

February 14, 2008

The monthly meeting of the Greenwich Township Board of Adjustment was held on the above date and was called to order by Ray Buckwalter, Chairman, at 7:45 P.M. in the Municipal Building. The meeting opened with the Pledge of Allegiance.

Pursuant to the Open Public Meetings Act, Chapter 231, PL, 1975, adequate notice of this meeting has been given in accordance with the Open Public Meetings Act by:

1. Mailing a notice of scheduled meetings of the Greenwich Township Board of Adjustment to the Express-Times and Star-Ledger.
2. Posting a notice thereof on the Township bulletin board.
3. Filing a copy thereof with the Township Clerk.

Board members present: Steve Babula, Dawn Marie Kondas, Joe Schiller, Robert Vetrecin, Bruce Williams, Ray Buckwalter, Angelo Faillace, Dan Detore. Also present were Michael Finelli, Engineer, Jonathan Drill, Esq. and Lisa Specca. Absent was Bill Savino.

**Case No. 1-08, Mininni Use Variance, Block 14, Lot 2, Route 57, proposed construction of one (1) office/business building located in the B-1 Zone and RCD Zone.**

The Affidavit of Publication was reviewed and it was found to be properly advertised and property owners within 200' were properly notified, giving the board jurisdiction to conduct a public hearing. Robert Vetrecin made a motion, seconded by Joe Schiller, to open the public hearing. The vote is as follows:

IN FAVOR: Steve Babula, Dawn Marie Kondas, Joseph Schiller, Robert Vetrecin, Bruce Williams, Ray Buckwalter, Angelo Faillace.  
OPPOSED: None.  
ABSTAINED: None.

Motion carried.

Alan Lowcher, Esq., Attorney for the applicant, stated that Mr. Mininni proposes to construct a one-story 12,546 square foot flex space office building located on 14 acres on Route 57 and Prospect Street. The building is to be used for Mr. Mininni's own business. The property is split between two zones – B-1 and RCD. The B-1 Zone permits neighborhood retail and service businesses. The Resource Conservation District (RCD) permits agriculture and single-family detached dwellings.

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Sworn in by Attorney Drill were Michael Finelli, Board Engineer; Lisa Specca, Board Planner; Doug Mace, Site Plan Engineer; David Mininni, Applicant; Elizabeth McKenzie, Planner.

Doug Mace, Engineer, presented his credentials to the board. Upon hearing same, the board accepted Mr. Mace's as an expert witness in the field of engineering.

The following exhibit was entered into evidence:

1. Exhibit A-1: Color rendering variance plan, dated 2/14/08. last revision date is 1/23/08. Title block reads Variance Plan, Block 14, Lot 2, Greenwich Township, Warren County, New Jersey

Mr. Mace testified that the property in question is located at the corner of Route 57 and Prospect Street and Mr. Mace described the immediate area surrounding the proposed site. The property backs up to Conrail (formerly Erie-Lackawanna Railway).

The property is split between the B-1 Zone and RCD Zone. Approximately .65 acres is located in the B-1 Zone. The balance of the property is in the RCD zone consisting of 13 plus acres. There are a number of restrictions on the property. Merrill Creek is on the other side of Prospect Street. There is a C-1, or special resource protection area buffer, that crosses over into half of the B-1 zone and takes a significant portion of the western side of the RCD zone property. A flood line from the Merrill Creek also impacts the property. The actual setback in the zone is 100 feet, but the way the township ordinance is written, it requires a 200-foot buffer, which is shown.

What is being proposed is a business use of 12,500 sq. ft. building with 31 parking spaces with a secured parking area for construction vehicles (labeled as "outdoor storage") behind the building, which would give the ability to drive completely around the building. The area of that building was done in an effort to honor the summation of the coverage and impervious coverage that would be allowed in the two zones if they were treated independently on the site. The exit will be directly opposite Low's Hollow Road. Mr. Mace stated that the board's planner made a comment that it might be better suited to be to the far left hand side of the property. By having it opposite Low's Hollow Road, it keeps traffic concentrated in one location rather than two locations because of the relatively high-speed piece of highway. In a report prepared by Lisa Specca, board's planner, she recommends shifting the driveway as far to the west as possible and reconfiguring the parking area to eliminate the drive across the front of the building.

