

**EAST AMWELL
ZONING BOARD OF ADJUSTMENT - MINUTES
Municipal Building – 7:30 PM
November 12, 2013**

Call to order and compliance with the Open Public Meetings Act

The regular meeting of the Board of Adjustment was called to order at 7:30 PM on November 12, 2013 in the Main Meeting Room of the Municipal Building, 1070 Route 202/31, Ringoes, NJ by Chair Schroeder.

In compliance with the Open Public Meetings Act, the Administrative Officer announced this was a regularly scheduled meeting pursuant to the Annual Meeting Notice as published in the January 17, 2013 issue of the Hunterdon County Democrat, filed in the Township Clerk's Office, and posted on the Bulletin Board on November 6, 2013.

Roll Call and Agenda Review

Present: Sherrie Binder
Nancy Cunningham
Gloria Frederick
Gael Gardner
Paul Gavzy
Kendra Schroeder
Diana Garrett – Alt. #1 – *(arrived at 7:36 PM)*
Anne Williams – Alt. #2

Absent: Sue Posselt

It was noted for the record that Attorney Kevin Van Hise was covering this evening's meeting for regular Board Attorney Trishka Cecil.

Presentation of Minutes

A motion by Paul Gavzy, seconded by Nancy Cunningham to approve the Board's minutes from 10/8/13 with no revisions noted was approved with Ms. Gardner and Ms. Frederick abstaining.

Presentation of Bills for Payment

A motion by Paul Gavzy, seconded by Sherrie Binder to approve the vouchers for payment as listed on the agenda was unanimously approved.

Application for Public Hearing

Hess Corporation – AJ-13-01: Preliminary & Final Major Site Plan Approval and Use Variance – Block 15.01 Lot 2

Present for the application was Attorney Donna Jennings and Project Manager Andrew Lautenbacher on behalf of Hess Corporation, Engineer Stephen Atkins, Planner Andrew Janiw and Traffic Engineer John Rea.

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Attorney Jennings came forward and explained that they are seeking Preliminary and Final Major Site Plan approval to convert the existing Dunkin Donuts building on the site to a Hess Express convenience store, replace and rotate the existing fuel bays to a 12 pump configuration, install a new canopy and make other site improvements associated with parking, lighting and landscaping. Attorney Jennings clarified that the issue of the convenience store on this site was litigated by a previous property owner and the Courts ruled that a convenience store could be constructed on the property.

Attorney Jennings outlined the following requested variances:

- Minimum Front Yard – 100 ft. is required, 25 ft. exists and 20 ft. is proposed
- Parking Spaces – 17 spots are required, 14 spots exist and 13 spots are proposed
- Signage – 32 sq. ft. is allowed, 102 sq. ft. exists and 108 sq. ft. is proposed
- Side Yard – 75 ft. is required, 17 ft. exists and 20 ft. is proposed

Attorney Jennings noted the following pre-existing conditions exist:

- Minimum Lot Area – 2 acres is required, .77 acres exist and .77 is proposed
- Impervious Coverage – 25% is allowed, 71% exists and 71% is proposed
- Minimum Lot Depth – 250 ft. is required, 134 ft. exists and 134 ft. is proposed
- Minimum Lot Width – 250 ft. is required, 242 ft. exists and 242 ft. is proposed

Attorney Jennings indicated she had received a copy of an email sent from a resident which suggested that all of the tractor trailers attempting to access the site and park along Route 202 are a safety hazard. She commented that they do not want to encourage tractor trailer customers to the site and stated that is the reason why they are proposing to change the fuel pump configuration, to hinder the ability of large trucks to maneuver on the site. She also noted that the fuel pumps are not high flow and are not efficient for large tractor trailers to fill up. Attorney Jennings stated they are willing to install signage indicating tractor trailers are not welcome and they will provide the Township with “Title 39” jurisdiction which allows the police to ticket any tractor trailer violators.

Attorney Van Hise swore in all of the witnesses and noted for the record that the public notice had been provided in accordance with the MLUL requirements. He stated the Board had jurisdiction to proceed with the public hearing.

Engineer Stephen Atkins came forward and provided his credentials. The Board accepted him as an expert to provide testimony on this application.

The following exhibits were presented:

- Exhibit A-1:** A mounted aerial photo of the site dated 10/8/13
- Exhibit A-2:** A mounted colored rendering of the proposed landscaping dated 10/8/13
- Exhibit A-3:** A mounted circulation plan dated 10/8/13
- Exhibit A-4:** A mounted rendering of the proposed Hess Express convenience store

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Engineer Atkins explained the characteristics of the site noting it's a .77 acre lot in the Highway Office District. It currently has 4 fuel pumps: 2 gas, 1 diesel and 1 combination diesel/gas, 4 underground tanks, 1 building, private well and septic and 3 access points: 1 off of County Route 514 and 2 off of State Highway 202/31. Engineer Atkins noted that the surrounding uses are mixed residential and commercial.

