

MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
June 25, 2019
Regular Meeting

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:49 p.m. The Board Secretary read the Legal Notice. The Pledge of Allegiance was recited.

Roll Call

Present: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova, Robert Brady

Also present: Deidre Ellis, Board Secretary, Stephen Glatt, Board Attorney, Ken Ochab, Board Planner and Patrick McClellan, Board Engineer

Absent: Russell Curving, James Olivo, Michael Gerst, and Matthew Conlon

The Chairman, Mr. Brady asked that the record show that Mr. Castronova, the Board's second alternate would be sitting at the dais for this meeting, and we have 5 members this evening. The Chairman greeted the Board and the public Mr. Brady explained the Zoning Board and Open Public Meetings Act. The meetings are advertised in the Herald News. The Board operates in accordance with the Open Meeting Act of the State of New Jersey, which means discussions and decisions are made in public. Under normal circumstances the Board follows a printed agenda. There are no new applications after 10:30 pm and no new testimony after 11:00 pm, after the applicant speaks then anyone can speak for or against that application. If it is needed there will be a break at approximately 9:00 pm. The appeals of this Board go directly to the Superior Court of the State of New Jersey.

MEMORIALIZATIONS

FRANK MCELROY
RESOLUTION 8-2019
Bulk Variance #ZB 09-18-12
Block 2509; Lot 6
62 Passaic Drive, LR Zone

Decided: Approval of a bulk variance to place a 10 foot by 65.5 foot, (656.2 s.f.) in-ground swimming pool in the front yard. Additional approval of a bulk variance relief requested for the proposed construction of a 1,531.2 s.f. dwelling 1,122.5 s.f. attached garage, driveways and walkways with variances requested for side yard setbacks, front yard setback, and primary building coverage.

Approved: May 21, 2019

**A motion was made by Steve Castronova to Memorialize application ZB09-18-12
Second by Frank Curcio.**

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova, Robert Brady

No: None

LINDA DEWAR
RESOLUTION 9-2019
Bulk Variance #ZB 03-19-06
Block 7618; Lot 4
7 Washington Lane; LR Zone

Decided: Approval of a bulk variance requested for rear yard setback where 60 feet is required and 31 feet is proposed to permit the construction of a bathroom addition.

Approved: May 21, 2019

A motion was made by Steve Castronova to Memorialize application ZB 03-19-06 Second by Frank Curcio.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova, Robert Brady

No: None

CARRIED APPLICATIONS

B&B ORGANIC WASTE RECYCLING, LLC
USE & BULK VARIANCE & PREL. &
FINAL SITE PLAN ZB06-18-05
Block 6002; Lot 29
280 Marshall Hill Road; LMI Zone

Complete: 9/20/18
Deadline: 1/18/19
New Deadline: 7/24/19

Preliminary and final site plan and use and bulk variance approval requested for an organic recycling facility with accessory composting, topsoil production and mulch manufacturing, retail sales and offices are proposed for the front building. There are additional variances proposed for 2 wall heights and driveway grade.

Mr. Robert Moshman, Esq. indicated that he was acting as substitute council for prior Council, and that he was aware that there were various other considerations surrounding this application. Mr. Moshman indicated that they would like to proceed with this application, even if they would need to repeat testimony. The applicant also has another application involving a garden center, and one more required to file and pursue. Mr. Moshman indicated that he would like to work with the Board to schedule as efficiently as possible. Tonight they have the Engineer for the 280 Marshall Hill Road application. Going forward Mr. Moshman indicated that he would like to bring in the planner and the architect for two of the applications, in order to make progress.

Chairman Brady indicated to Mr. Moshman that Mr. Matthew Conlon would not be a part of this application because Chairman Brady had recused him.

