

GLOUCESTER TOWNSHIP ZONING BOARD OF ADJUSTMENT THURSDAY, FEBRUARY 12, 2014

Chairman McMullin called the meeting to order. Mr. Lechner read the commencement statement.

Roll Call:

Vice Chairman Simiriglia	Present
Mr. Bucceroni	Present
Mr. Scarduzio	Present
Mrs. Chiumento	Absent
Mr. Rosati	Present
Mr. Acevedo	Absent
Mr. Treger	Present
Ms. Scully	Present
Chairman McMullin	Present

Chairman McMullin had the professionals sworn in:

Also Present: Mr. Anthony Costa, Zoning Board Solicitor

Mr. James Mellett, P.E., Churchill Engineering

Mr. Ken Lechner, Township Planner

Minutes For Adoption

Zoning Board Minutes for January 8, 2014

Motion to approve the above-mentioned minutes was made by Mr. Bucceroni and seconded by Mr. Rosati.

Roll Call:

Vice Chairman Simiriglia	Abstain
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Minutes approved.

ADOPTION OF ANNUAL REPORT

Zoning Board of Adjustment 2013 Annual Report

A motion to approve the Zoning Board of Adjustments' 2013 Annual Report was made by Mr. Bucceroni and seconded by Mr. Scarduzio.

Roll Call:

Vice Chairman Simiriglia	Yes
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes

Chairman McMullin

Yes

Annual Report Approved.

APPLICATIONS FOR REVIEW

#132042C

Gregory & Darlene Ribbaudo

Zoned: R3

Bulk C Variance

Block: 10705 Lot: 21

Location: 22 Deborah Pl., Blackwood

Existing driveway closest point 1'side setback.

Mr. Costa swears in Mr. Gregory Ribbaudo and Mrs. Darlene Ribbaudo.

Mr. Ribbaudo states his neighbor and himself have come to an agreement to use a 4" block wall to control the water that is running onto the neighbors' property. They will make sure the block wall will come up his driveway far enough to ensure the water going to the street. They will also plant shrubs and plants along the wall to reduce the tripping hazard.

A1 is a copy of the drawing of the block wall. Mr. Ribbaudo would like to be relieved of the liability to his neighbors' home.

Mr. Costa explains that the board can't do that.

Mr. Lechner suggests a deed change to reflect the block wall and why it must remain there.

Mr. Costa states that A1 will be attached to the resolution and the applicant can change his deed and add the block wall.

Mr. Mellett asks the applicant if there will be regarding done when the wall is built.

Mr. Ribbaudo states grading is on his neighbor's property. Mr. Ribbaudo wants the water to run down his driveway but the neighbor will have to get rid of his berm, Mr. Ribbaudo is willing to help him remove the berm.

PUBLIC PORTION:

Mr. Kevin Bryant states he is satisfied with the block wall solution.

A motion to approve the above mentioned application, with the condition that the block wall be added to the deed, was made by Mr. Treger and seconded by Mr. Scarduzio.

Roll Call:

Vice Chairman Simiriglia	Abstain
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosafi	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

#132032C

Franklin & Catherine Schmidt

Zoned: R2

Bulk C Variance

Block: 20502 Lot: 10

Location: 1841 Downs Ave., Laurel Springs

2nd garage 24' x 32' pole barn.

Mr. Costa swears in Mr. Schmidt.

Mr. Schmidt states he needs to add a garage because his mother is moving in with him. He is attempting to make covered handicap area for her to exit and enter vehicles. Mr. Schmidt also needs more room for his cars and to store his and his mother's things.

Mr. Costa asks Mr. Schmidt if his property is plenty big enough to accommodate the second garage.

Mr. Schmidt states yes, he has nearly an acre. The garage will be 33'.6" x 26' with gutters.

Open to Public.

No Comments.

Open to Professionals.
No Comments.

A motion to approve the above mentioned application was made by Mr. Rosati and seconded by Mr. Bucceroni.

Roll Call:

Vice Chairman Simiriglia	Yes
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

#132046C
Kimberly Vittorio
Zoned: R3
Bulk C Variance
Block: 3001 Lot: 5
Location: 4 N Betsy Ct., Glendora
26' x 26' x 18' Addition (8' rear & 8' side setbacks)

Mr. Costa swears in Ms. Vittorio.
 Ms. Vittorio states the lot is an irregular shape and that creates a need for variances.
 Mr. Costa requests the size of the addition.
 Ms. Vittorio states the addition will be 33'.6" x 26', Ms. Vittorio also tells the board her mother will be moving in with her, which creates the need for the addition.
 Mr. Costa asks if the addition will match the home.
 Ms. Vittorio states yes it will match the home.
 Mr. Lechner asks about the difference in the addition on the application vs. now.
 Ms. Vittorio states they changed the drawing so the rear and side variances are both 8ft.
 Ms. Vittorio give the board a revised drawing that will be added to the resolution is passed.
 Mr. MelleTT tells the applicant to make sure the gutters direct the runoff away from the neighbors.
 Vice Chairman Simiriglia asks the applicant if they are encroaching on the sewer easement.
 Ms. Vittorio states no they are not encroaching on the sewer easement.