An area has been reserved for storm water management, meeting all the storm water management requirements of the State. A standard in ground septic system is proposed between the setback and 200' buffer line. The septic system could be moved if

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necessary, but the applicant would not like to do that because you would have to go to a pump system. A gravity system is proposed.

The following exhibit was entered into evidence:

1. Exhibit A-2: Elevation rendering, dated January 2008, prepared by W. Wayne Batten, Architect.

David Mininni, applicant, testified that he owns ADS Environmental Contracting Company, which deals with underground storage tanks, removal of the tanks and add new tanks. The proposed office space would be for Mr. Mininni's business and use the garage to house the majority of his trucks. 80% of Mr. Mininni's business is in Hunterdon and Warren County. The majority of Mr. Mininni's trucks are 3 to 4 years old and is looking for a facility to maintain his trucks to keep them in good working condition. The proposal is a 4 bay garage with an office and outdoor parking. ADS equipment consists of backhoes, excavators, dump trucks, etc. All trucks will be inside with the possibility of one truck parked outside overnight. When oil changes are done on the trucks, the oil will be put in a holding tank and taken out by a licensed contractor. When tanks leak, ADS does remediation and is licensed by the DEP and certified to do the work. All the tanks go to a local scrap yard and are properly disposed of. Any oil that is generated from the site, ADS has their own trucks that go to a recycling facility. Oil is considered a non-hazardous material so there is no reason to clean the trucks. The State does not require the trucks to be cleaned.

ADS will do their own oil changes on their trucks. To hold the oil, ADS anticipates having a 275-gallon tank above ground or 550 gallon tank above ground. The tank will be put inside the building. There will be no tanks outside the facility. If there were an oil leak, by law, ADS would have to report it to the DEP. A black top/gravel parking area is proposed.

Attorney Lowcher stated that vehicles are not being brought to the site for repair. It will be normal maintainance of ADS vehicles. Mr. Mininni is not using the property for any flex space.

Upon reviewing the ordinances on prohibited uses, Attorney Drill stated that all variances that are needed should be listed in the notice. The risk for the applicant would be that if someone who is not present challenges the approval on the basis that the reason why they weren't present was because when the notice was read they felt it was just going to be

some office space. The property owner had no idea that it was an environmental contracting company that was going to have construction equipment stored on site.

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Attorney Lowcher stated that he has written hundreds of notices and has never had one questioned in terms of it being inadequate. Attorney Lowcher stated that for the record, the applicant would accept the risk

Mr. Mininni stated that his equipment very seldom comes back. If they do come back off the job site, they would be stored there. When they come in for maintenance, the trucks might be there for one (1) or two (2) days. The equipment will be housed in a 10 or 12 foot fenced in area. The applicant stated that he is open to discussion of what type of fence would be used. Piping and parts will be stored indoors. Majority of ADS business is residential. What is excavated is stock piled on site. Everything that is done has to go in a DEP report. The whole reason for the facility is that ADS can maintain their own vehicles. Mr. Mininni stated that if board members were concerned about washing the vehicles at that site, he would be more than willing to put in an indoor oil/water separator. Anything that comes off that truck would be collected and go through an oil/water separator. Nothing would be outside the facility. There will be no washing outside.

Mr. Mininni's business is currently located in Bridgewater and employs 10 people. Hours of operation are 7:00 to 5:00, five (5) days a week, sometimes six (6).

