

**CLAYTON PLANNING BOARD
PLANNING BOARD MEETING MINUTES
APRIL 24, 2023**

The regular meeting of the Clayton Planning Board was called to order at 7:00 PM. Invocation was given and we had a Salute to the Flag.

SUNSHINE LAW

The public notice of this meeting pursuant to the Open Public Meeting Act of 1975 has been properly given in the following manner:

- A. Posting written notice on the Official Bulletin Board in the Municipal Building.
- B. Mailing written notice to the South Jersey Times and the Franklinville Sentinel.
- C. Filing written notices with the Clerk of the Borough of Clayton.

ROLL CALL:

Ayes: Abate, Cerone, Culver, Miller, Vondran, Wise, DePoe, Wiseburn

Absent: Bianco, B. Saban, T. Saban, Thomas

APPROVAL OF MINUTES

M/ Vondran, S/ Cerone - Approve the Minutes of the regular meeting of the Clayton Planning Board/Zoning Board held on April 24, 2023.

Ayes: Abate, Cerone, Culver, Miller, Vondran, Wise, DePoe, Wiseburn

Abstain:

OLD BUSINESS:

None.

NEW BUSINESS:

Dream Homes/Autumn Run – 201 East Ave., a/k/a Block 2022, Lot 22 – Preliminary Major Site Plan

Linda Galella, Solicitor, swore in both Wayne Roorda, Jr., P.E. and Rose Ann Lafferty, Zoning Officer.

David DeClement, Esquire asked the Solicitor to swear in his professional, Walter Hopkin, P.E. and witness, Vince Simonelli, President of Dream Homes. Mr. Hopkins gave his credentials and they were accepted by the board.

A color rendered version of the site plan was displayed at the meeting and was marked as Exhibit A-1. Mr. DeClement spoke and indicated that they are only going for preliminary approval tonight and not final in which the application was previously submitted as both preliminary and final approval.

Mr. Hopkin indicated that the site is 24.45 acres and is on the corner of East Avenue and Washington Ave. The physical address is 201 East Avenue a/k/a Block 2022, Lot 22 and located in the RA Zone. The surrounding uses are very similar except for the north

which houses Autumn Pasquale Park. Surrounding the property are single family homes also in the RA zone. Currently the property is vacant. It is sparsely wooded in the front and a bit more densely to the north. There are wetlands on the property which have been identified by the NJDEP. There is an unnamed tributary which runs through the northern portion of the property and that is where the entire property drains towards. This was subject to use variance approval in 2021. At that time, the layout was similar, however, it was for 63 units. Tonight we are asking for 62 units as there was a slight adjustment to align this roadway up for safety reasons.

There is no further relief from the required ordinances. There is a lot of greenery to the north and they are preserving one-third of the property (8.54 acres). There are 62 lease areas and each lease area will contain a 25'x50' manufactured home and concrete pad. There will be an additional 8'x10' concrete pad for a potential shed, a 12'x40' asphalt driveway and a four foot sidewalk that goes from the home pad to the sidewalks that circulate the property. We will update our plans showing the HVAC which was requested by your engineer. There will be a unit behind each pad that will not interfere with any of the landscaping. The entire property will be managed by the applicant.

There will also be one community center which is approximately 1,700 sq. ft. with a 204 sq. ft. covered patio. There will be five privately owned and maintained stormwater management facilities. They are graded at a 3-1 slope and are approximately four feet at their deepest amount. The design is currently infiltration basins with overflow into the northern part into the wetlands. There is a 30 foot wide paved roadway throughout the site which is privately owned and maintained. It meets all of the turning radius. There is also a four foot sidewalk proposed on both sides of the roadways and concrete curb. There is a landscaped boulevard entrance on East Ave. and secondary access on Washington Ave. There will be a privately owned community water/sewer system. The water connects on both roads and the sewer has to go out to East Ave. The refuse will be cans to the curb. There is perimeter, stormwater, and street, as well as community center landscaping. There will be approximately 730 trees and shrubs that are being replaced regarding this project. The Borough Engineer suggested a demolition plan which will show the number of trees which will clarify the amount of tree removal. They have agreed to that. The Borough's engineer asked if they would provide on their lighting plan the lighting on the community center. They will agree to do that as a condition of approval.