Open to Public.
No Comments.

Open to Professionals.
No Comments.

A motion to approve the above mentioned application was made by Vice Chairman Simiriglia and seconded by Mr. Bucceroni.

Roll Call:

Vice Chairman Simiriglia	Yes
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

#132044C
Mark C. Felts
Zoned: SCR
Bulk C Variance
Block: 17802 Lot: 7
Location: 20 Skyline dr., Sicklerville
2nd Shed (8' x 12')

Mr. Costa swears in Mr. Mark Felts.

Mr. Felts states he is seeking a variance for a second shed. The homes in Shenandoah Village which are pre-fab don't have much storage and they have recently down sized to this home. He also wanted to place the shed close to his home as not to encroach on his neighbor's yard. There will be no commercial use.

Open to Public.
No Comments.

Open to Professionals.
No Comments.

A motion to approve the above mentioned application was made by Mr. Bucceroni and seconded by Mr. Rosati.

Roll Call:

Vice Chairman Simiriglia	Yes
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

#142002C
Scott Owens
Zoned: R3
Bulk C Variance
Block: 15001 Lot: 11
Location: 1 Bellissimo Ct., Sicklerville
6' fence w/5' front setback

Mr. Costa swears in Mr. Owens.

Mr. Owens states he would like to place the fence where he has specified because he would like to preserve a larger yard for his 2yr. old daughter.

Vice Chairman Simiriglia asks Mr. Owens how far is the fence from the front of the house.

Mr. Owens states it is 5 ft. from the property line.

Mr. Mellett states this is a fairly new sub division with the site triangles on the survey. They are keeping the fence out of the site triangle easement.

Mr. Owens states it will be no problem keeping the fence out of the site triangle.

Open to Public.
No Comments.

Open to Professionals.
No Comments.

A motion to approve the above mentioned application was made by Mr. Treger and seconded by Mr. Rosati.

Roll Call:

Vice Chairman Simiriglia	Yes
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

#112039CDMal

Edward Pine

Zoned: G1

Bulk C Variance & Amended Minor Site Plan

Block: 8301 Lot: 8

Location: Warsaw Ave. / along NJSR 42

16' x 60' double digital Off-Premise commercial sign, 100' high, and 2' from front property line.

***The above mentioned application has been tabled until The March 12, 2014 Zoning Board of Adjustment Meeting.**

#132008CD

Sierra International

Zoned: R3

Bulk C & Use "D" & Use "D" Variances

Block: 6801 Lot: 21,22,23 &24

Location: 415-421 Almonesson Rd, Blackwood

Four (4) twins - Eight lots

Mr. Costa swears in Mr. Guido Barbore (lawyer), Mr. Addison Bradley (Planner), and Mr. Bruce McKenna (engineer).

Mr. Barbore explains the need for a use variance and bulk variances for the twin homes. His applicants will be asking for a major subdivision so they will have to come back to the board for more approvals. The applicant will have to follow stricter rules while developing the land.

A1- aerial photo of property

A2- Good Intent and Almonesson , already twins near the site, property will have long lots, property lines are diagonal to the road.

A3- proposed units, twins are more efficient, bulk side yard is 0', 10.2 ft. side yard between buildings, units will be 70' off the road, 3 parking areas, 4 driveways, turnaround striped with no parking, and a landscaping plan with buffer.

If approved by the board the applicant would have an 8 lot major subdivision, which allows the board to require certain lighting, landscaping etc.... The tax accessor has included a statement that it will be an improvement to the area.

- The lighting will be post lighting and pier at the end of the driveway
- The homes will be individually owned
- Cross easements on the driveways

- Minor and major subdivision, which adds 32 additional items the board can control, such as landscaping, lighting, traffic study, Police report (traffic), and storm water management to ensure that there is no negative impact on neighboring homes.
- Improvement of site
- 3 Bdrm. units tend to attract empty nesters and single people.

Two Negatives:

1. May produce more cars than single homes
2. Run off- impervious coverage is greater and run off could be greater, but this will be addressed in a major subdivision, if approved.

