

ZONING BOARD MEETING NOVEMBER 1ST, 2023

The meeting of the Zoning Board of the Borough of Somerville was called to order by Chair Arthur Adair at 7:00 p.m. and stated that adequate notice of this meeting had been provided in accordance with the “Open Public Meetings Act”.

Board Members Present: Arthur Adair, Ed Allatt, Morgan McLachlan, Richard O’Neill, Brian Vadimsky, Eric Alvarez, Stewart Daniels

Board Members Absent: Roberta Karpinecz, John Flores

Professionals Present: Clifford Gibbons, Esq., Board Attorney and Michael Cole, Board Planner and Engineer

See transcript.

APPROVAL OF MINUTES

Upon a motion by Richard O’Neill, seconded by Ed Allatt, the minutes of September 20th, 2023, were approved upon a roll call vote.

Roll Call Aye: Arthur Adair, Ed Allatt, Richard O’Neill, Brian Vadimsky, Eric Alvarez, Stewart Daniels

 Nay: None

 Abstain: None

See transcript.

LAND USE

2023-009Z

1141 Fifth Street, LLC

41 Fifth Street

B53 L7

At this time board member McLachlan excused himself from the application due to a conflict with the application.

Attorney for the applicant Michael O’Grodnick, Esq. addressed the board expressing that they were before the board this evening to seek preliminary and final major site plan approval as well as a D (1) use variance for the proposed use. Mr. O’Grodnick Esq. then went on to explain that the property has been long operating as a landscaping and wood processing facility and the intent of use on the site is to park vehicles including but not limited to dump trucks and tractors, store equipment and landscaping materials/tools. They are also seeking variance relief for the proposed use of the sea boxes. Mr. O’Grodnick Esq. provided some background information of

the subject property including the location, current use, proposed use and the specific variance requested by the applicant including lot width, front yard setback, side yard, impervious coverage, lot size, parking location inside the rear yard, fence height and material etc.

Mr. O'Grodnick Esq. then introduced the two witnesses he had before the board this evening including Craig Stires as their professional engineer and Tom Behrens from Burgess as their professional planner as well as a representative on behalf of the applicant to answer and operational questions that the board may have.

At this time Craig Stires was sworn in by Board Attorney Clifford Gibbons, Esq.

Under direct examination by Mr. O'Grodnick Esq. Mr. Stires gave an in-depth overview of the subject property and existing/proposed site conditions and use including daily operations, the intent of the sea boxes, site trees and the use of a mesh material for fence shading purposes. He also testified that the lighting would remain the same.

At this time Chairman Adair opened up to the board for questions.

Vice Chairman Ed Allat clarified with Mr. Stires that they were not necessarily making any changes and that the site was staying as is? Mr. Stires confirmed that was correct.

Michael Cole, Board Planner and Engineer remained the board the fence was previously approved in a former application however the privacy screening. Stating that the applicant proposes to remove the landscaping in the front and use vinyl privacy fencing for the eight-foot fence on the 3 sides of the property. At this time Exhibit A-1 dated November 1st, 2023, was entered into the record as a colorized version of Sheet 3 from Craig Stires plans.

At this time Chairman Adair opened up to public for questions of Mr. Stires Testimony.

Hearing none, Mr. O'Grodnick Esq. called upon his next witness Tom Behrens from Burgess, a professional planner.

At this time Thomas Behrens was sworn in by Board Attorney Clifford Gibbons, Esq.

Under direct examination by Mr. O'Grodnick Esq. Mr. Behrens presenting the zoning and planning aspects of the application reviewing the I-2 zone and permitted related principal units including general building contractors, landscape counseling, planning, lawn and garden services, as well as ornamental tree and shrub services. Stating that the proposed principal is permitted as of right. He also stated that the I-2 zone also permits several accessory uses including service parking areas.

Mr. Behrens then reviewed the D-1 variance and testified to satisfying the positive criteria, identify special reasons and address the issue of site sustainability. He also indicated that the proposal advances purposes within the MLUL as well as satisfying the negative criteria, which pertains to that there will be no substantial detriment to the public good.

He went on to explain again that the principal use is permitted and that the site is surrounded by similar industrial type uses stating that directly across the street is the brough DPW. Mr. Behrens also stated that the application is somewhat unique in that it's lowering the intensity of the use on the property and that there will be no on-site production of wood products such as firewood or mulch. All the activities with the exception of employees showing up for work in the morning and returning in the evening will be conducted off-site.

Mr. Behrens then went onto testify that the site functions well for both the existing and proposed use and that the application does advance several of the purposes of the MLUL including purpose A, to encourage municipal action to guide the appropriate use or development of all lands in the state to promote the genera welfare, and purpose G to provide sufficient space in appropriate locations for a variety of uses including industrial uses. Mr. Behrens explained that the application also advances several the goals and policies of the 2019 master plan including the goal to encourage development and improvement of nonresidential uses in the designated areas and again, an industrial use and an industrial zone. Goal 2 to improve the visual appearance of business areas. Goal 3 to help preserve and strengthen built environment by providing landscaping such as street trees and plant screening.

Mr. Behrens then identified the new C variances that are being requested including the height of the fence, rear yard setback, maximum opacity of screening material, sea box shipping containers, roofed accessory structures. Mr. Behrens expressed that both the existing and proposed C variances could qualify for the C (1) and C (2) criteria. C (1) being a physical features test whether or not there is any unique aspects of the project that warrant the granting of relief and also the C (2) public benefit test that any public benefits would outweigh any detriment of the application as well as the negative criteria. Adding that there are already a number of the existing nonconforming conditions that have already received site plan approval and that they are not significantly exacerbating those condition with respect to the C (1) criteria. He stated that the C (2) criteria also applies here as the applicant will generate a number of public benefits including a lower intensity use and limited site activity. Mr. Behrens offered that there are no perceived detriments to the public good as the site is located in the industrial zone and there are no residential properties adjacent to the site.

At this time Chairman Adair opened up to public for questions of Mr. Behrens testimony.

Vice Chairman Allat asked a clarifying question about the roof accessory structures on the sea boxes that was responded to by Mr. Behrens.

At this time several members of the board expressed their comments on the application.

The attorney for the applicant, Mr. O'Grodnick then presented his summation of the application along with closing statements for the board.

Chairman Adair then closed the public session.

The board then discussed the application and conditions for approval.

Upon a motion by Richard O'Neill, seconded by Ed Allatt, Zoning Board application 2023-009Z, 1141 Fifth Street, LLC, was approved upon a roll call vote.

Roll Call Aye: Arthur Adair, Ed Allatt, Richard O'Neill, Brian Vadimsky, Eric Alvarez,
 Stewart Daniels

 Nay: None

 Abstain: None

2022-002Z

205 Charis LLC

201-217 West Main Street and Memorial Drive West

B 130, 124.01 L1, 14

The attorney for the applicant addressed the board explaining that he was unwell and not fit to present the application before them this evening. He then asked to be carried to the January 17th meeting with no further noticing, which was granted by the board.

AJOURN

Upon a motion by Richard O'Neill seconded by Morgan McLachlan, the adjournment of the Zoning Board meeting of November 1st, 2023, was unanimously approved upon a roll call vote.

Roll Call Aye: Arthur Adair, Ed Allatt, Morgan McLachlan, Richard O'Neill, Brian
 Vadimsky, Eric Alvarez, Stewart Daniels

 Nay: None

 Abstain: None

The meeting was adjourned at 7:59 p.m.