It was noted that the applicant is proposing a 2,480 sq. ft. Hess Express which is slightly larger than the existing Dunkin Donuts but will not be increasing impervious coverage because the expansion will take place where there is existing asphalt and curbing. There will also be an 82' x 32' canopy, new trash enclosure and an ice dispenser.

Engineer Atkins stated the business will remain a 24 hour a day operation with 4 – 5 employees. He stated there will be approximately 3 fuel deliveries per week with daily deliveries to the convenience store. Engineer Atkins clarified that the daily deliveries will be made via a UPS style box truck.

Engineer Atkins provided details of the proposed Hess Express noting it will be a modular building featuring a split façade constructed in brick with green and white ceramic tile. He also noted the project does not trigger the stormwater management regulations.

Landscaping and lighting was discussed. Engineer Atkins referred to Exhibit A-2 explaining that there will be new landscaping provided along the building, the signage and along County Route 514. He indicated they will provide additional low level screening if the Board prefers. With regard to lighting, it was noted that there are 4 existing metal halo fixtures that will remain. Engineer Atkins stated the canopy will contain flush mounted LED lights installed under the structure that will produce 4.1 foot candles of light glare. He indicated they are seeking relief from 0.1 foot candle glare beyond the property lines to address safety concerns on the site.

The existing monitoring wells on the property were discussed. Attorney Jennings noted that a “no further action” letter was issued by NJDEP regarding the wells and indicated that there is no current remediation taking place and none proposed for the future. She commented that they are still following up with NJDEP regarding removing the wells.

Ms. Cunningham asked what the anticipated construction time line is. Engineer Atkins stated that they are expecting construction to take approximately 4 – 5 months. He remarked that the site will be closed during this time and noted that all construction will be done in accordance with local and state regulations during daylight hours. He stated no construction vehicles will be stored at the site on a regular basis but said there may be some equipment there overnight on occasion. Engineer Atkins indicated all debris will be removed in a timely fashion and any topsoil stored on site will be stored in accordance with soil conservation regulations.

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Signage was discussed. Engineer Atkins remarked that the existing free standing sign will not change. He clarified that on the Hess Express building there will be a 36.3 sq. ft. sign on the front facade that will be illuminated internally. The proposed Dunkin Donuts sign will be 35.25 sq. ft. The canopy signage will be a total of 36.6 sq. ft. It was noted that all signs will be flush mounted and will comply with the Township's ordinance.

Engineer Atkins remarked that the parking will be addressed by Traffic Engineer John Rea but stated they are proposing a depth of 18 ft. for the handicapped parking spaces rather than 22 ft. He noted that if the Board requires the 22 ft. they can comply.

Engineer Atkins addressed the Environmental Committee review report. He indicated he had spoken with environmental committee member Toni Robbi regarding the suggested retention basin and stated that they cannot construct one on the site because they are not required to do so under any State regulations. Engineer Atkins remarked that installing a "bio-basin" may be a possibility but stated they would have to get NJDOT approval because the suggested location for the basin is in their right of way.

Mr. Gavzy asked why there are only 2 designated employee parking spaces if they indicated they may have 4 – 5 employees on site. Attorney Jennings explained that the Township's ordinance does not require that the parking spots be designated but the property owner did so simply because of their location on the site. Ms. Cunningham asked for clarification on the amount of parking. She remarked that if there are 13 spots on the site, minus the designated ones, she believes there will only be 4 spots left for the public. Engineer Atkins commented that many customers will pull in for gas and essentially park at the fueling pumps while they run into the convenience store. He suggested that each fueling station can be considered a parking spot.

Ms. Cunningham asked if the landscape buffer along County Route 514 will be sufficient to block headlights from vehicles using the gas station. Engineer Atkins commented that he believes 4 ft. high shrubs will shield the surrounding property owners from headlight glare.

Ms. Binder asked about the proposed pump configuration stating she pulls a horse trailer and questioned the accessibility. Engineer Atkins indicated the circulation will be better after the pumps are re-configured because there will be more fueling stations and no large tractor trailers allowed on the property. Engineer O'Neal commented that theoretically a tractor trailer could maneuver to the fueling pump on the end and pull out onto Highway 202. Attorney Jennings agreed but stated the employees at the site will be instructed not to service tractor trailers. She also again noted the inefficiency of the pumps on site to fill large gas tanks stating it would take over 45 minutes for their pumps to fill a tractor trailer's gas tank.