Mr. Bruce McKenna is introduced:

Mr. McKenna states there will be 4 buildings w/impervious coverage. The board would have less control how some of the grading/lighting/landscaping issues. Traffic manageability is better with twins and with the longer driveways.

Vice Chairman Simiriglia suggests the county could require a turnaround since the twins are on a county road.

Mr. Bradley states the access to the road could be the county's only issue (Street opening).

Vice Chairman Simiriglia states that the county planning board would have to be consulted.

Mr. Bradley states the county planning board would not have to be consulted.

Mr. Lechner states road openings would come from the county.

Mr. Mellett states when the lots were created are usually when they would create turnarounds for the driveway.

Mr. Bucceroni asks where the homes were located in the pictures given to the board.

Mr. Bradley states Coles Rd.

Mr. Treger asks Mr. Barbore if there will be 4 buildings with a total of 8 units.

Mr. Barbore states, yes, 8 units.

Mr. Lechner reviews his letter with Mr. Bradley about sufficient lot size.

Mr. Bradley states reviews the letter with Mr. Lechner:

- 2 acres vs. 6350 sq. ft.
- 30ft rear yard
- 37'6" frontage
- 190' depth
- 0' between twins and 10' between buildings (side setback).

Mr. Lechner questions the 70' frontage being part of the application even though the ordinance only requires 30'. Mr. Lechner also wants to make sure the picture presented to the board of the Coles Rd. twins are the exact replica of the new twins being built.

Mr. Mellett reviews his letter with Mr. Bradley even though the letter was answered.

- A turnaround in addition to 2 parking spaces and 2 garage parking spots totaling 5 parking spots.
- 2 ½ spaces are required so this number would be double what is required.
- There will be a cross easement below the parking spaces.
- Landscaping requirements

PUBLIC PORTION:

Mr. Costa swears in Mr. Henderson who lives across the street from the proposed site of the twins (lot: 1501).

Mr. Henderson reads a letter that he and his neighbors sent to Gloucester Township rejecting the building of the twin homes. Mr. Henderson states they already have 3 separate twin developments in the area.

He also doesn't like the idea of "affordable housing." Mr. Henderson refers to section 902 of the application.

Mr. Lechner states that is on all applications, that ordinance has the developer pay a "developer's fee" and Mr. Lechner states that affordable housing is not necessarily a bad thing.

Mr. Henderson states that the lots were subdivided in 2004 and he feels it should stay that way. Twin dwellings are all rented in the neighborhood. He and his neighbors feel they have enough twins and are

afraid an investor will come in and buy them just to create more rentals. Mr. Henderson states he found a real estate fact from 2013 that states 13% of twin buyers are 4 people families. He finds empty nesters and elderly buyers hard to believe. Mr. Henderson also states the developer has not shown any "special reasons" for his use variance to build the twins. He also questions why you would need 5 parking spaces for these units if empty nesters and elderly are buying the units. In his opinion neither group would own that many vehicles. Mr. Henderson states the neighborhood has serious storm water issues. Mr. Mellett states the applicant would have to come back to the board and get approval for storm water management which should help alleviate the water issues in the neighborhood.

Mr. Costa swears in Mrs. Allison Dunn and Mr. James Dunn.

Mrs. Dunn states if they were allowed to build the single family homes the owners would have to take care of the water issues. She states the new homes up the street all drain down to her home.

Mr. Lechner states the drainage plan for the twins will have to show run off management.

Mrs. Dunn thinks 10 ft. between the twins will make them look like row homes and she believes they should remain single family homes. Mrs. Dunn also believes the developer is asking for too many changes (variances).

Mr. Dunn states he speaks for his mother that also lives near the propose twin homes. He states they put up with trash and pollution by Mr. Surplus for 40 years and nothing was done.

Vice Chairman Simiriglia explains that Mr. Surplus was a building supply store that was a preexisting non-conforming use. The DEP has cleared the ground.

Mr. Barbore states the applicant will be supplying additional amenities to the area including extra landscaping and parking, they will have stricter rules in general compared to single family homes.

Mr. Treger asks the applicant the price point for twins.

Mr. Darakhshan states they would be selling for anywhere between \$180,000 and \$225,000 depending on the options the buyers select.

Mr. Rosati asks Mr. Darakhshan if the twins would be sold at preconstruction prices.

Mr. Darakhshan states if they don't sell preconstruction they would be sold on "spec" or/on the market.

A motion to approve the above mentioned application with the conditions of variances ,front setback of 70' ,architectural home that was presented to the board, was made by Scarduzio and seconded by Mr. Rosati.