The Board Attorney indicated to Mr. Moshman that there were five Board members at the meeting, and that there were members in addition to Matthew Conlon not at the meeting tonight. Absent members could listen to the recording of the meeting to get caught up on what transpires at the meeting tonight. The matter was initially heard at the October 27, 2018 meeting, and those minutes may be used to refresh memories. Mr. Moshman asked what transpired at the last meeting and the Board Attorney indicated that there had been a question about Mr. Battinelli's adjournment request. The Board Attorney read from the minutes of the May 21, 2019 meeting; *"The Board Chairman asked why Mr. Battinelli was requesting a postponement. Mr. Battinelli indicated that his whole family was away and he had stayed back, and had told his lawyer that he might have a problem with this meeting, when he was not able to be heard at the last meeting. Mr. Battinelli requested that he be heard at the next (June 25, 2019) meeting. The Board Attorney indicated that he had spoken, or gotten a letter from Mr. Faiella and there was some difficulty with them being at the meeting tonight. The Board Chairman indicated that he understood the gravity of the case between Mr. Battinelli and the community, but he would like to move this application along and Mr. Battinelli indicated they were ready at the last meeting but were unable to be heard (due to revised plans being submitted and needing to renotee.)"* The Board Attorney indicated that Mr. Battinelli did not testify, that the application was adjourned, and that was the May 21, 2019 meeting. The first time Mr. Battinelli testified was in October of 2018. The matter was carried

on November 27, 2018, and carried on again on December 18, 2018, January 22, 2019, February 26, 2019, March 19, 2019, April 23, 2019, May 21, 2019 and we are here tonight, with no testimony given since October 2018. There are issues with the Town related to a berm and efforts were made between the applicant's previous attorney and the Township attorney to resolve those issues with the Township. Initially it was not happening, there were further discussions and then there was a resolution, as far as the Board Attorney was aware and because of that revised plans had to be prepared because of the relocation of the access road, the plans were submitted and had to be reviewed and that is why it was adjourned in the past. We are here today to proceed with the application based upon the revised plans. The Township was concerned with what the Board was going to do, considering the problem with the berm, and the relocation and whether there was an encroachment or not. Considering the deadlines, the decision was made to move forward. If the original plans did not involve a zoning issue that affected the Township's problem, we are going to proceed like any other matter. If the problem Mr. Battinelli was having regarding the location of the berm and that affected his application that would be taken into consideration by the Board. The Board will look at the plans submitted and if they are to the Board's approval without having any effect on the zoning, fine.

Mr. Moshman indicated that he was confident that these would be the final plans, and that the Township issues have nothing to do with the zoning issues this Board has to rule on. Mr. Moshman indicated that he was in complete agreement that this Board is eager to move forward and that the applicant wants to move forward even more because he needs to make progress on three different applications. The applicant will move forward tonight with their Engineer.

Darryl Siss interjected that he was there representing the Union Valley Associates application and indicated his client would like to be carried to the July 23, 2019 meeting in hopes of being heard then.

The Chairman asked if anyone would like to make a motion to carry the Union valley Associates LLC application to the July 23, 2019 meeting.

A motion was made by Steve Castronova to carry application ZB 03-19-04 to the July 23, 2019 meeting, second by Frank Curcio.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova, Robert Brady

No: None

The Board Attorney indicated that no further notice would need to be given, for the 200 ft list or in the newspaper by the applicant and that anyone interested in this application should attend the July 23, 2019 meeting. The board Attorney indicated that there were matters ahead of the applicant, in addition to B & B Organic there was the matter of Darmstatter, that had been carried to the July meeting, and Greenwood Lake Services Appeal and if Mr. Moore does not get heard tonight he will also be ahead of the applicant. Mr. Siss understood. The Board Attorney clarified for Mr. Moore that with his bulk variance all he needs is a majority vote from the Board. A use variance has to get five votes.

The Board Attorney swore in Mr. David Newkirk, 420 Route 46 East, Suite 1, Fairfield New Jersey, Bachelor of Science in Civil Engineering from the New Jersey Institute of Technology, he is a licensed professional engineer in New Jersey. Mr. Newkirk is a Principal in EIC Group, LLC an engineering company in Fairfield, New Jersey, and has testified at numerous Land Use Boards in North Jersey including, Clifton.

(There was extreme static from the microphone system. It took over 30 minutes to fix the malfunction, as we had to wait for a key to access the cabinet with the controls.)

