which is the 3 x 5 concrete pad for the vent stack.

Mr. Lomangino states that during Wawa's original application, he remembers discussion against having diesel at this location. He is concerned about garbage trucks or a prohibited truck trying to fuel up at this extremely busy location. Mr. Lomangino suggests limiting service to single axel trucks only.

Mr. Prime discusses the five year selling history of diesel fuel at Wawa and multiple questions are asked by the Board and Mr. Hirsch regarding the anticipated increase in trucks and the circulation patterns.

Mr. Hirsch focuses discussion on what could be the negative aspects of refueling the larger trucks at the site.

The considerable volume of the site is discussed, especially during peak hours.

Mr. Neff asks about the possibility of additional queuing as a result of trucks occupying the space of both of the pumps in the aisle while refueling.

The reasoning behind offering diesel at all of the pumps are discussed.

Mr. Prime discusses that Wawa has been adding diesel choices to their stations because of the projected diesel sales in the near future. Wawa's goal is to try and not lose their share of the automobile diesel market.

Vice-Chairman Battista asks if the public has any questions of Mr. Klos. Hearing none, the Board is asked if there are any further questions. None heard.

Mr. Prime calls his next expert, professional planner, Ms. Elizabeth Leheny of Phillips Preiss Grygiel, 33-41 Newark Street, Hoboken, NJ 07030. Ms. Leheny is sworn in by Mr. Hirsch and her credentials are accepted by the Board.

Ms. Leheny discusses the multiple variances requested, both negative and positive criteria.

Ms. Leheny discusses the signage proposed which does not increase the area used. The regular grade gas price and diesel price will be displayed.

Mr. Hirsch asks Ms. Leheny to elaborate on the facts supporting the premise that the diesel market for passenger cars is expanding dramatically.

Vice Chairman Battista asks if the public has any questions of Ms. Leheny. Hearing none, the Board is asked if there any further questions. Mr. Brawner has further questions about the dispenser.

Vice Chairman Battista make a motion to close the public portion, seconded by Mr. Porzio. All in favor.

Mr. Lomangino reiterates his belief that the diesel should be available to single axel vehicles only and that he would like a sign/notice stating same because of the extreme amount of large trucks, i.e., garbage trucks and dump trucks utilizing Shafto Rd.

Further discussion ensues between Board members regarding this application.

Mr. Prime makes closing statements.

Motion is made by Mr. Porzio and seconded by Mr. Brawner to approve the application BA 2016-11 of Wawa as discussed.

Roll Call:

Ayes: Mr. McKinley, Ms. Hatami, Mr. Slazyk, Ms. Hatami, Mr. Porzio  
Nays: Mr. Lomangino  
Absent: Chairman Palmieri, Ms. Berk

Vice-Chairman Battista states that there will be a ten (10) minute break before hearing the next application from 8:30 p.m. until 8:40 p.m.

**BA 2016-18 – The Barham Group, Blk. 17 lot 5, 4239 Hwy. 33**

Mr. Hirsch states that he has reviewed the Affidavit of Publication and Proof of Service and it is in order as to form.

Motion is made by Mr. Porzio and seconded by Mr. McKinley to accept service. All in favor.

Peter Falvo, Esq. represents the plaintiff and makes his opening statement. Mr. Falvo asks that A-1 be marked the Amended Preliminary Final Major Site Plan by Kennedy Consulting (6 sheets) and dated September 8, 2006; A-2 is marked the Architectural Plans prepared by Coastal Steel Structures consisting of eight (8) pages undated; A-3 is the site plan rendering of the Barham Storage building; A-4 is an aerial photo of the property and the surrounding uses; A-5 is the standard panel paint system color palette

Mr. Falvo calls his first witness, Mr. Andrew R. Comi of Kennedy Consulting Engineering located at 211 Maple Avenue, Red Bank, NJ and he is sworn in by Mr. Hirsch. His credentials are accepted by the Board.

Mr. Comi testifies as to what is proposed by the applicant on this site. Mr. Comi states that the proposed new building will be used for storage/warehouse use. The remainder, approximately 30% is to be used for fabrication. As of now, there is product outside of the building waiting for pick-up that are utilizing multiple parking places. The applicant's intention is to store the product inside of this structure instead of outside in the parking lot.

Mr. Comi describes all aspects of the proposed metal pre-fabricated structure as well as the color and the setbacks pertaining to this structure.

