

The meeting was opened by Chairman Palmieri 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 Chairman Palmieri, Vice-Chairman Battista, Mr. Slazyk, Mr. McKinley,
Ms. Berk, Ms. Hatami

Absent: Mr. Lomangino, Mr. Porzio (Mr. Brawner resigned)

Also present: Mr. Hirsch
Mr. Neff, Board Engineer
Ms. Helen Zincavage
Ms. Connolly, Board Secretary

Chairman Palmieri read a statement of procedural guidelines.

Minutes

Chairman Palmieri states that the minutes from September 6, 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.

Continuing Business

BA 2018-02 7th Day, LLC., Wardell Road and Rte. 33 – Use Variance, Amended Site Plan Block 146, Lots 6.01 & 7

Peter Falvo, Esq., states that he is continuing functioning as the attorney for the applicant and Jughandle Brewing which is being continued from September 6, 2018.

Mr. Falvo asks if any Board members have any questions of the applicant's professionals. None heard.

Mr. Falvo states that at the last hearing date there was a question about sound attenuation with regard to the chiller. Mr. Falvo recalls Mr. Boesch to review what has been agreed upon between the applicant and objector.

David Boesch, Nelson Engineering Assoc., 1750 Bloomsbury Avenue, Ocean NJ is reminded that he is still under oath. Mr. Boesch summarizes the plan that has been agreed upon to ensure that no one will be offended by the sound of the chiller. Mr. Boesch reviews the purpose of the chiller and the reasons it is needed. The property owner of lot 29 across Wardell Road raised noise questions. The agreement is to increase the height of the masonry wall to 8 ½ feet and then on top of that wall, there is going to be an additional four-foot high sound attenuation panel for a total height of 12 ft. 6 in. A sketch of this wall is entered into evidence as A-5 entitled chiller enclosure detail. Mr. Boesch explains in detail the enclosure and materials being used. Also, the evergreens surrounding the enclosure will still be planted in accordance with recommendations from Mr. Neff.

Mr. Falvo states for the record that Lombardo Builders, represented by Mr. Giunco, has withdrawn his objections provided the applicant adhere to the stipulations that were set forth at the last meeting. All of the issues raised by Lombardo Builders have been resolved. An attorney from Mr. Giunco's office, Mr. Zimmerman, represents on the record that all issues have been resolved.

Mr. Neff asks if we have specs on the decibel level of the chiller when running. Mr. Falvo recalls Mr. Collins. David Collins, architect. Mr. Collins, 213 Holly Avenue, Lincroft, NJ has been previously sworn in. Mr. Collins states that he has spoken with the manufacturer of the chiller and the product is 94 decibels at a distance of one meter. Mr. Collins states that the sound given off from the chiller is approximately similar to a gas lawnmower. Mr. Neff states, that after some discussion, it does not seem too far away from what it would be in comparison to a single family home generator. Discussion continues with regard to sound and decibels from the chiller.

Mr. Peter Artherholt, 25 Timothy Lane, Tinton Falls, is recalled by Mr. Falvo and is reminded that he is still under oath from the prior hearing. Mr. Artherholt states that the chiller is always on and cycles on and off as needed.

Mr. Battista asks for clarification regarding the question of if the brewery does not work out, would the space then go back to flex space. Discussion ensues. Mr. Hirsch states that he and Mr. Falvo have had a couple of discussions regarding this matter. As a matter of law, it is his interpretation that, should the brewery vacate the premises, the space does not automatically revert back to flex space. The brewery is a separate and distinct use of

the flex space. This is not a tenant of the flex space, the flex space is gone once the brewery is approved and utilized. Therefore, the two approvals can exist simultaneously. Once the site is used as a brewery, then the prior use of the property that required a variance, was essentially abandoned. So as a matter of law, you could not automatically go back to the prior use. Mr. Hirsch further explains case law in support thereto. Ms. Hatami asks if there is a condition that can be imposed upon the second approval. Further discussion takes place.