The Board Chairman indicated to any other applicants that due to the late hour, there was a distinct possibility that the Board might not get to those applications, this evening. The only applicant left was Mr. John Moore who elected to stay.

Mr. David Newkirk began again to give his credentials indicating that he had testified before the Planning Board in West Milford, he had prepared the plans himself and was familiar with them, Chairman Brady accepted him as an expert. The plans that are being referred to are the revised plans, mounted on the board originally dated June 15, 2018 and the with a revision date of March 29, 2019.

The property is (located) at 280 Marshall Hill Road, Block 6002, Lot 29. It is a ten acre site with 434,000 square feet, located on the South side of Marshall Hill Road, on the East side of Lycosky Drive about 1000 feet West of the intersection of Greenwood Lake Tpk. The property is

approximately 1000 feet long North to South, and about 400 feet wide. The topography has a low point toward Marshall Hill Road and a high point back by the Township's property and the total vertical relief is about 110 feet. Mr. Newkirk indicated that the site development would be broken into 3 areas, the 3 acres in the back are used and have been used as a composting facility, and organic recycling facility. That area has about 10,000 square feet of impervious surface, gravel roadways, which comprises about 8% of that back portion or 2% of the entire site. In the front the 4.5 acres closest to Marshall Hill Road, has an existing 22,900 square foot, one story masonry industrial building surrounded by pavement, roadways and parking around the building and there is a gravel/paved area about ¾ acre area currently used for boat storage, on the site. The total front portion of impervious coverage is about 97,000 sq ft, which comprises 22% of the site. The middle 2.5 acres of the site is bisected by a 100 foot Orange and Rockland Utility easement and there is a section North of the easement and South of the existing development on the North part that is wooded, hilly and in its natural state. About 2.5 acres are undeveloped.

Mr. Newkirk indicated that the property is located in the LMI Zone, Limited Manufacturing and Industrial. LMI zones border to the East, West and South. To the East and South it is all Township property. Lot 1801, being wooded, lot 1802 and lot 1803 are owned by the Town and contain the Town's leaf composting facility. To the Southwest is lot 2802 which contains the Town's recreational ball fields. To the West, the DPW yard, Recycling Center, the Animal Control are located, also Township property. To the West on the North half of the site, is an existing industrial building owned by Hydraulic Manifold USA. Across Marshall Hill road the Zone is CC, Community Commercial, a Dairy Queen, and Church are there.

Mr. Newkirk indicated that the proposal for the property is broken into two areas. The phase one area is a composting facility in operation, that will remain in operation and all the improvements proposed in that area, will be implemented immediately. Phase two, would be to develop the Northern part, 4.5 acres with a building and improvements. The composting facility is an organic recycling topsoil production and mulch manufacturing facility, approximately 3 acres. The two lots of Town property where the leaf composting facility is, have no access and are landlocked parcels. They are abutted to the West by the ball fields, to the South is Town land but no current access. The old access at Airport Road is no longer there. Historically, the Town had access through the subject lot. In the past there was a working relationship between two entities and it is Mr. Newkirk's understanding that the previous owner of the property stopped allowing the Town access through the lot. There were issues and the Town wants access and the applicant is willing to grant access to the parcel, assuming the applicant can work out those deals with the Town. There is an access driveway to the area shown on the plan.