Chairman Buckwalter addressed the public for their questions. The following questions were asked:

David Jones, P.O. Box 191, Block 14, Lot 3. If Mr. Mininni wants his business to grow, more buildings could go up. Doug Mace stated that if the board grants the variance, the rest of the land could be preserved and deed restrict it that Mr. Mininni could never add on to the existing building. Mr. Mininni stated that, at the present time, the proposed building is more than what he needs. The future is being projected in this concept now and not looking to use the rest of the land. Mr. Jones stated that his property was built on the Morris Canal. Doug Mace stated that the actual setback is 100 feet. There is a buffer of 200 feet. Mr. Mace is not aware that there is any corridor that has to be preserved.

Ann Benton, Plane Road, Block 16, Lot 35. Inquired as how much space is for office. Mr. Mininni stated that 4,000 sq. ft is for office and 8,000 sq. ft. of garage space for trucks. Question on hours – Mr. Mininni stated that there would be no hours on Sunday. Question on noise – Mr. Mininni stated that all work would be done inside so the noise will be minimal.

Darla Jones, P.O. Box 191, Block 14, Lot 3, asked questions on traffic. Traffic will create problems. There are traffic problems already on Route 57. Mr. Mininni stated that he meets the guidelines for sight triangles. Through the course of the day, Mr. Mininni stated that the trucks would leave in the morning and return in the afternoon. At this moment, Mr. Mininni has 12 trucks. Not all 12  
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trucks leave everyday. There will be about 5 trucks a day in and out. Not all of the trucks are on the road at the same time. There are 10 employees, 3 of them are in the office. Ms. Jones is, also, concerned about the noise and the location of the driveway. Mr. Finelli stated that DOT has to approve the location of the driveway and there is a sight distance problem going east.

Elizabeth C. McKenzie, Licensed Professional Planner, Flemington, New Jersey, presented her credentials to the board. Upon hearing same, Ms. McKenzie was accepted as an expert in the field of planning.

Ms. McKenzie presented testimony on the description of the property in question, the nature of the proposal and relationship to applicable zoning.

The proposed use is clearly not permitted in the RCD zone. The focus of the RCD zone is on farmland preservation, limiting impervious coverage and protecting groundwater resources. In addition to the "d-1" variance for the proposed use in the RCD zoned portion of the site, variances are needed from some of the bulk requirements applicable to developments in both the B-1 zoned portion of the site and in the RCD zoned portion of the site. The granting of any "d" variance necessitates that the applicant demonstrate that there are special reasons that justify granting the variance in this particular case.

The granting of a "c" variance necessitates that the applicant demonstrate either that there is a hardship or practical difficulty to the developer in complying with a standard in the ordinance due to the exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or some other extraordinary or exceptional situation uniquely affecting the property itself or the structures lawfully existing upon it, or, in the alternative, that the granting of the variance would promote the purposes of the Municipal Land Use Law and the benefits of approving the variance would substantially outweigh any detriment.

The site is partially located in a one in which this use is understood to be permitted, but the B-1 zoned portion of the site is too small to accommodate the proposed development on its own. Consequently, the applicant is proposing an approach to the development of the site that marries a use permitted within the B-1 zone with the coverage limits applicable considering both the B-1 and RCD zones and access consistent with good design parameters, which necessitates using at least a portion of the RCD zone.

The B-1 zoned portion of the site is significantly constrained by the requirement for a 300-foot C-1 stream buffer, which knocks out about half of the B-1 zoned portion of the property for development.

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Ms. McKenzie feels that the proposal will not be a detriment to the public good. The coverage is low and you get to maintain open space and make better use of the land. The RCD zone permits a maximum impervious surface coverage of 5% and impervious surfaces totaling 6.65% are proposed within the RCD zoned portion of the property. The total square footage of impervious coverage proposed for the development as a whole will not exceed the total permitted within the B-1 and RCD zones combined.

Mr. Mininni's office will be located in the B-1 zone. The proposed building will address the use of storage and vehicles maintenance. It is not a retail business and it performs an important service. The business provides a service that is needed for the community. A lot of older homes have underground tanks that have to be removed. The B-1 portion is too small to put this business in.