This basically sums up everything and if there are any questions he will answer them. Mr. Hopkin added that they have reviewed Mr. Roorda's letter and they will comply with any requirements as a condition of approval.

Wayne Roorda, Jr. advised that there was a letter from Vince Simonelli dated April 20, 2023. He addressed a majority of the items except for stormwater he deferred to his engineer. He wasn't sure if this could be added into the record as additional testimony. Linda Galella added Mr. Simonelli's letter dated April 20, 2023 as Exhibit A-2.

Mr. Roorda reviewed his letter dated April 18, 2023. Item #45 – what recreation will be in the community center. They won't need a tot lot since it is a 55+ community. They will probably have some exercise equipment, a card table, and other recreational amenities. They will also have a kitchen with a regular oven, stove, and microwave. It will not be a commercial kitchen.

MOTION FOR COMPLETENESS

M/ Vondran, S/ Wiseburn

Ayes: Abate, Cerone, Miller, Vondran, Wise, DePoe, Wiseburn

Abstain: Culver

The applicant did provide the survey so that takes care of Items 1 and 2. Pursuant to #4 – The roadway maintenance and snow removal will be by applicant/owner. There is no HOA proposed as it's applicant owned. The engineer asked that it be added to their plans. Item #6 they will have trash cans/recycling cans and they will also have them at the community center as well.

In regards to Mr. Roorda, Jr.'s letter, the applicant agreed to comply with #7-17. Item #18 – the engineer was not privy to this but back in 2021 there was discussion about providing a walkway to Autumn Pasquale Park. Mr. Roorda wasn't sure where it currently stands. Joe Abate answered that there was a possibility of putting it next to the bike lane on East Avenue. It would be from the complex to the park. Mr. Simonelli added that when they came before the board for the use variance they suggested a path of some type. The board had concerns about teenagers. They don't object to it as there is no security concern. Joe Abate thinks it would be a nice amenity.

Wayne Roorda mentioned that back in 2021 there was discussion about an HOA when they were approved for their use variance. He wanted to confirm that there is no HOA at this point. Mr. DeClement added that an HOA can coincide with a management company. Mr. Simonelli responded that that is correct and that the manager will be the applicant/owner. Mr. DeClement advised the board that HOA's are allowed to be added to do things on a communal basis. Joe Abate indicated that he thought there was going to be an HOA regarding the maintenance of the development. Mr. Simonelli advised that as the owner they are going to be responsible for the maintenance of the development. Mr. Simonelli added that it is going to be part of their monthly fee. A portion of that will be for snow removal and lawn maintenance, etc... The homeowner doesn't own the land they are leasing. They also do not bond for this. Joe Abate asked what protects the homeowner from a possible bankruptcy? Mr. Simonelli answered that he assumes someone would buy an ongoing asset right out of the bankruptcy.

They're leasing the land. There will be a separate fee in the monthly fee for the applicant/owner. There will be two separate accounts (one is a sinking fund which will be available to homeowners of how much is in there and then an operating account). The Department of Community Affairs (DCA) – once a year. They will have to make an application to the HOA. It will be disclosed yearly. They would have to sign that they have received it and then posted/mailed yearly.

Hope DePoe asked if they are a management company of an HOA or just part of the whole project. Mr. Simonelli answered that they will perform both functions. They are the developer and will continue to manage the properties. There is no HOA. Hope DePoe thought she saw mention of an HOA in their perspective. Mr. DeClement advised that the management company is responsible for the roadways and all the other infrastructure. It's no different than a normal condominium. On this application they are the management company and they will be responsible. Ms. DePoe responded that the management company reports to the board which is part of the HOA to make sure you are reliable.

Vince Simonelli explained that they have to make an application to the DCA. The DCA has to approve their application in order to operate this property. They have to provide their budget to them and on a yearly basis they have to submit their financials. Hope asked so the homeowners won't know what's being done with their money? Mr. Simonelli advised that if you came to buy a house you would be given a disclosure statement and everything is spelled out. This is done yearly and you would have to sign that you read it, etc... The audited financials will also have to be sent to show you what your money went towards. She also asked how long do they have to maintain the property and Mr. DeClement advised in perpetuity. He is also self-governed by the DCA. Once you become a condominium that is your governing body. Joe Abate advised that it should be notarized. Vince said it has to be. Dave DeClement added that it is part of the closing documents. There is a seven day period before it becomes valid. At the time of the closing, you are signing every one of those sheets that you received them. Joe Abate is concerned for the protection of future residents. The applicant responded this is why DCA governs everything.