Mr. Newkirk indicated that the applicant has been in violation with the Hudson Essex Passaic Soil Conservation District. This sight has had issues with the HEPSCD because it is a mulching processing facility and there have been issues for some time with run off. The primary recommendation was to build a berm around the entire facility, to alleviate run off and mess. Years ago this was a landfill owned by the Town. Under where the leaf dump is located there is an old landfill and that is the reason it is mounded up. It has history of erosion and run off. Under an interim memorandum agreement with the Town that granted the applicant access to the property, the applicant has built a berm to contain the site. The berm is between 10 to 20 feet higher than the parcel itself. The top is 40 to 50 feet wide at the top. Now the water runs to the Northwest and onto the applicant's property, the reason for that is to control the water and put it into a sedimentation basin and clean up that erosion. That was the strong recommendation from the Soil Conservation district on how to clean up the site. The berm is located partially on the subject parcel but mostly around the back on the Town's property. Mr. Newkirk indicated that there was an interim agreement which specifically permitted the applicant to go in and build the berm. The applicant is proposing, to build a new entrance driveway to the site, 160 feet of paved roadway, and another 130 feet or so of gravel. Right now the trucks are tracking dirt out onto Lycosky Drive, in an effort to keep it clean, a 300 foot tracking pad, half gravel and half pavement will allow dirt to be left on the site and dirt will not end up on Lycosky Drive. All of that area is a tributary to the sedimentation basin. The applicant proposes to build a sedimentation basin, and the entire site drains down into that basin. Mr. Newkirk explained that a sedimentation basin is basically a pond that fills up when it rains and the water sits in there and the silt settles out of the water. Periodically the silt needs to be removed but it will help the water to run out in a clearer form. It is a water quality control. Daniel Jurkovic had a question about the driveway and Mr. Newkirk clarified that the variances requested for the walls and the slope were at the location of the Kemp building. Mr. Newkirk indicated on the plan where the access for the site driveway was going to be and then along the back, a change from the original plan, where they have added an access road that comes out by the recycling facility, that runs along the property line to give the Town access directly to their leaf compost facility in the back so neither party will be using the other's access road. The applicant is offering the Town its own access along the property line. It will be fences in. The road will not be deeded to the Town but provided for in a permanent easement, the reason being

the conditional use of the organic recycling facility is limited to 30% of the sight so if this land is given away it reduces the amount of land they can use for the recycling, so the applicant wants to make that amount count even though there will be an easement with the Town. The Board Attorney asked who would maintain the access road and Mr. Newkirk indicated that the applicant would construct it but that the Town would be using it so they would maintain it. The Town has no current access to the back area presently. Currently the applicant is allowing the Town to drive through their site but presently there is no formal agreement about that. They could be chained out but the applicant is being neighborly.

Chairman Brady asked if there was anyone aware of that proposal and Mr. Newkirk indicated that yes, the proposal was developed this spring at a meeting with the Town and the Engineering Department where they expressed what they wanted to see and the plan was put together with Eric Miller of the Township Engineering Department and that it was in compliance with what was expressed at that meeting. It has not been approved by a resolution or gone farther than that with the Town, but informally improved.

Mr. Newkirk continued explaining improvements to the site. There is a concrete wall across the front and they are going to make similar walls with grading and landscaping in front of the walls resulting in screening the site from Lycosky drive. There is another triangular shaped portion that is the Town's property but the applicant proposes to landscape it creating further screening of the Town's road. The unsightly component of the site and the Town's leaf dump should be improved. The applicant proposes to demark the property line with a fence and a gate, there is nothing demarking it presently. It will provide access between the properties for future work if needed. The Town asked for that as it is visually difficult to tell where the property line is. It is also important to know where the line is because the applicant is unable to store anything within 25 feet of that property line due to the setback and the 25 foot buffer for the mulch piles.

The Board Attorney asked about the present location of the berm. Mr. Newkirk indicated that there was no berm along the property line and that the berm surrounds the entire facility, the applicant's yard and the Town's leaf facility, but nothing between the two properties. It looks like one big property. The berm was built because neither the Town's property nor the applicant's property was in compliance with the HEPSCD, or DEP.

The Board Attorney asked what would happen if the berm were moved. Mr. Newkirk indicated that it would go back to how it was with the run off issues and that if there was just a berm along the property line of the applicant then the Town would be in violation again. Mr. Newkirk indicated that the applicant had gotten soil conservation approval and they are no longer in violation with HEPSCD as they had been for 30 years. The applicant also cleaned up the entire site to get it into compliance with the DEP and the Soil Conservation District. Mr. Newkirk indicated that the applicant did the work to improve relations and have a symbiotic relationship with the Town and that as we were aware that did fell apart but we were here for the matter of zoning approval. The berm is to stay and unofficially they have Township approval, but it has not been memorialized to date. Mr. Newkirk indicated there is no issue with the berm from a zoning standpoint.