A motion by Gloria Frederick, seconded by Nancy Cunningham to open to the public for any questions of Engineer Atkins was unanimously approved.

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Frances Gavigan of 123 Wertsville Road came forward and asked what will prevent truckers from parking their tractor trailers along Highway 202 and running into the convenience store. Attorney Jennings stated that Highway 202 is not their property so they cannot enforce parking there but indicated the State Police certainly could if they wanted to.

Ms. Gavigan commented that there are pick-up trucks with horse trailers that will not be able to access this gas station because of their size and she reminded the Board that this is a farming community. Ms. Gavigan continued with questions about a possible title issue on the property and the location of the monitoring wells, suggesting they may be situated on the adjoining property. Engineer Atkins commented that he was not aware of any title issues or any problems with the location of the monitoring wells.

Toni Robbi came forward on behalf of the Environmental Commission (EC). He remarked that the EC is concerned with the large amount of impervious coverage on the site and the wastewater. He wondered why some of the Best Management Practices (BMP) weren't being implemented voluntarily. He suggested vegetated channels and native plant landscaping.

Engineer Atkins commented that the plans were prepared under the State and local guideline criteria. He remarked that while they can look into creating the suggested bio-retention area, they would need approval from the NJDOT since it would be located in their right of way. Mr. Robbi recommended Engineer Atkins take a look at the retention areas in the right of way in front of Sweet Valley Farms just across the highway.

Seeing no other members of the public come forward, Chair Schroeder moved to close the floor to the public. The motion was seconded by Nancy Cunningham and unanimously approved.

Attorney Jennings called Traffic Engineer (TE) John Rea forward. He was sworn in and accepted as an expert to provide testimony on this application. TE Rea referred to his trip generation memo dated 6/4/13 regarding the traffic on the site. He explained that when a property has access points along a state highway the NJDOT mandates that you use the criteria in their Access Code when reviewing what the traffic impact will be as a result of the site renovations.

TE Rea noted that the AM peak hour is expected to result in an additional 57 driveway movements which equates to about 30 more customers and the PM peak hour is expected to result in an additional 37 driveway movements which equates to about 20 more customers. He noted that the weekend peak hour (the middle of the day on Saturday) is expected to result in an additional 37 driveway movements as well. TE Rea indicated that the County Engineering Department accepts these figures and the NJDOT issued a letter of "no interest" on 9/19/13.

TE Rea commented that the existing curb cuts on the site are grandfathered and stated the NJDOT indicated they have "no interest" in them. He remarked that he has been out to the site several times and is aware of the tractor trailer activity as well as the parking along Highway 202. He stated that he believed re-orienting the gas pumps and posting appropriate signage will

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alleviate this problem. TE Rea expressed that the proposed extra fueling pumps will be more convenient for customers and the new configuration will provide better accessibility.

TE Rea addressed the turning radius on the site saying that even though some pumps could accommodate truckers, those pumps are not easily visible from the highway and they pump diesel fuel at low speeds which is not designed to accommodate large fuel tanks. With regard to the concerns expressed about horse trailers accessing the site, he said he believes there will not be any issues and stated there will be 3 or 4 pumps on the site that can accommodate these customers.

It was noted that there is 33 ft. between the parking and the canopy. TE Rea indicated this distance is sufficient for the customers they want on the site.

There was some discussion regarding the amount of deliveries to the site. It was noted that there will be approximately 2 to 3 fuel deliveries per week. The Hess Express convenience store will receive weekly deliveries via a large tractor trailer early in the morning and Dunkin Donuts will receive daily morning deliveries via a box truck.

TE Rea stated they are seeking a variance from the 17 required parking spaces to allow 13 spots. He commented that they can fit 2 additional land banked spaces if required. He noted some statistics saying that typically 50% of their customers purchase fuel only, 25% purchase both fuel and convenience store items and 25% only purchase from the convenience store. TE Rea remarked that the fueling positions actually act as parking spots while customers run into the store while their cars are being filled with gas. He stressed that based on his knowledge of other Hess sites the parking at this location will not be a problem.

Engineer O'Neal commented that employees seem to be parking all over the site currently and he asked why this is the case if the applicant believes that the parking is adequate. Attorney Jennings commented that the Dunkin Donuts employees are parking off to the side of the property because Dunkin Donuts and Hess were owned by two separate entities. She clarified that Dunkin Donuts was leasing the space and the Hess employees don't have the right to park in that area. She clarified that once the renovations take place the property will be run and controlled solely by the Hess Corporation who will be able to dictate where employees should be parking.