Roll Call:

Vice Chairman Simiriglia	No
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

5 MINUTE BREAK:

Roll Call:

Vice Chairman Simiriglia	Present
Mr. Bucceroni	Present
Mr. Scarduzio	Present
Mr. Rosati	Present
Mr. Treger	Present
Ms. Scully	Present
Chairman McMullin	Present

Mr. Costa Present
Mr. Lechner
Mr. Mellett, PE

Present
Present

#142005CDSPW
Joseph Federico
Zoned: CR
Bulk C & Use "D" Variance & Site Plan Waiver
Block: 6502 Lot: 8
Location: 1000 Black Horse Pike, Blackwood
Retail store with 2 sided bill board 14' x 48'; 50' height – 3' side rear setback

Mr. Costa swears in Mr. John Wade (lawyer), Mr. Bruce McKenna (engineer), Tiffany CuvIELLO (PP, AiCP Planner)

Mr. Costa explains to the board *res judicata*, a definition follows from Wikipedia is:

"*Res judicata* or *res iudicata* (RJ), also known as **claim preclusion**, is the [Latin](#) term for "a matter [already] judged", and may refer to two concepts: in both [civil law](#) and [common law](#) legal systems, a case in which there has been a final judgment and is no longer subject to [appeal](#); and the legal doctrine meant to bar (or preclude) continued litigation of such cases between the same [parties](#), which is different between the two legal systems. In this latter usage, the term is synonymous with "[preclusion](#)".

In the case of *res judicata*, the matter cannot be raised again, either in the same court or in a different court. A court will use *res judicata* to deny reconsideration of a matter.

The legal concept of *res judicata* arose as a method of preventing injustice to the parties of a case supposedly finished, but perhaps mostly to avoid unnecessary waste of resources in the court system. *Res judicata* does not merely prevent future judgments from contradicting earlier ones, but also prevents litigants from multiplying judgments, so a prevailing plaintiff could not recover damages from the defendant twice for the same injury."

Mr. Costa explains to the board has to determine whether the application is too similar to the first application and if the change in size of the sign is enough of a change to hear the application again.

Mr. Wade explains the billboard has changed significantly in size from a 960 sq. ft. to 672 sq. ft. and the height has changed from 91' to 50'.

The board has to determine if the reduction in overall size and height is substantial enough to hear the application.

Mr. Treger asks Mr. Wade if the reduction in height makes the sign less visible to the Black Horse Pike.

Mr. Wade answers "yes, the sight concern has been removed.

Vice Chairman Simiriglia asks Mr. Wade if the board will have a guarantee that the applicant won't return to request a change to the height of the sign.

Mr. Wade answers "yes".

Mr. Rosati asks Mr. Wade if the sign will be visible both ways on Rt. 42.

Mr. Wade answers, yes.

A motion to approve the hearing of the application (per *res iudicata*) is made by Mr. Rosati and seconded by Mr. Scarduzio.

Roll Call:

Vice Chairman Simiriglia	No
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Approved to hear application

Mr. Wade and Mr. Costa discuss throwing out an article that was presented to the board "as fact" during the last application hearing. The article discusses digital billboards and how unsafe they were.

Mr. Wade suggests it was prejudicial and irresponsible to present the article as fact because there were no scientific facts presented in the article. The article was not based on fact.

Mr. McKenna reviews the site plan:

A1- site plan overview: buildings, driveway, landscaping, vacated property, sign structure (cantilever), ground level (30' lower). The Blackhorse Pike vs. sign location: the sign is 180' on the backside of the property. A Blackhorse Pike motorist will be parallel to the sign and not able to view the sign.

A2- profile – North South Freeway will have a substantial elevation change.

A3- Aerial photo of the scale of the sign on Rt. 42.

A4- copy of the current permit for the billboard from the state of NJ, it is a 3 page document. The permits reflect : 1. Permit 2. DOT review 3. State 4. Enclosure.

Ms. CuvIELLO (planner) reviews variances: She has reviewed local variances and the master plan for Gloucester Township, studies and case law.

Ms. CuvIELLO referenced the Swedish study mentioned earlier in the meeting. The study safety threat cannot be proven and is inconclusive as a safety threat. The study doesn't mention size of signs or distance. The drivers had monitors on their heads during the study which is diversionary in itself.

Ms CuvIELLO continues with the application:

- In the CR zone billboards are allowed Rt. 42.

-5 miles stretches on Rt. 42 are commercial

-14' x 48' or 672sq. ft. sign

-50' high

-variances 1.) Lot size (1/2 acre) 2.) depth 200'

- The applicants can't buy more land to meet the land variance

- variances:

301' vs. 672' sq. ft.