Mr. Comi and Mr. Falvo then discuss the relocation of parking places that will be consumed by the accessory structure as well as drainage pertaining to the new structure.

T&M's review letter is discussed point by point, including parking spaces and landscaping. It is reiterated that no outside overnight storage is permitted.

Discussion regarding sidewalk obligations are discussed. Mr. Neff indicates that a sidewalk contribution is called for if a sidewalk is not constructed.

Mr. Slazyk brings up the abundance of cars that are parking down the driveway and on the grass. Assurances need to be made by the applicant that this will not continue. Mr. Neff agrees that the parking situation is in violation and it looks like there are over 40 spaces that are blocked by the outside storage. Should this application be granted, all of the parking spaces must be available for parking and no parking would be permitted outside of the lined parking places. All equipment and materials that are currently being stored outside, must be housed inside. Mr. Neff states that consider this your warning that if cars are continuing to be parked anywhere but designated parking places, there will be fines imposed/summons issues.

Landscaping and lighting are discussed.

Mr. Neff brings up grading and the retaining wall, along with fencing, in the front yard. These issues are discussed along with the variances needed.

Pavement material and depth for the parking lot is discussed.

Vice-Chairman Battista asks if there are any questions from the public or Board members for Mr. Comi. Hearing none, Mr. Falvo calls his next witness

Mr. William Barham, 40 River Avenue, Monmouth Beach, NJ, is sworn in by Mr. Hirsch.

Mr. Barham testifies that The Barham Group is the present owner of the subject premises since 1984. He testifies that all of the parking and storage problems will be alleviated by the construction of this accessory building.

Mr. Barham states that the fabrication aspect of the business may be moved to the new building. Further discussion pertaining to outside storage is discussed as Mr. Barham indicates that finished product would be outside awaiting delivery/pick-up. Ms. Hatami poses multiple questions pertaining to the time-frame of product left outside. Mr. Brawner states that it sounds like even with the outside accessory building, you will be putting product outside, especially if the business continues to expand, which is not allowed. Mr. Barham states there will be no outside storage. Mr. Neff states that this needs to be part of the Resolution.

With regard to parking, Mr. Barham states that he has an ongoing problem with the tenant in that he uses more parking spaces than he is allotted.

Mr. Barham explain what the fabrication aspect of the business entails. Hours of operation are 7:00 a.m. – 5:00 p.m. M-F and there is a maximum of 10-12 people working at one time.

Mr. Barham explains that most of his work is for the pharmaceutical industry, hotels, hi-rises throughout the state of New Jersey.

Designated security lighting will stay on throughout the night.

Mr. Barham states that the new building is for his business not for the tenant. The tenant will not be storing any goods. It will never be rented out. Mr. Neff confirms that there will not be a third tenant/third use.

Vice-Chairman Battista asks if the public or members of the Board have any further questions for this witness. Hearing none.

Mr. Falvo calls Jason Fichter, 1913 Atlantic Avenue in Wall Twp., NJ. Mr. Hirsch swears in Mr. Fichter and the Board accepts his credentials as a Planner. Mr. Fichter discusses the site's zone, uses on the site and all variances/waivers requested. There are no additional uses being proposed. The building proposed in an accessory building to the principal building. Mr. Fichter also discusses the points made by the Board Planner in his review letter. The sanitary sewer and proposed future connection through lot 6 are discussed.

Mr. Falvo delivers his closing statement.

Vice-Chairman Battista asks if the public or members of the Board have any further questions for this witness. None are heard.

Motion is made by Mr. Brawner and seconded by Mr. Slazyk to close the public portion of this application.

Motion is made by Ms. Hatami to approve this application subject to multiple conditions discussed tonight, especially with regard to no outside storage, seconded by Mr. Slazyk.

Roll Call

Ayes: Mr. Brawner, Mr. Porzio, Mr. Battista, Mr. McKinley, Mr. Slazyk, Ms. Hatami, Mr. Lomangino  
Nays: None  
Absent: Chairman Palmieri, Mr. Berk  
Not eligible: None

Motion is made by Mr. Lomangino and seconded by Mr. Brawner to close the meeting at 10.25 p.m. All in Favor

Respectfully submitted,

Colleen Connolly  
Zoning Board Secretary

Approved at Board of Adjustment  
Meeting on December 1, 2016