Engineer O'Neal asked how Hess proposes to police the parking. TE Rea indicated he did not have an answer to that question and stated that Hess has a reputation for running a clean operation and now that this site will be owned solely by Hess that will be the case with this property.

Engineer O'Neal asked about the "sea box" currently located on the site. Hess Representative Andrew Lautenbacher came forward and explained the sea box contains the Christmas Hess trucks sold at all Hess gas stations this time of year.

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Ms. Cunningham asked for clarification as to why the parking on the site will be decreasing. TE Rea explained that they are actually maximizing the parking required under the new regulations and he stated that the handicapped spaces are wider than the existing ones in order to comply with the handicapped parking requirements.

Ms. Gardner asked about the hatched marked area along County Route 514. TE Rea explained that is a 5' buffer area near the garbage enclosure. Ms. Gardner remarked that space could be utilized for parking. Engineer Atkins commented that they could provide a total of 16 spots on the site: 3 for employees, 2 tandem, 1 handicapped and 10 general parking spaces.

Ms. Cunningham asked for clarification on the access points. TE Rea explained that he wants signage posted so that all traffic circulation on the site is in one direction.

Ms. Williams asked if there are air pumps on the site. Engineer Atkins stated there is one located on the southerly portion of the property which will remain.

A motion by Gloria Frederick, seconded by Sherrie Binder to open to the public was unanimously approved.

Guy Grignon of 77 Wertsville Road came forward and commented on the volume of traffic on County Route 514 as well as the off ramp and he remarked that there have been accidents. He also commented that many times he has been stuck behind people getting gas that often go into the Dunkin Donuts and then traffic flow is halted because you can't get between the cars at the pumps. TE Rea remarked that he agrees this happens on the site occasionally and believes the new configuration will help the situation.

John Seramba of 111 John Ringo Road came forward and questioned the ownership of the property. He stated he is a frequent customer of the Dunkin Donuts and was told that they just signed another 5 year lease agreement for the space on that site. TE Rea clarified that he was told by the Hess Corporation that all employees on the property will be under the Hess umbrella. He clarified that it may be possible that the Dunkin Donuts staff will actually be Hess employees.

Toni Robbi of the Environmental Commission came forward again and asked what the new impervious coverage calculation is if 2 additional parking spaces will be added. TE Rea explained that any change to the impervious coverage will be de minimis because even though the newly proposed building is larger, the paved area will be decreasing because the curb line was moved further to the south. He added that they are considering grass pavers in this employee parking area which will not impact the impervious coverage.

Frances Gavigan of 123 Wertsville Road came forward again and asked TE Rea how many Hess stations he has done renovations on that contain a jug handle. TE Rea stated this site is not the only one in NJ that has a jug handle. He commented that this particular station has been situated within the jug handle for so many years that is grandfathered from NJDOT's 1992 Access Code.

Ms. Gavigan asked if there were any plans for installing a generator on site. Mr. Lautenbacher explained that the site will not have a generator but rather a transfer switch which will allow for a generator to be plugged in and started in power outage situations. He remarked that this process takes about a half hour to get the station up and running. He added that it isn't economically or logistically practical for Hess to have emergency generators on all of their sites.

Ms. Gavigan went on to comment that the new fuel pump configuration will negatively impact the local farming community and questioned how the proposed application supports the Township's Master Plan when they are making the one place agriculture can go, impossible to get to. TE Rea reiterated that he believes the renovations to the site will actually make it more efficient and convenient for the local community and people with horse trailers to access the site.

Seeing no other members of the public come forward, a motion by Gael Gardner, seconded by Sherrie Binder to close to the public was unanimously approved.

The Board took a break from 9:49 PM to 9:58 PM.

Attorney Jennings noted that during the break she and the Hess professionals resolved the parking issues. Engineer Atkins explained that the hatched buffer areas were generous in size and he stated that they can configure the site to include 17 parking spaces with no increase in impervious coverage. He indicated there will be 6 employee spaces each being 8' wide. Three spots will be located in front of the recycling area and 3 will be located on grassy pavers on the side of the building.

Planner Andrew Janiw came forward and was accepted as an expert to provide testimony on this application. Attorney Jennings asked him to address the positive and negative criteria with respect to the proposed application. The following positive criteria aspects were noted:

1. The renovations will promote a desirable visual environment
2. The site has adequate space to provide an appropriate commercial use within the Township
3. The renovations will provide better traffic circulation and service to all customers
4. There will not be an increase to impervious coverage
5. The number of signs is being reduced

With regard to the negative criteria, Planner Janiw commented that he does not believe approval of the proposed application will impair the zoning plan or be a detriment to the public good.