Phase two involves the Kemp building, a building in the front part of the site. It is 22,900 square feet. Mr. Newkirk referred back to the 17 conditions in the LMI for the conditional use ordinance for a composting facility. The lot has to be a minimum of 5 acres, it is a 10 acre site. The maximum of 30 % of the site can be used for an organic recycling facility, the site is 10 acres so 3 acres, 2.8 acres or 2.1 acres depending on how you view the site so, the applicant would be well under that either way. There is no material permitted within 300 feet of a residence or 25 feet from property lines. The nearest residence is 1030 feet away. No stockpiles are permitted to be over 25 feet high. The Town has measured the stockpiles thinking they were over 25 feet and none of them were. 25 feet is a very high stockpile and the applicant will not have any over 25 feet. No activity or equipment is allowed in the 25 foot buffer zone. The applicant will maintain that, and on one side it will be the access road for the Town, with the 30 foot easement. There is a 25 foot buffer along Lycosky drive already. Another condition is that screening may be required and the applicant is already proposing to do so, with plantings. Protect surroundings from air born dust and storm runoff, the berm is a major benefit for this purpose. With a 20 foot high berm with trees planted on top the dust and noise do not get out, and the storm runoff is controlled.

Chairman Brady asked about the berm height and Mr. Newkirk clarified that stockpiles have to be under 25 feet according to Town ordinance and that the property is mounded to begin with, being a landfill and quite high especially in the back of the property. Probably 60, 70, 80 feet high in the back, but that is not all berm, it is berm on top of the landfill. Condition 8 is that driveways need to be paved, with asphalt, concrete or gravel, and the applicant has indicated that they will do this. Equipment needs to be repaired inside, and currently the Kemp building is being used for this purpose. In phase two a portion of the Kemp building will be designated

for the purpose of equipment repair/maintenance. Under phase one the existing building will be used for maintenance, under phase two when the building is rebuilt there will be a maintenance shop within it. There is a dirt road there to enable the equipment to get to the building, they will not have to go out on the road to get there. The operation of the facility is limited to 7 am to 5 pm Monday through Friday and 8 am to 1 pm on Saturdays. If they were a Class B facility, they would have to provide a certificate of approval from the DEP to the Township, but they are not a Class B facility, they run under an exemption with limited amounts of material that they can keep on site. If in the future they go for a Class B license they would provide the proper documents to the Town. They have to have a valid HEPSCD approval and have to provide a copy to the Town within 5 days. The applicant does have an HEPSCD approval for the berm, and the back facility but they need to have it amended for this application as changes have been made to the plans, pending action from the Board of Adjustment. Condition 13 is that the applicant has to obtain a certificate that this facility is included in the Passaic County Waste Management Plan. Mr. Newkirk indicated that they were not sure what that was or what it entailed and needed to be researched. Number 14, prepare and submit an operational manual for noise and dust control for pre-cleaning and fire suppression facilities and provide it to the Town, the applicant (would) prepare that and keep it updated before operations take place on site. Topsoil and mulch must be certified non-hazardous, certificates will be kept on file and produced when requested. Reliable records that certify compliance with the volume of materials and will be submitted to the Town. Approval by the Board does not mean other approvals are not necessary. Mr. Newkirk indicated that those were the 17 conditions that are conditional for the use, and he believes the applicant meets all of those conditions and so a use variance is not necessary.

Board Planner Kenneth Ochab mentioned County approval and Mr. Newkirk indicated they would look into it and get the required approvals.

Mr. Newkirk indicated that there were several bulk variances associated with this application, basically just fence heights. The ordinance states 500-68-D that in a non-residential site no fence in a front yard shall be higher than 3 feet and no higher than 5 feet high in a side or rear yard. The applicant is proposing a gate on the roadway side entrance for a 6 foot gate to match the 6 foot gate by the ball field and he was unsure if that would require a variance. If it did require a variance then they are requesting one because they want to be able to close the gate, so there is no access to the facility. The applicant is also proposing an 8 foot gate on the property, it would match the existing one by the Kemp building. Mr. Newkirk indicated that he thought it would apply to rear or a side yard and not a front yard. If the Board denied that variance they could make it a 6 foot gate, but would like to keep the gates consistent with what is existing on the property.