Mr. Battista recalls that the original application of the flex space took a lot of time and there were a great many discussions of the impact upon the site. Now this has become a retail space, what happens when the success of the brewery/tours/tasting room/retail is successful along with the car wash. Can some of the designated brewery space be rented back to flex space. Discussion ensues.

Parking is discussed with regard to the multiple uses.

Ms. Zincavage interprets that the brewery is clearly a manufacturing use. Mr. Falvo states that should the brewery ever vacate the premises, the applicant will come back before the Board and make application for flex space. Discussion between Ms. Zincavage and Mr. Falvo ensues.

Mr. Falvo brings up the previous approval and the finer details are discussed.

Mr. Hirsch reviews the arguments and states that the applicant and the Borough professionals have made their points.

Chairman Palmieri asks if the Board members have any questions or comments. Mr. Battista states that this is a super-intensive site. After a long process, a previous application was approved for flex space and now we are going to put another use on top of that. Mr. McKinley agrees that there is a lot going on here. Mr. McKinley asks what is the square footage for Ice King and what is the square footage proposed for Jughandle. That way the spaces are clearly defined and cannot vary. Mr. Slazyk also weighs in that the applicant is asking for a lot. Mr. Falvo describes what would be seen from the outside and that the building is being built from the original approval and what would be housed in the building. The same amount of doors are still being constructed. Ms. Hatami states that we keep calling this a brewery but you don't need the tasting room or the bar to have the brewery. Mr. Slazyk states that there have been many changes during the course of this application. Mr. Battista states how the tour and tasting room with the purchase of beer takes place at the Asbury Avenue location. You cannot buy food there, but food can be brought in. Mr. Neff reminds the Board that taverns and bars are permitted in this zone. Can the site handle a bar, forget that it is a brewery. When you look at the parking for this vs. the prior use, it is less. There are 24 seats allowed in the tasting room. Ms. Berk says she has the same concerns as when we approved 7th Day. The entrance from Rte. 33 concerns her and there is an exit onto Wardell Avenue that is too tight with the handicapped parking spaces in their present location.

Mr. Falvo states that in answer to Mr. McKinley's question as to square footage, the original flex space approval for 18,156 sq. ft. Jughandle will utilize 9,528 sq. ft. With regard to the handicapped spaces and the concerns raised by Ms. Berk, they can be relocated to the other end of the property. Mr. Neff states that any parking spaces there are going to make the space tight. There is also a separate car wash entrance sign that directs the people onto Wardell and to the entrance to the car wash lane. Discussion ensues.

Chairman Palmieri opens up to the public for questions and comments. None heard.

Mr. Falvo states that the landlord would like to address the Board. Fred Lomangino, 83 Society Hill Road, Tinton Falls, has been previously sworn in. Mr. Lomangino speaks to the Board as to this application and how he believes it to be a good fit for the town. He addresses the concerns of the Board.

Mr. Slazyk clarifies with Mr. Lomangino, as far as flex space goes, Ice King and the car wash are going to occupy all of the non-use flex space that isn't being occupied by Jughandle. Mr. Slazyk asks if there is any other flex space that is going to be available other than what you and Jughandle are using. Mr. Lomangino states no.

Mr. Falvo states that the only other item that has been asked for in the application is that there was a restriction against tractor trailers coming onto the property and they has been testimony that twice per week there will be a tractor trailer on the property to make a delivery to Jughandle.

Mr. Neff also states that a C variance would be needed for the wall around the chiller, a 6 ft. wall is permitted, and 12 ½ ft. is being proposed.

Mr. Slazyk makes a motion to close the public portion and is seconded by Mr. McKinley. All in favor.

Chairman Palmieri asks if the Board wishes to discuss anything further.

Motion is made by Ms. Hatami and seconded by Mr. Slazyk to discuss this application further. All in favor. Discussion ensues among all Board members concerning multiple aspects of the application.

Motion is made by Mr. Slazyk and seconded by Mr. Battista to approve the application based upon all of the conditions have been discussed.