Hope DePoe mentioned that they keep saying DCA. If they went bankrupt, is it in the hands of the homeowners. Darlene Vondran confirmed that the homeowner owns the house but the rest is leased and they responded that that was correct. Darlene asked if the homeowner is only responsible for their house and they said yes. Further discussion took place. In regards to the accounts, you can only use it for what it is meant for. At the end of the year, you have to present an audited statement of account to the DCA.

Hope advised them that she lives in a building that went bankrupt twice and they, the homeowners, own the building and have to maintain everything. They don't have to report to anybody. That's why it was asked if they went bankrupt and no one took over then it's going to be left up to the homeowners. Mr. DeClement responded that if it did happen they would still have the sinking fund intact. They can't pull from the sinking fund. The taxes will still be due. The management company will pay the taxes and it would be part of the residents' monthly fee. If the taxes weren't paid, then Clayton would have every right to go to tax sale. It is illegal for them to use the surplus funds. The DCA audits them once a year. It is an audited financial which is the highest level (there are three levels). A CPA has to certify it and has to write an audit letter. They are bonded on a bunch of different things including fiduciary bonding.

Doc Cerone asked about the north area and if it is for future development for expansion. They advised no this is it. He asked if the seven ponds are retention or detention ponds. Mr. Hopkin advised that they are both, mostly retention which is the issue that he and Mr. Roorda have. They may end up being detention. They don't communicate with each other but they will be working on that. He asked about the plans when you're looking at the house. The one block is the house, is the other the driveway which doesn't connect? The applicant advised the driveway does not connect to the house as it is a manufactured home. They said the other block on the plan behind the house is for a potential shed.

Wayne Roorda asked what the final decision was for the sidewalk/walking path. Mr. DeClement answered they would leave it to the board's discretion. Joe Abate asked if anyone had any comments. It will be next to the bike path. They can't pave it because it's wetlands. They could make it woodchip and the board agreed to that. Further discussion took place. The management company/applicant would maintain the woodchip path as it would be a maintenance item. They think it would be a nice thing as well.

Wayne Roorda continued reviewing his letter dated April 18, 2023 in regards to environmental concerns. He did receive the letter dated January 3, 2020 from the NJDEP in regards to their environmental assessment and he understands that they are standing by this.

In regards to traffic, a report and assessment was received. There is nothing that is raising a red flag in regards to traffic. Regarding parking and loading, the ADA requirements need to be met and the grade needs to be added on their plan. In regards to grading, these are mostly housekeeping items. The applicant needs to confirm if the proposed dwellings can be placed on a slope concrete pad as opposed to a level surface. They have agreed to other housekeeping items.

There are seven stormwater basins on the site. The basins that are designed conflict with the stormwater management rules from the State. They are infiltration and detention so they hold water and release water. His concern is with infiltration the DEP is very strict regarding how much water you can park in the ground. They have exceeded the amount of water to be put into the ground on four of their basins and it is not compliant. The applicant is going to comply and is going to raise the site so they can have positive discharge towards the wetlands. They will be raising the site another two to three feet just where they have to but not the entire site. Further discussion took place.

The applicant agrees to submit Form A for the water/sewer to the public works department and will go through the process. As mentioned earlier in regards to the management company being responsible for maintaining the grass and snow removal, they will also need to maintain the water/sewer structure.

Mr. Hopkin agrees to provide a demo plan showing what they are going to remove in regards to trees. They also testified that they will add lighting to the community center

which will be added to the lighting plan. They also confirmed that the HVAC equipment will be in the rear of house and not interfering with the proposed landscaping. The applicant has agreed to comply with all the construction details in Mr. Roorda's letter. The applicant confirmed that the water/sewer will be paid by the management company and not the individual homes.