The applicant's Engineer continued moving on to phase two, the front portion of the property in front of the Orange & Rockland Utility and wooded area. Next to the wooded area is a $\frac{3}{4}$ acre area which is gravel and broken up macadam that is used for boat storage and that will be abandoned, and replaced with trees. The existing building is 22,900 square feet, the proposed building is 27,000 square feet. The existing building violates the required set back from Lycosky Drive. The setback is 75 foot and the existing is only 42 feet. The applicant proposes to take the entire building down and eliminate the non-conforming front setback. The proposed building will have four uses, the back portion will be for storage and maintenance of equipment 6,750 sq ft, the front portion and $\frac{2}{3}$ of one side is retail 11,250 sq ft, a home goods store with storage 6,750 sq ft, the back corner 2,200 sq ft of an interior design office. Three different businesses operating out of this, the home good store, a separate interior design store, a storage area which is part of the retail and the maintenance shop for the composting facility. 27,000 square feet total.

Mr. Newkirk indicated truck and car traffic have been separated, both entering from Lycosky drive, but separate. 83 parking spaces are required for the site and 85 are provided, 3 being handicap accessible. 75 are in the parking lot with ten spaces in the back for employees. There are separate driveway entrances down into the maintenance facility and the loading docks for the retail store. The variance is being sought for the driveway being more than 10 % and it cannot be more than 5% within 50 feet of the street line. Mr. Newkirk discussed the profile of the road, explaining that a hump had been added to the design of the driveway to prevent the water from running down the driveway going onto Lycosky Drive. So the driveway meets the 10% maximum (slope) but does not meet the requirement of the 5% maximum within 50 feet. The driveway would be used by trucks and employees. Mr. Newkirk indicated that the top flattened part to the hump was about 35 feet. A dump truck would be about level coming onto Lycosky Drive, a tractor trailer would probably not be quite level. There would not be an issue with sight distance. There is a secondary access for an emergency, with a gate. Board member Daniel Jurkovic questioned that at the top of the hump there is 35 feet and then how many feet sloping down, and Mr. Newkirk clarified that there was not 50 feet sloping down to the road but a couple of hundred feet, but it does not go over the 10% maximum slope permitted.

The Board Engineer indicated that the proposed design for the drive makes a lot of sense, with regard to the run off onto Lycosky Drive. For most vehicles, the exception being tractor trailers it would be a good compromise.

Mr. Newkirk indicated that when the Kemp building was built they cut out and leveled a portion of the site. The proposed building will go on the previous building pad, but in order to get the parking leveled the applicant is going to push out into the front and the back so that is where the walls come into play. Where the existing land is open the applicant proposes to put four five foot high terraces, with plant material to screen the wall. In order to not push out the terraced walls into the existing woods, the applicant proposes a single 18 foot wall that is behind the existing woods. On top of the wall there will be a planter and a guide rail and a curbing for the parking lot, between the guide rail and the wall there will be a four foot fence. The ordinance requires a three foot fence but considering that there is an 18 foot wall there, the applicant's Engineer would like to see a four foot fence, but they will do whatever the Board wants. The applicant is asking for a wall in the back that is 20 feet high and not terraced, where 6 feet is permitted and an 18 foot high wall and a tiered wall system a total of 21 feet in the front, where a 3 foot wall is permitted. The fence would go along the top of back wall and the applicant is requesting that it be 8 feet because the existing fence is 8 feet, if the Board wants the applicant will make the fence 6 feet high. There is an existing 8 foot fence along Lycosky Drive and they are not planning to take it down and that is why they would like to make the other portion 8 feet. The Board Planner asked what material the fence was going to be and Mr. Newkirk indicated chain link.