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

Break is taken from 9:05 pm. until 9:15 p.m. Record is paused.

Continuing Business

**BA 2018-11 Junior Athletes, Inc., Blk. 120.02 Lot 1.01,
101 Tornillo Way, use variance; site plan approval, con't.**

Chairman Palmieri states that Jennifer Beahm is going to be the Borough Planner of record for this application.

Jennifer Krimko, Esq., states that she is continuing to appear on behalf of the applicant. After listening to the Board's concerns from the last meeting, the applicant has made some plan revisions to address them. Mr. Boesch was sworn in at the last meeting and is being recalled to explain the revisions.

Mr. Boesch refers to the preliminary and final site plan dated April 19, 2018, revised through September 17, 2018. The first principal change is a reconfiguration of the use of the building space to keep access to the loading areas and some electrical equipment outside of the footprint use area of the existing electrical company utilizing the balance of the building. So essentially that leaves the loading area and the southeast area of the building as part of the light manufacturing use and that area was reconfigured for use by the summer camp into other areas of the building yielding a total area for use by the summer camp as 33,999 sq. ft. Both first floor and the mezzanine are included. Mr. Boesch further explains changes to fencing and the dumpster enclosure that will be relocated. Also explained is the sidewalk proposed around the loading and unloading area. Mr. Boesch points out possible demarcations of recreation use areas within the athletic field area. The applicant wants to stipulate that this is a fluid operation that varies with age groups and games being played. The applicant wishes to show how the area could be used and how the layout works and interacts together. The applicant has found temporary, movable backstops to incorporate into the layout. Mr. Boesch elaborates on each section of the field. Ms. Krimko states that the fields for each particular sport are not regulation size but are smaller. There will be a permanent playground, which is shown and explained. The only fixed apparatus will be the playground and the swimming pools. The fields will be used as needed for assorted sports, states Ms. Krimko.

Mr. Neff asks how many kids could be potentially using the field space at the same time. Victor Gindi is recalled and is reminded that he still under oath from the last meeting. Mr. Gindi states that the outside property can handle all 500 kids but it does not need to nor is it going to. On a regular basis, 150 campers leave on a trip, 150 will be outside and the 200 remaining will be inside.

Mr. Boesch shows the green bank parking area on the site plan. The drainage system is discussed with regard to the green bank parking as well as impervious coverage. Mr. Neff points out that there would have to be additional storm water quality and storm

water management plans should these spaces be needed. Ms. Beahm says that at some point in the future, these spaces may have to be constructed and go from a grass area to pavement. There are 41 spaces in the green bank parking.

Mr. Battista asks about the clear-cutting of the trees. The wooded area to be cleared is pointed out on the site plan.

Mr. Neff states that there are nine (9) variances and six (6) waivers requested mostly related to engineering. Mr. Neff begins referring to his engineering letter dated October 4, 2018 beginning on page 3. The first variance requested is in regard to fences being in the front yard and shall be at least 10 feet from the edge of the property line where this fence proposed is located directly on the property line. Mr. Boesch states that the fence will be moved the ten feet and will not need a variance. Number 2 is regarding materials permitted for the fencing. The applicant wants a 6 ft. high solid white solid fence for privacy and security around the entire perimeter. Number 3, - parking lots shall be set back at least 25 feet from any lot line or street right of way. There are areas that are only 5 feet from the right-of-way. The applicant is seeking a variance for not meeting this setback. Mr. Neff states that the site is very close to the road. Number 4 is parking. The parking is up to the Board because there is not a specific requirement in the ordinance for this use but related to the manufacturing based upon the tweaked number of 88 parking spaces are required whereas 48 are proposed without the banks. If you include the banked parking in the calculation, then the applicant would not need a variance. At the last meeting, a wall mounted sign was proposed. East Coast Energy Systems already has the two signs that are permitted. The applicant is proposing a third wall sign and a free standing sign, which would require a variance.