A motion by Gloria Frederick, seconded by Nancy Cunningham to open to the public was unanimously approved.

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Frances Gavigan of 123 Wertsville Road came forward again and asked if any safety studies had been done on this site. Planner Janiw commented that all safety issues were reviewed by the circulation engineers and the design professionals.

Seeing no other members of the public come forward to ask questions of Planner Janiw a motion by Gloria Frederick, seconded by Gael Gardner to close to the public was unanimously approved.

A motion by Gael Gardner, seconded by Sherrie Binder to open to the public for any comment on the application was unanimously approved.

John Seramba of 111 John Ringo Road came forward again and questioned the ownership of the property and whether or not there was a clear title. He noted that Dunkin Donuts is a franchise that has a lease to use the existing building on the site. He added that Mr. Mavrode owns adjoining property which has monitoring wells and suggested the Board get definitive answers from NJDEP on the status of the wells prior to granting any approvals.

Frances Gavigan of 123 Wertsville Road came forward again and presented a handout of photos of the site depicting tractor trailers parking along Highway 202. Attorney Jennings took no exception to the handout and it was marked as **Exhibit O-1**. Ms. Gavigan reiterated her concerns regarding safety at the site.

Seeing no other members of the public come forward a motion by Paul Gavzy, seconded by Gloria Frederick to close to the public was unanimously approved.

Attorney Jennings summarized the application saying, "...the site is there today. It's going to continue to operate as a gas station with a Dunkin Donuts. We think that the improvements are improvements, that the reconfiguration of the pump islands will make the site work more efficiently. The technical relief that we are actually asking for...is a minimum front yard setback, and that is due to the unusual triangle shape of the lot...six square feet of building area...and the space for the employee parking. We really think this is a much improved site and we think it will improve safety and customer efficiency."

Chair Schroeder asked if the Board's Professionals had anything they wished to add. Engineer O'Neal asked if the applicant could address the concerns raised regarding the title of the property. Attorney Jennings commented that she didn't believe there was any issue with the title. She clarified that the Hess Corporation has been selling off some of its assets. She stated that she believes this particular property went from a Hess trust to the Hess Corporation.

Ms. Cunningham asked if the applicant intends to install a fence along County Route 514 to mitigate headlight glare. Attorney Jennings commented that most of the cars getting fuel will be facing Highway 202 because that is the direction they will be encouraging traffic flow through the signs that will be installed. She added that she doesn't think a fence will be aesthetically pleasing and indicated they prefer to install a natural landscape buffer.

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After some brief discussion among the Board Members, a motion was made by Sherrie Binder, seconded by Gloria Frederick to approve the application with the following conditions:

1. The installation of “No Tractor Trailer” signs
2. The plans will be revised to show the additional parking
3. Directional signs and arrows will be installed at the site
4. Six employee parking spaces will each be 8’ wide instead of 10’
5. There will be 1 handicapped parking space instead of 2
6. Additional screening will be installed along County Route 514
7. All lighting on the site will comply with the Township’s ordinances
8. No fuel will be pumped to tractor trailers
9. The applicant will provide a copy of the NJDEP no further action letter
10. The applicant will give the Township Title 39 enforcement powers
11. The Board Professionals will review the stormwater BMP’s
12. All product will be sold inside the store and not under the canopy
13. The sea box for the Hess trucks will be on the site seasonally
14. All employee parking will be designated
15. The property owner must sign the site plans
16. The building dimensions need to be corrected on the site plan
17. The dimensions for all signage needs to be shown on the site plan
18. The applicant will comply with all items in the professional’s review memos

The motion was unanimously approved by roll call vote.

Roll Call Vote: Sherrie Binder: Yes, Gloria Frederick: Yes, Nancy Cunningham: Yes, Gael Gardner: Yes, Paul Gavzy: Yes, Kendra Schroeder: Yes, Diana Garrett: Yes

Old Business

It was noted for the record that there was no old business listed on the agenda.

New Business

It was noted for the record that there was no new business listed on the agenda.

Comments of the Board Members

It was noted for the record that no comments were made by any of the Board Members.

Attorney Comments

It was noted for the record that Attorney Van Hise had no comments.

Open to the Public

A motion by Paul Gavzy, seconded by Gloria Frederick to open to the public was unanimously approved. Seeing no members of the public come forward, a motion by Gael Gardner, seconded by Gloria Frederick to close to the public was unanimously approved.

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Adjournment

A motion by Paul Gavzy, seconded by Sherrie Binder to adjourn the meeting was unanimously approved.

The meeting adjourned at 10:53 PM.

Maria Andrews, Administrative Officer