A Board member asked about the existing septic system. The applicant's Engineer indicated that the septic had not been surveyed and that it would probably have to be replaced. The system is old and the proposed building is bigger than the existing one. They did locate a tank in the area. The Board Engineer, Patrick McClellan expressed concern about the topographical constraint of the septic bed being 9-10 vertical feet from one corner to another, which would result in a trench system or where one would have to build up one side, which could result in the need for more variances for walls to build up the soil and would also impact the soil condition, the applicant would need to go deeper into the ground. Mr. Newkirk indicated that they had not done soil tests, but that there will not be a great demand because there will not be that many bathrooms.

Mr. Newkirk indicated that the entire parking lot would be lit with LED lights in accordance with the ordinance requirements. There will be lighting in the back from the back of the building. The applicant will be putting in a drainage system to pick up all the water from the building and from the impervious surface of the lower area. By putting in a drainage system and piping the water instead of letting it just run off the applicant proposes to reduce the peak discharge and also eliminated about 12,000 sq ft of impervious coverage where the boat storage area will be altered. The result is a reduction in storm water runoff of about 25%. The applicant will be putting in a recharge and detention system in one area in order to keep the overall flow no more than 10 CFS which is what it currently is on the site. With the addition of this system the total reduction of the discharge is about 33% taking into account the lower and upper site. Mr. Newkirk indicated that if the applicant took the water runoff from the leaf facility and added it to the applicant's run off, there is less run off from this site than was there with just the applicant's facility at the start, the overall project with the improvements will significantly reduce the run off from the site and significantly increase the water quality as well.

Mr. Newkirk indicated that 3 signs were proposed, one ground mounted, one on the front of the building announcing the retail, and one at the entrance to announce the professional office space. By ordinance, the sign can be 50 sq ft and 48 sq ft is being proposed, the front sign is a percentage of the building façade and is permitted to be 299 sq ft, 49 sq ft is proposed and it will be painted on the glass itself. The sign on the West façade is proposed to be 18 sq ft where 237 sq ft is permitted. The applicant is well within the permitted signage for the facility.

Mr. Newkirk continued to indicate that the proposed building and the parking meet the parking requirements and the bulk setback data. The variances that are being sought are the fence and wall variance, the driveway slope variance and a use variance for the retail use for this facility which is not permitted in the LMI zone. Mr. Newkirk noted that right across the street in the CC Zone there is a Dairy Queen, so there is retail in the vicinity. The Planner will address the positive and negative criteria for the use variance at a later time.

Mr. Newkirk indicated that the applicant had requested a waiver for the Environmental Impact Statement. The facility has been there for 30 years and they are not proposing to expand it, but just to fix it up, clean it up and improve the site. They are not proposing to disturb anything that has not been developed. It will be improved from an aesthetic perspective and with the storm water management. Therefore the environmental impacts would be negligible, so they are

requesting that the requirement for the EIS be waived. The applicant also has requested a waiver on the street profile and site distance profiles. There is nothing to be gained with that, the site profiles have nothing to do with vertical geometry and those profiles will add nothing to the submission.

After Stephen Castronova asked about certification from Passaic County, Mr. Newkirk indicated that the applicant had not applied for certification for the front part of the site and they just needed to modify the back part. So there is a certification for the composting facility but they do not yet have one for the front part. They have not applied pending the approval of the use variance.

The Board Planner had a question about the existing building and Mr. Newkirk indicated that they are going to continue to use the existing building, until phase two is implemented, the applicant will rip down the old building and build a new building. The Board Planner clarified that the Kemp site will remain the same but improvements will be made to the composting facility. The Board Planner indicated that the Kemp building is an eyesore, and was wondering for the purposes of the Board what the timing would be between phase one and phase two, if it were to take ten years the Town may not like that. Mr. Newkirk indicated that they willing to agree to beautifying the building in the mean time if necessary over a certain time frame if that were to be a condition of the Board. The Board Attorney indicated to Mr. Moshman, that a timeline for phase one and phase two would be beneficial. The Board Planner indicated that the possibility that phase two never comes into play needs to be considered. Mr. Moshman indicated that there was another application that needed to be done immediately and a third application that is required and they were under court orders, and the applicant were going to have to see if they can make an agreement with the Town on this application and they would make progress in the month to come, and avoid adjournments. Mr. Moshman indicated that they were done for tonight. The Board Attorney indicated he would be in contact with Mr. Moshman regarding the status of things, court orders. The Board Planner asked that the next time the application is heard that there be specifics provided regarding the retail portion of the application. Mr. Ochab indicated that the Board would not approve the use variance based on a non-specified use. The Board Engineer indicated that he had a better understanding now because of Mr. Newkirk's explanation of the site.