There will be no substantial detriment to the public good if the "d" variance is granted, under the specific circumstances of this proposal, since so much of the land in the RCD zone will remain open and since the overall coverage permitted within both zones will not be exceeded on the tract.

Planning arguments were given for "C" Variance. The variances for insufficient lot area and for the insufficient lot depth in the B-1 zone and the insufficient lot width, frontage and depth in the RCD zone are the result of actions of the Township in rezoning the property and are not of the applicant's doing.

Ms. McKenzie's complete "Outline of Testimony" will be made part of the original minutes.

Bruce Williams asked the applicant if he had any architectural drawings to show the board. Mr. Mininni stated that there will be no steel in the building. It will be decorative block and he will work with the neighbors and the board on how they would like the building to look. Mr. Mininni is also a residential builder and will build the building. The peak of the highest building is 35 feet.

Several board members felt that in the RCD zone, groundwater protection is an important issue. If the variances are granted, the board could ask for a detailed plan of containment at the site plan stage of the application. Ms. McKenzie stated that the applicant has to adhere to a higher standard of proof because this is the RCD zone and the intention of the zone is resource protection, particularly groundwater supply. Bruce Williams stated that if the variance was granted, it would be conditioned upon coming up with that plan.

Lisa Specca, board planner, stated that she would like the board to consider is the split lot zoning. The purpose of the B-1 zone is designed to meet local resident consumer needs.

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Another point Ms. Specca would like to make is the idea of impervious coverage averaging. Ms. Specca doesn't feel that was contemplated when the RCD zone edges were made. There has to be an edge somewhere between one zone and another and Ms. Specca doesn't feel the governing body mentioned anywhere impervious coverage averaging over zone lines was appropriate.

Ms. Specca doesn't feel that an underground storage tank removal business is equivalent to a farming operation. There could be big equipment on a farm but it would be in a different capacity than a storage tank removal business.

Attorney Drill reviewed the impervious coverage ordinance. If the building was made smaller, a variance wouldn't be needed. Ms. McKenzie stated that coverage is a primary concern of the RCD zone. Ms. McKenzie wanted to make certain that overall, the coverage for this property did not exceed the coverage allowed considering it is in two zones.

Mr. Finelli suggested that the applicant provide testimony on how he would handle containment. Mr. Vetrecin suggested additional information is needed at a continued hearing. It might be helpful to have an Environmental Impact Statement to further assess the proposal. Doug Mace would get a geotechnical expert to go on site. Mr. Mininni, with his equipment, could dig some test pits.

Bruce Williams stated that the concerns expressed by the board were runoff and containment of material because this is a RCD zone and the applicant should be prepared to address those concerns.

Attorney Drill requested that the applicant submit full size architectural. Mr. Finelli would like to see some colors that are proposed for the building.

Ms. McKenzie can be excused from the March meeting.

Bruce Williams made a motion, seconded by Bob Vetrecin, to continue the public hearing, without further notice, on the Mininni application to the March meeting. Attorney Lowcher stated that he is not sure that Mellick and Tully would have the geotechnical information the board is requesting by the March meeting. After discussion, the motion is made to continue the public hearing to the April 10, 2008 meeting. The vote is as follows:

IN FAVOR: Babula, Kondas, Schiller, Vetrecin, Williams, Buckwalter,  
Faillace.

OPPOSED: None.

ABSTAINED: None.

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Motion carried.

Even though the board hasn't required it, Attorney Drill informed Attorney Lowcher that he might want to renotice and Attorney Drill would give Attorney Lowcher the language to be used so everything would be covered.

Robert Vetrecin made a motion, seconded by Dawn Marie Kondas, to adjourn the meeting. Motion carried. Meeting adjourned at 10:30.

Elva N. Pomroy  
Board of Adjustment Secretary

Ray Buckwalter  
Chairman