12.25' vs. 14'

24.5' vs. 48' length

80' vs. 3' setback

separation 3000' vs, 2800' (southbound setback)

1000' vs. 500' from interchange

2 faces vs. 1 face of sign

-larger signs have already been approved by the board

-use variance – CR Zone

-height variance

-bulk variance (size and area)

-C variance : special reasons: municipal land use law and purposes of zoning (A,D,G).

-NJDOT approved the sign and location

-NB 200' variance – there is no other commercial property between the 2 signs.

-digital billboard is meant to change the message more than 8 seconds and the illumination must be controlled, it can't flash or pop on or off. The sign is regulated under DOT standards and it will only be seen on Rt. 42 not the BHP. The sign will be able to be used for amber alerts and local businesses can advertise more affordably & this will alert drivers to local businesses they may not have known existed off Rt. 42.

Ms. CuvIELlo states there is no detriment to the master plan with no impairment to the public good.

Vice Chairman Simiriglia asks Mr. McKenna if the billboard is 1000' from the interchange. Vice Chairman Simiriglia states that the acceleration lane is right next to this property so that would set the setback at 0'.

Mr. Wade states NJ State approved this.

Mr. McKenna states the sign is 500' from the point of decision, but you don't see the sign. In the Northbound entrance the motorist should be worrying about traffic not the billboard.

Mr. Wade states there is nothing in Gloucester Townships' ordinance telling you where to measure this 1000' from (not guidance on a starting point).

Ms. CuvIELlo states exiting the highway meets NJ State standards. Motorists wouldn't be looking at the sign they would be paying attention to leaving the highway.

Vice Chairman Simiriglia asks how long it would take to read the sign.

Ms. CuvIELlo states she can't really answer the question, maybe 8 seconds. It would take the same amount of time it would take to read any regular business sign, probably less than 8 seconds.

Mr. Bucceroni states as he understands it, the sign meets all state standards for a state road. He does ask Mr. McKenna about the "field of vision"

Mr. McKenna states you can't see the sign unless your head is in someone else's lap.

Mr. Rosati states there are a lot of examples of numerous signs close together such as the Walt Whitman Bridge. He also suggests it shouldn't take you any longer to read this sign then it would to read a state sign with a silver alert.

Mr. Scarduzio states he has driven these roads for many years from Somerdale Rd. and doesn't see a problem with the BHP and Rt. 42.

Mr. Lechner asks Mr. McKenna at what point on Rt. 42 can you see the billboard. (100ft. per second at 60 mph...500ft. to see the sign5 seconds to see the sign.). Also, how far from the pavement on Rt. 42 is the billboard in case it falls.

Mr. McKenna states it is 50ft. from the highway. The billboard will fall on site because of the cantilever construction.

Mr. Lechner reviews his letter with Mr. Wade.

Mr. Wade states they agree to all the comments in Mr. Lechner's letter: pg. 6 all agreed, pg. 1-7 underground electric, safety, no access without ladder (12ft. security ladder), and fence around base to stop kids from climbing on the base.

Mr. Mellett reviews his engineers letter dated 2-11-2014: agree with the billboard 14' x 48' design, height reduction and safety of the structure falling towards and within the site.

Mr. McKenna states he can make the setback 3 ft. from 1ft. Separation standards meet the state standards but not the towns'. In Mr. McKenna's opinion the town should put the detail in the ordinance where to measure the 1000 ft. from, his suggestion would be the gore.

Mr. Mellett suggests a survey for the site plan waiver, cover lighting and access road surface.

Mr. Wade states it will be a gravel road, access to the site is remote and there is no real need a man needs to service the sign, it is all done remotely. Unless a panel breaks a needs replacing no one will need access.

Mr. Mellett questions Mr. McKenna about wetlands.

Mr. McKenna states there are no wetlands, they are all to the north of the site.

Mr. Bucceroni asks Mr. Wade if the town can advertise for the pumpkin festival and other activities (municipal use).

Mr. Wade states there is no problem with municipal access.

Open to Public.
No Comments.

Open to Professionals.
No Additional Comments.

A motion to approve the above mentioned application with the following conditions: all of engineer letter and planning suggestions, updated survey, fence, and municipal activity, was made by Mr. Rosafi and seconded by Mr. Scarduzio.

Roll Call:

Vice Chairman Simiriglia	No
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosafi	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

A motion to Adjourn was made by Vice Chairman Simiriglia and seconded by Mr. McMullin.

Respectfully Submitted, Jean Gomez, Recording Secretary.