Nothing was received from the Fire Chief but Mr. DeClement said they initially had something from in a couple of years ago for the use variance. A plan has been submitted and they will see if Clayton uses the same fire truck as they used. Joe Abate advised them that they still need the approval from the Fire Chief for the final. Sue Miller asked about the storm calculations with wetlands. Wayne Roorda explained the process.

Joe Abate asked about the entrance on East Avenue which is directly across from Moore Blvd. Mr. Hopkin indicated that from a traffic planning perspective that is the ideal condition to have them either directly lined up from each other or offset enough. In the redesign they realigned them so they are lined up with each other. Joe added that he wants a good stop sign at their exit which is very visible. In other developments, people just come flying out of the developments right out onto the street. Mr. Roorda requested that they review the traffic control device manual so they realize that they are coming to an entrance. It's one way in and one way out with a landscape feature in the middle.

On Washington Avenue, is it an exit only? They advised it is a two-way. He also asked about the corner of East Avenue and Washington Avenue that is a low lying area and there is an area on the corner where water lies. He asked if the stormwater management would do something to alleviate the water. Mr. Hopkin suggested that he could either meet with him or Mr. Roorda to address it. They do have inlets on both sides of the roadway. Mr. Abate doesn't want the residents' properties flooding with this development. They again advised as that is why the inlets are there.

Mr. Abate also asked if they intend on doing any improvements on Washington Avenue? What roads are going to be accessed during construction? Mr. Simonelli would prefer to use the less busy road but it's a toss up right now. Joe advised that East Ave is a highly used road. The improvements will be about three to four months. Joe responded that he doesn't want to see that the road is deteriorated and would like it fixed if they do. Washington Avenue is not a great road right now.

Davie DeClement went back to the funds. There are two accounts one is the sinking fund and the other is the operating fund. The operating fund consists of items that occur on a recurring basis...landscaping, snow removal, etc... The sinking fund is to provide for a contribution every month towards the eventual replacement cost of a capital improvement on a prorated basis. The DCA has a chart giving the life expectancy. The sinking fund is for infrastructure, the roadways, the curbs, the basins, has the ability to pay for something when it is expected to depreciate.

Bill Culver's concern is a similar situation in the State of NJ where it was a campground, not residential. People lived there basically year round and what they thought was a long

time lease. As long as they paid their rent, they could stay there. Something happened to the owner/management company and they went belly up and sold. The new owners didn't want to use it for that purpose anymore so they gave them 30 days to get out. Mr. Culver was advised that that can't happen here. Campgrounds are not governed by the DCA. Mr. Simonelli advised that if the resident continues to pay their monthly payment they have 99 years. Brief discussion took place.

Hope confirmed that the home is a fee simple and that the homeowner actually owns the structure? She asked who owns the property that it sits on? The applicant advised they do.

Rose Lafferty advised the board that per their use variance approval in 2021, there was discussion of an HOA. Mr. Simonelli thanked her for that and the applicant will be responsible for the maintenance of the development. The use variance that was approved in 2021 had the following ten items in the adopted Resolution:

1. The applicant will provide documents to the DCA;
2. Roadways in the development will be provided by DH&DC;
3. Lease agreements signed by residents will be for twenty-five (25) or thirty (30) years, be transferrable, and will contain the HOA fee, snow removal fee, and the water/sewer maintenance fee;
4. The leases will dictate the level of maintenance that will be required of the individual residents for their property;
5. The leases will control and insulate the residents in the event the DH&DC become financially insolvent;
6. Residents will have a separate gas and electric bill;
7. Trash pick up will be a private service;
8. The development property will be maintained by the Autumn Run HOA/Condominium Assoc.;
9. The community will be comprised of people aged fifty-five (55) and older pursuant to the State of NJ laws and guidelines;
10. There will be no residents under the age of 18 allowed to reside within the development.

The Resolution (#07-2021) states that they will have an Autumn Run Condo Association. The Resolution was predicated on this. If this is going to be changed, you're going to reopen this. Vince Simonelli said he stands corrected. At the time of the use variance they did not think they were going to own and operate it. They eventually decided to. They will provide for an HOA when they file their paperwork with the DCA. Rachel Wise asked if there will still be a sinking fund and was advised yes as it is a requirement by law.