Chairman Brady asked if anyone wanted to speak as part of the public portion of the application.

**Arthur McQuaid, seeing no one, moved to close the public portion.
Second by Steven Castronova.**

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova,
Robert Brady
No: None

The Board Attorney indicated that the application will be heard next month and if anyone was there for that application they should attend the next meeting and the applicant would not be required to give additional notice, by letter or publication.

**Motion to carry the application to the next meeting (July 23, 2019) was made by
Steven Castronova. Second by Frank Curcio.**

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova,
Robert Brady
No: None

JOHN MOORE
BULK VARIANCE ZB04-19-07
Block 15302; Lot 21.02
70 Charcoal Road; R-4 Zone

Complete: 5/28/2019
Deadline: 9/25/2019

Bulk variance requested for a side yard setback where 50 feet is required and 35 feet is proposed for a detached 30 foot by 30 foot garage for residential use.

The Board Attorney swore in John Moore, 70 Charcoal Road, Newfoundland, New Jersey, and he indicated that he was there for the purposes of requesting a variance for a 30 foot by 30 foot garage, adjacent and detached from his house for the purposes of storing equipment. It would act as a garage only with no plumbing. Mr. Moore addressed the note from the environmental committee regarding water runoff and he indicated that there was a seepage pit with a 1000 gallon tank in the front of the house and a 1000 gallon tank in the back about 40 feet away from where the garage is going to be and gutters will drain and be piped into that tank. A Board member asked what the intended height was going to be and the Board Engineer replied 28 feet, and that the application was very comprehensive and from an engineering standpoint there were no adverse effects on the surrounding areas or on Charcoal Road.

For the record Chairman Brady asked if Mr. Moore could acquire any other property to alleviate the need for the variance. Mr. Moore indicated no. The Board Planner indicated that when he visited the site prior to the meeting he was impressed by the site. A Board member asked why the garage could not be moved to accommodate the setback and Mr. Moore indicated that there was only an 8 foot walkway going up to the back of the garage and he was going to put a doorway and steps up to grade, it would look awkward. The Board Engineer indicated that doing that would increase the impervious coverage. Mr. Moore submitted a picture into evidence, showing the drainage, curbing and indicated where the garage was going to go. The Board Attorney marked it A1. Chairman Brady asked Mr. Moore if he had anything more to add. Mr. Moore indicated no. Arthur McQuaid asked again about the height of the garage.

Mr. Brady opened the application to the public in accordance with the open public meetings act.

**Arthur McQuaid made a motion to close the public portion, seeing no one.
Second by Steven Castronova.**

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova,
Robert Brady

No: None

Steven Castronova made a motion to approve the application based on comments made by the Board Engineer and Board Planner, that this is the most suitable place for the garage and there is no negative impact to the site or neighboring properties.

Second by Frank Curcio.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova,
Robert Brady

No: None

The Board Attorney indicated that the resolution would be memorialized at the next meeting and submitted to the paper and that starts the 45 day appeal period. If someone appeals during that time work can be stopped. After the appeal period has passed no one has the right to stop the work.

A motion was made to approve the invoices of the Board professionals by Steven Castronova.

Second by Daniel Jurkovic.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova,
Robert Brady

No: None

The Board Chairman asked for a motion for the approval of the May 21, 2019 minutes.

A motion was made to approve the minutes by Steven Castronova. Second by Frank Curcio.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova,
Robert Brady
No: None

**Motion for adjournment of the June 25, 2019 meeting by Steven Castronova.
Second by Daniel Jurkovic.**

All in favor. None opposed.

ADJOURNMENT at 10:27 PM

Next meeting July 23, 2019 at 7:30 p.m.

Respectfully submitted by,

Deidre Ellis, Secretary
Zoning Board of Adjustment