Mr. Neff states that the next variance pertains to critical environmental areas. There are wetlands on site. The ordinance says it should not be built upon. Ms. Krimko states that the DEP is letting the applicant fill in the isolated wetlands, and they are not considered to be environmentally critical. This requested variance is discussed further.

Mr. Neff states that sports courts should be a minimum of 20 ft. from the property line, where the baseball field backstop is 15 ft. from the property line. Also, there are sports courts located directly in the front yard.

Mr. Neff states that there are a number of waivers being asked for. The first one is with regard to a lighting plan. He states that he feels very strongly that this kind of use requires a lighting plan as a safety matter. Ms. Krimko states that if the Board is not inclined to waive a lighting plan, then one will be provided. The next waiver is that there is a maximum of one driveway per lot unless the lot width is greater than 500 sq. ft., then you can have a second driveway. It is greater than 500 feet but there are already four existing and five are proposed, two are permitted.

The next waiver is with regard to shade trees. The minimum diameter is 4 inches, where 3 inches is proposed. Mr. Neff states that he has no objection of the shade trees having a diameter of 3 inches. Mr. Neff states that the Borough has an ordinance pertaining to the

number of trees required throughout parking spaces. One tree is required for every 5 spaces. Therefore 13 trees are required, Ms. Krimko states the applicant will agree to work with the Borough to provide the requisite number of trees elsewhere on the site.

The last waiver is in regard to the dumpster enclosure which is not permitted in a front yard, whereas the new one is proposed in the front yard area. Mr. Boesch states that the dumpster is located where it would be accessible to the garbage truck. Ms. Beahm asks for a masonry enclosure with evergreen buffer.

Deliveries to the building are discussed. It is represented that deliveries would be outside of the hours of bus drop off and pick up.

Mr. Neff refers to Page 9 number 13 with regard to a required sidewalk of any development application, the Borough requires sidewalk be installed along the frontage. Mr. Neff recommends that a sidewalk be installed on Tornillo and will accept a contribution on Shafto.

With regard to landscaping, Mr. Neff states that, in his opinion, this use most closely resembles a child care center. Therefore, the ordinance states that the outdoor area shall be no closer than 20 ft. to any lot line and those areas should have an adequate evergreen buffer in those areas. Mr. Neff further explains the neighboring industrial use of the area and possible industrial uses that could be permitted directly next to the sports fields and buffering should be required. Discussion ensues as to the suitability of the site and buffering setbacks. The applicant is offering a 10 ft. buffer for the fence location and evergreens on the outside or the inside of the fence. Ms. Beahm maintains that a 20 ft. buffer is needed and the two uses are not compatible. Ms. Krimko agrees with the 20 ft. buffer and confirms where exactly the 20 ft. buffer would be located with Ms. Beahm. A landscape plan will be submitted. Mr. Battista suggests saving some of the trees that are due to be clear cut in order to use as a buffer.

As it is 10:15, Ms. Beahm suggests that we are not going to finish tonight and asks all the Board members to make a site visit and notice what is along the property line.

Mr. Neff asks about the easement in the back of the property whether or not there is contamination. Ms. Krimko states that the area has been completely cleaned and approved by the DEP. The area is restricted, in that it cannot be disturbed or built upon. There is a 50 ft. buffer around it. Ms. Krimko states that the applicant has done a full study on this area and there are no concerns.

Mr. Neff comments that if the backstop is higher than 10 ft., even though it is movable, a height variance will be needed.

Ms. Krimko states that there is a meeting on October 18, 2018 but she is not available and neither are any of her partners. Therefore, Ms. Krimko asks that this matter be continued to November 1, 2018 with no further notice. Mr. Hirsch and Mr. Slazyk will not be available on November 1, 2018.

Motion to Close

Motion to close the meeting at 10:30 p.m. by Mr. Battista and seconded by Ms. Hatami.
All in favor.

Respectfully submitted,

Colleen Connolly
Zoning Board Secretary

Approved at Board of Adjustment
Meeting on November 1, 2018