

Mount Laurel Township Zoning Board of Adjustment
Regular Meeting Minutes
April 6, 2022

Opening

Chairman Gray called the Second Regular Meeting of the Mount Laurel Zoning Board of Adjustment March 2, 2022 to order at 7:00 p.m.

Pledge of Allegiance and Moment of Silence were observed

Suzanna O'Hagan, Board Secretary, read the Open Public notice

Roll call was taken

Board Members in Attendance

Chairman Gray, Vice Chairman Sharp, Mrs. Andersen, Mr. Blum, Mr. Francescone, Mr. Holmes, Mr. Kramer, Mr. Bhankharia. **Absent:** Mrs. Liciaga

Board Professionals in Attendance

Joseph Petrongolo, Planner; Michael Angelastro, Traffic Engineer; Zack Migeot, Board Solicitor; Brian McVey, Fire Marshall

Announcements and Review of Board Procedures

1. The application for Sari Charernsook, ZB22-C-04 has been postponed to the June 1, 2022 regular Zoning Board hearing.
2. An application for National Energy, ZB22-D-05, 2100 Deal Drive will be heard at a special meeting on April 25, 2022 at 6:00 pm.

Adopting the Minutes

Chairman Gray asked for a motion to adopt the second regular meeting minutes of 3/2/2022, Mr. Blum moved the motion Mr. Francescone seconded, all eligible members voted affirmatively and the motion was carried.

Chairman Gray asked for a motion to adopt the special meeting minutes of 3/21/2022, Mrs. Andersen moved the motion Mr. Francescone seconded, all eligible members voted affirmatively and the motion was carried.

Memorialized Resolutions

1. **R-2022-ZB06** - Mr. Francescone made a motion to approve R-2022-ZB06, Mr. Sharp seconded, all eligible voted affirmatively and the motion was carried.
2. **R-2022-ZB07** – Mr. Francescone made a motion to approve R-2022-ZB07, Mr. Holmes seconded, all eligible voted affirmatively and the motion was carried.
3. **R-2022-ZB08** - Mr. Francescone made a motion to approve R-2022-ZB08, Mr. Holmes seconded, all eligible voted affirmatively and the motion was carried.

Professionals were sworn

Petitions before the board

1. Greentree North LLC, ZB21-D-39, 11000 Commerce Parkway, Block 1100.01 Lot 5, I zone. This Applicant is seeking a Use variance from section 154-56 and parking requirement variances from section 154-69 as well as Site Plan Waiver to allow a diagnostic and treatment center for children within an existing building.

Sara Werner Esq., Prime & Tuvel, represented the applicant and summarized the application. She stated that the application is for use variance to allow a children's diagnostic and treatment center in a portion of the existing building as well as a site plan waiver and bulk variance related to parking spaces.

Witnesses Sworn:

James Kyle, Kyle and McManus Associates

Exhibits Entered:

Exhibit A-1, Aerial Photo and Tax Parcel Basemap

Mr. Kyles's Testimony

Mr. Kyle presented Exhibit A-1 via screen share. He described the surrounding uses and stated that 11,350 of the 26,657 square feet of the building would be utilized for the proposed use. The proposed use is diagnostic testing and treatment for children with autism as well as services for the parents. A total of 40 employees will be onsite in in two shifts of 20 employees each shift with approximately 30 participants daily. The facility will operate Monday through Friday 8 am to 8 pm by appointment only. Visitors will park on the North side of the building and use the main entrance. Employees will park in the rear or east side of the building where there are employee entrances. Occasionally children may be dropped off but primarily parents will stay with the children. The participants do not have any special mobility requirements therefore no modifications of circulation to accommodate drop off and pick up are required. Deliveries will be typical office type deliveries. Trash and recycling will be picked up once a week by a private hauler and no medical waste is generated by the proposed use. The facility will utilize the existing trash dumpster onsite. Mr. Kyle testified that a parking variance is requested to allow 139 parking spaces where 135 exist. In terms of positive criteria Mr. Kyle stated he believes the site is particularly suited to the use. There is an existing vacant building with sufficient space and parking to support the use and it is in line with the surrounding uses. He believes the proposal supports purpose A of the purposes of zoning. The service promotes the health safety and general welfare with a mission to deliver life changing outcomes for exceptional children and equipping families to deal with the challenges that autism presents. Additionally there is a benefit in the reoccupation and use of the vacant building. The building has been vacant since 2016. In terms of negative criteria, the use is very similar to an office use with no unusual demands due to the proposed use. He testified that there will be no substantial impact on the surrounding area from the use. Mr. Kyle stated the uses allowed in the industrial zone and stated that ordinance 154-1 states the purposed of our zone plan which are very close to those in the Municipal Land Use Law. He stated that the uses allowed are varied, office space and childcare centers are both permitted and this use is consistent with the intent of the ordinance. He stated the requested parking variance is a minor departure from the requirement of only 4 spaces and qualifies under the C2 criteria purposes *a* and *m*. He stated there is no negative impact as the parking demand is far less than the medical office requirement indicates and there will be no issue with parking onsite.