MOTION TO OPEN TO THE PUBLIC

M/ Vondran, S/ DePoe

Ayes: Unanimous

Robin Bowne – 725 E. Washington Avenue – she is the adjacent property which is a horse farm. Linda Galella swore her in. She has been a resident of Clayton since August 1998. She understands that there were previous issues with Countryside with water runoff. What is her protection from water running off on to her property and she gets water in her basement. She understands there are a lot of lawsuits regarding Countryside. There was flooding in her basement from Hurricane Irene. Little Ease does go across the back there. She has a barn there as well as a garage. Her house was built over 130 years ago.

Mr. Hopkin responded that they did an analysis of the ground water to see if it is going to be affected. Ms. Bowne advised that the corner where the water lies is by her barn and house. Anything that comes down will go right into the basement. Their analysis shows water will not go into her basement. She responded that some analysis make mistakes and she wants to know what her protection is and who pays for the repair. Wayne added that essentially where the water goes today it still has a right to go there. The applicant has to show that what they're doing isn't going to have an adverse effect to your property. The Borough's engineer has to agree with this. They have to actually reduce the rate in which it gets there.

Ms. Bowne explained that currently from the second house up to the third when it rains everything from that field comes down and she is under water. She wants to know what is her protection if she has water in her basement who is going to be responsible. David DeClement, Esq. answered that this is a two part question. The applicant has to bond that it actually gets done. The bond isn't released until it is done with satisfaction. Their engineer added that there is an inlet behind her property to keep the water on the applicant's property. When they get to the third one, they will put a lawn inlet on the grass and it gets piped to that other basin. Ms. Bowne believes she has what they call a possession easement. There is a stake in the ground that goes through her driveway from the previous owner. She has been using it for 25 years. Mr. DeClement asked if it was an adverse easement. Will they be taking out the entire tree line that she uses for her horse farm? Will she be required to move fencing? Mr. DeClement didn't know how to answer. If Ms. Bowne has an adverse claim, it's not going to affect this project. Brief discussion took place about the adverse claim.

The engineer added that they are preserving the tree line along the property line. She indicated that this was the first time she was seeing these plans as she works and cannot get to Borough Hall. Additional discussion took place about the adverse easement. She then asked how much of a buffer is being left between her property, the horse farms, and this project? Are people going to be able to have private fencing on their property. Her concern is with having horses, dogs and kids come onto the property. What is going to be the rules for dogs coming on the property. Will the dogs have to be on a leash? That would come under the Borough Ordinance. Ms. Bowne added that she knows a lot of condominiums do not allow fences around the property. NJ Law allows farmers to shoot and kill a dog if it comes on the property. She's concerned cause if a horse gets spooked by a dog and then crashes through the fence and gets hit by a car on the road who is liable? She has had two stray dogs attack her horses. Joe Abate added that would be a

Borough concern. She is also concerned because people like to bring their kids onto the property to pet a horse and then end up getting bit or kicked, etc... What is her liability? Hope DePoe answered that it's her private property. They are trespassing. She wanted to know if she gets water in her basement and gets mold then who does she sue? Wayne Roorda responded. The water currently gets to the barn but not to her house yet. It only got to her house once with Hurricane Irene.

She also has concerns about the roads and the little bridge. Since it's been paved the traffic is heavier. When the road had potholes, the traffic was minimal. The cars are always flying down the road. It gets icy in the winter time. Can a speed limit sign be posted. She has asked before but nothing has been done. Joe Abate advised her to come to a council meeting on the 2nd or 4th Thursday of the month and they should be able to address it as some of the road is in Franklin Twp. That is her late night for her business and she doesn't get home until midnight. He told her to go to Borough Hall and talk to Sue Miller, Administrator. She said she has already come to Borough Hall. She also asked if there will be a limit to their hours of operation. Joe Abate responded that they have to comply to the Borough's Ordinance.

Arthur May – 706 E. Washington Ave. He was sworn in by Linda Galella, Solicitor. He advised that when it rains E. Washington Ave. floods in front of his neighbor's house and his house all of the time and they did raise their homes. So he is concerned about that. He also asked if there are going to be inlets on E. Washington Ave. There is an inlet on the property. He showed Mr. May on the map where the inlets are. Brief discussion took place between Mr. May and Mr. Hopkin. He also asked what a pre-fab home was. He was told that they are pre-built and usually come in two pieces. They are basically a modular home. Mr. May drives a tri-axle dump truck and these roads cannot handle these trucks.