Mr. Petrongolo reviewed his letter dated 2/18/2022. He stated he has no objections to the site plan waiver or submission waivers because no exterior changes are proposed. He asked Ms. Werner is there is signage proposed. He stated he does not believe there will be a negative impact on the area.

Ms. Werner responded there is no signage proposed.

Mr. Sharp asked Mr. Petrongolo is the cannabis testing facility nearby is an issue

Mr. Petrongolo responded that it is not an issue the facility is only a testing facility

Mr. Gray asked Mr. Petrongolo how another tenant can come in to the remaining space and comply with the required parking if this use requires all the parking onsite.

Mr. Kyle responded that the proposed use does not need all the parking onsite.

Mrs. Werner testified that if another tenant triggers a parking variance requirement that the application would come back to the board

Mr. Petrongolo stated that a parking study was provided that showed sufficient parking

Mr. Angelastro stated that the parking study showed ample parking onsite. The required 139 parking spaces included the proposed use and the vacant space. He stated that all of his comments in his review letter have been satisfied and he has no objection to the granting of the waiver of site plan.

Mr. McVey review his letter dated 2/3/2022. He stated that all of his questions and concerns have been satisfied.

Mr. Hunter stated that he did not prepare a review.

Mr. Kramer asked if there would be any outdoor activities or special security.

Mr. Kyle responded there would not be either. A parent or staff member will supervise children at all times.

Chairman Gray opened the public portion of the meeting for question or comment. Seeing none he closed the public portion.

Chairman Gray asked for an application for ZB21-D-39. Mrs. Andersen made a motion to approve the application, Mr. Francescone seconded. Roll Call Vote, all voted affirmatively. Motion is carried.

2. **National Energy Partners** ZB22-D-07, 701 Centerton Rd., Block 216 Lot 1, MCD zone. This applicant is seeking a D-3 Conditional Use variances from section 154-21.F and 154-21.G as well as associated bulk variances and Submission Waivers.

Stephen Boraske Esq. represented the applicant and summarized the application. He stated the application is for a conditional use variance to allow 3 carport solar canopies. The canopies will not be in front to the main building of the country club. The applicant does not meet the condition that the panels may not be in the front yard or the condition that the panels must meet the setbacks of the underlying zone. Additionally he stated that the applicant is seeking minor site plan approval and minor submission waivers.

Witnesses Sworn

Dan Wacha, NEP; Andrew Coursen, Churchill Engineering; Allison Kimball, KMB Design Group and Gary White, Churchill Engineering

Exhibits Entered

A-1, 2 page site plan sheet; A-2, aerial site photo package; A-3, lighting plan and A-4, 6 page renderings.

Mr. Wacha's Testimony

Mr. Wacha gave a brief history of National Energy Partners, their previous applications, and future and ongoing projects. He testified that the project would be located in the front of the property but off to the side of the main building screened by trees. The carports will have a minimum clearance of 14 feet. The purpose of the project is to make the facility more green. The solar PV panels do not reflect light so there is no issue with glare. In terms of safety, NEC is able to remotely monitor the system so if there is ever an error they are able to get ahead of it as well as monitor the general health of the system. All electrical equipment will be underground and the disconnects will be behind the building out of view. They will be adding additional

screening with the limitation that the landscaping will not block the sunlight therefore reducing efficiency of the system. The additional landscaping will be at ground level.

Mr. Coursen's Testimony

Mr. Coursen presented Exhibits A-1 and A-2. Mr. Coursen described the measurements and placement of the carports. The drive isles range from 25' to 28' and the minimum height clearance is 14'. With exhibit A-2 Mr. Coursen showed a slight bow in the parking lot. Mr. Coursen testified that the solar arrays do not increase drainage or water runoff therefore the existing drainage system will continue to function as originally designed. He testified that the applicant would have to remove some vegetation screening the parking lot to accommodate the canopies because the vegetation is in the way or too high and will shade the panels. Landscaping is proposed to make up for the tree removal. He stated that he does not believe the removal of the trees will have a visual impact and the remaining trees will serve as a visual buffer. Parking space number and functionality of the lot will not be effected.

Ms. Kimball's testimony

Ms. Kimball presented Exhibit A-3 via screen share. She testified that some light poles will be removed and led under-canopy lights will be installed under all 3 carports to make up for the light loss from removing the poles.

Mr. White's Testimony

Mr. White presented Exhibit A-1 page 2. Mr. White testified that the potential detriments are to the public good and to the master plan. He stated that the proposed canopies do not generate any noise, odor, dust or traffic. He stated that the only potential detriment is visual. He stated that applicant has taken great care to locate the canopies in the most inconspicuous place possible. They would be located over the employee parking area so they do not take away from the curb appeal of the Country Club. He stated that the configuration is book ended by mature vegetation and will be visible only from the parking lot of the office complex across the street. He believes the project will help Laurel Creek Country Club by providing clean renewable energy onsite, which will make the site a stronger commercial site. The project will not deter from any neighbors. The project does not create any new development and requires only minimal clearing mainly over the existing parking area. He testified that the MLUL clearly identifies solar arrays and inherently beneficial. Mr. White stated that in his professional opinion the solar facility use is still appropriate for the site notwithstanding the deviation from conditional use ordinance. Their placement and the mature vegetation make them difficult to see from the roads. Based on the shielded view and the site constraints he believes the request for variance is justified.