Vince Simonelli asked if he could put something on the record. If there are any issues, he would ask that the residents' call him directly so they can address it. He doesn't think it needs to get to the Borough to be addressed.

Jennifer Haller – 741 E. Washington Ave. She was sworn in by Linda Galella, Solicitor. Her property is bounded on the back by the unnamed inlet and on the side by Little Ease Creek and half of that property is wetlands. They are concerned about that. Her biggest concern is that they moved out here 25 years ago for the quiet. She's now looking at 62 homes, people, cars. She understands people are entitled to have a house which is very hard now. She hasn't seen the traffic study. Mr. Hopkin advised that they did do a study and there is no change. This was also reviewed by the Borough's planner. Brief discussion took place. She asked how long it was going to be a 55+ community. She was told in perpetuity. She said that she is 75 and what happens if she married a 30 year old. The 30 year old could live with her but no children under 18 can live there. She used to live in Beau Rivage in Glassboro. It was supposed to be families only when we were first building. That lasted five years and it was hard to keep the college kids out. The 55+ will be part of the deed restriction, it's forever. Mr. DeClement added that it runs with the property and is part of the deed restriction.

Hope DePoe asked that when someone buys a home is there a stipulation in the By-Laws or Master Deed that they cannot rent the property out. Is it going to be stipulated that the owner has to either live in the home or sell it to someone who is going to live there? Mr. Simonelli answered that the homeowner has to live in the home for at least one year. If they are going to rent it, it will have to be a rental term of at least one year. It's difficult to totally restrict against rentals but you can limit them. Mr. Simonelli also added that in regards to age restriction, age applicability is covered by Federal Law. One person has to be over 55 or two people have to be over 50 and no one can be under 18.

Rich Schempp – 211 Madison Ave. – was sworn in by Linda Galella, Solicitor. His property faces onto Washington Avenue. He wanted to know where the entrance is in relation to his property, Lot 12. He showed them his property on the map. There is no shouldering and there is a curve on the road. Are you anticipating any problems with that. He was told that they did a traffic study and everything is good.

Robin Bowne got up again and asked about the corner of East Ave. and East Washington if anyone has come down there and you make a left or right onto East Ave. visibility is barely 25-30 ft. down the road. People are coming down exceeding the speed limit is there anything they can do to increase the visibility at the intersection since there is going to be more traffic. Wayne Roorda advised they are obligated to provide sight triangles at their intersections. Further discussion took place. Wayne advised that the intersection isn't in the jurisdiction of the applicant so she would have to address the Borough about this. She also asked about the utilities and cables as there are a lot of power outages. She also asked who was responsible for the little bridge and is it going to be able to maintain the additional traffic. Joe responded that he believes it's in Franklinville and she advised him that it is Clayton.

MOTION TO CLOSE TO THE PUBLIC

M/ Vondran, S/ Miller

Ayes: Unanimous

MOTION TO APPROVE PRELIMINARY MAJOR SITE PLAN APPROVAL ONLY (NOT FINAL) WITH VARIANCES

M/ Vondran, S/ Wise

Ayes: Abate, Cerone, Miller, Vondran, Wise, DePoe, Wiseburn

Abstain: Culver

Clayton Food & Gas – 435 S. Delsea Dr. a/k/a Block 1102.05, Lot 93 – Minor Site Plan Dante Parenti, Esq. of Hoffman DiMuzio represents the applicant. He also has four (4) individuals that need to be sworn in. Linda Galella, Esq. swore in Greg Simonds, P.E. of Ewing Associates – Clayton, NJ, Kaur Kamal – Clayton Food & Gas, Ratan Singh, and Tiffany Morrissey, P.P.

Rattan Singh is the principal of Clayton Food & Gas and there be a language barrier so his daughter, Kaur Kamal, is here to help translate. This application is for a site plan

approval and a D Variance. They have reviewed the Borough Engineer's letter and due to the hour of this meeting he is calling on their engineer, Greg Simonds, P.E. to address the professional's comments.