Mr. Boraske shared Exhibit A-4.

Mr. Coursen described the rendering as a 3D version of the 2D plans. He stated that the panels have a 2 inch gap between them and face the southerly exposure.

Mr. Petrongolo reviewed his letter dated 3/3/2022. He stated that the applicant has agreed to the conditions in the letter. He stated that he has no objection to the requested submission waivers. Mr. Petrongolo requested that a condition of approval be that the applicant work with the board professionals regarding landscaping for appropriate front yard screening.

Mr. Boraske agreed to the condition with the caveat that the landscaping cannot block the panels from the sun.

Mr. Petrongolo asked how snow build up will be handled.

Mr. Wacha replied that snow guards will be installed on the modules additionally; space between the modules allows water to flow through.

Mr. Petrongolo asked if a construction trailer will be onsite and confirmed that the applicant is aware that they will be responsible for any affordable housing obligation that may be imposed.

Mr. Wacha replied there will not be a construction trailer and the applicant is aware of the affordable housing obligation.

Mr. Gray asked what is the required setback and what is being proposed, if most of that panel in the setback and if there is sufficient space to provide landscape buffering.

Mr. Coursen replied that the required setback is 75' and will be reduced to 15' at the front left corner. About $\frac{3}{4}$ of the panel is in the 75' setback. The front corner is 14' high so landscaping will be screened from the ground.

Mr. Petrongolo replied that only the one corner is 15' the remainder is in the range of 30' so there is sufficient space to landscape large evergreen shrubs and trees will be provided.

Mr. Sharp asked if the grass area shown on exhibit A-4 will remain grass.

Mr. Petrongolo replied that the landscaping in that area will be expanded upon and stated he does not believe there will be negative impact from the encroachment into the setback.

Mr. Angelastro review his letter dated 3/4/2022. He stated that the applicant has agreed to comply to his comments.

Mr. McVey review his letter dated 2/17/2022. He stated that the applicant has agreed to comply to his comments.

Mr. Hunter review his letter dated 3/17/2022. He asked that the applicant provide testimony regarding #3 and #7 on his report.

Mr. Wacha replied that the existing shipping containers will be permanently removed prior to construction and that no protection is needed for the steel columns.

Mr. Blum stated concerns regarding the poor state of the existing black top and asked if the applicant plans to repair the blacktop.

Mr. Wacha replied that he cannot speak to what the client will do but the applicant will return the work area to its previous condition.

Mr. Boraske stated that they would work with the property owner if there are any conditions on the site where the installation of the carports cannot be done safely and can talk to the owner of the Country Club owner regarding aesthetic improvements in the parking lot. He asked Mr. Wacha if these projects generally

Mr. Wacha replied that ground disturbance is minimal.

Mr. Petrongolo stated that the parking lot is an existing condition and safety issues would have to be corrected, the owners have to comply with maintenance ordinances.

Chairman Gray opened the meeting to the public for questions or comments, seeing none closed the public portion.

Mr. Boraske closed with a reminder that the standard for a D3 conditional use variance is lower than that of a D1 use variance. Mr. Boraske stated that the applicant requires relief for non-conformance with the front yard setback condition, with solar in the front yard and for setback of the underlying zone as well as Minor Site Plan approval. He stated that they will work with the Board's planner regarding required screening and agreed that if he and the Board planner do not agree

Mr. Petrongolo asked Mr. Boraske if he will agree to repair the parking lot as a condition of approval.

Mr. Boraske replied that they will work with the property owner to comply with any maintenance ordinance.

Mr. Petrongolo stated that as part of the Minor Site Plan there are parking lot standards that will have to be addressed.

Mr. Boraske agreed to comply.

Mr. Gray asked if any fencing is proposed.

Mr. Hunter replied that the equipment will be housed in an existing equipment building.

Ms. Kimball replied that the only equipment outside the building is a disconnect switch and a box for the monitoring system.

Mr. Migeot enumerated the conditions of approval as the following.

1. The applicant will comply with the conditions of the professionals reports
2. The applicants use will be consistent with the testimony to the board
3. The applicant will work with the Board Planner regarding screening
4. The applicant will work with the Fire Marshall to ensure fire truck accessibility
5. The applicant will work with the property owner to repair any unsafe conditions in the parking lot

Mr. Boraske clarified that the screening cannot interfere with the panels or sunlight.

Mr. Petrongolo reiterated that if he and the applicant cannot come to an agreement regarding buffering then the applicant will have to return to the board.

Chairman Gray asked for an application form the board.

Mr. Francescone made a motion to approve ZB22-D-07 with the conditions stated, Mrs. Andersen seconded. Roll Call Vote, all present voted in the affirmative and the motion was carried.

Adjournment:

Chairman Gray made a motion to adjourn at 8:53 p.m., Mr. Francescone seconded, all present voted affirmatively and the motion was carried.

Adopted on: May 4, 2022

Suzanna O'Hagan, Secretary
Zoning Board of Adjustment