Greg Simonds, P.E. of Ewing & Associates is here tonight regarding a minor site plan application. Mr. Simonds has been before this board before on other matters. This property is a -pre-existing gas station located on Roberts Avenue and Delsea Drive. The current gas station is 12'x20' (240 sq. ft.). The applicant is looking to replace that building as it is old, deteriorating, and has some issues. They would like the new building to be 24'x20' (480 sq. ft.). It's still small in size and they are proposing two parking spaces in the rear of the property, one handicapped parking spot along Roberts Avenue, and one parking spot on the northside of the proposed building. There are also gas pumps. There is space for four cars in that area. The circulation through the property was a main concern along with the fuel time, the fuel trucks, and customers.

Per the owner, fueling time is after hours. After midnight, the fuel trucks would be fueling the pumps. There will be no conflict with the customers at that time. The fuel trucks typically come in off of Roberts Avenue, loop around the site, and exit onto Delsea Drive. The circulation for customers will not change from what it is now. The building is going to be double the size but it is still going to be a small building and it's going to increase out to the rear. A designated handicap space will also be provided. There will be an improvement to the building along with the exterior of the building.

Per Mr. Roorda's letter and in regards to completeness, they do have a current property survey and it can be submitted right now. There are no restrictions or covenants and they aren't proposing any. They agree to show sight triangles on the plan. They are not proposing any new access ways. The existing access ways are going to stay the same. They agree to comply with all required approvals such as water/sewer, NJDOT, Clayton Fire. The 200' list will be added to the plan.

There are no existing or proposed drainage easements. There should be no changes to the drainage. The site is mostly paved so there is no a whole lot of room for landscaping. They did propose three arborvitae trees in the back behind the trash enclosure area and a new PVC fence to replace the wooden fence to provide a buffer. They asked that the application be deemed complete.

Linda Galella asked if anyone had any comments. Wayne added that they asked for a waiver for landscaping but they are going to add some arborvitaes. They do not to provide a lot of landscaping since it's a minor site plan it's also an existing site. Wayne has no issues with it the application being deemed complete. Linda added that the applicant has agreed to comply with completeness items 22, 25, 27 & 32.

MOTION TO DEEM THE APPLICATION IS COMPLETE

M/ Miller, S/ Vondran

Ayes: Abate, Cerone, Culver, Miller, Vondran, Wise, DePoe, Wiseburn

Joe Abate asked if a Phase I Environmental is needed. Mr. Parenti responded that they are replacing their underground tanks so it's basically required. They will comply with anything that DEP requests.

Joe Abate asked what the hours of operation are going to be for the store. He was told 6 a.m. to 9:30 p.m. Mr. Parenti asked his clients to testify in regards to deliveries. The deliveries of the fuel will be at night and the deliveries for the store is just done by a small van. The store is going to offer the same stuff as before with the exception of lottery tickets. The traffic is going to remain exactly the same. The applicant has been at the store for over 30 years and advised that there have been no environmental spills to his knowledge. Darlene asked what time at night for the fuel. They deliver it at off hours approximately 2 a.m.

Tiffany Morrissey, PP licensed in the State of NJ and has been before this board before. They are requesting a use variance as the zone does not permit convenience stores or gas stations although this is a pre-existing, non-conforming use. This use has existed for at least 30+ years at this property. They are enlarging the building from 10'x20' (240 sq. ft.) to 20'x24' (480 sq. ft.). It's a small space but they are going to have a little more room which will provide for an ADA accessible bathroom, some climate control in the building, and basically bring it up to current standards. They will also be removing the above ground kerosene tanks by the building as well as the vacuum and air pump that are in that same area. That will be replaced with a new ADA handicap parking space which does not exist due to the age of the property as there are no ADA facilities.

This is a D-2 variance because it's an expansion of a non-conforming use. The focus of this application in terms of the use variance testimony is on what we are changing and expanding and how it improves the site and advances the special reasons and positive criteria. The function of the property is not changing. Six parking spaces will be required for the size of this building with the way it is designed, however, four will be proposed. Ms. Morrissey's opinion is that this site will continue to provide sufficient space and an appropriate location for a variety of uses which is the purpose of zoning. The building is not a substantial increase in size. The setbacks of the building will be in the same exact location. The front yard setback is going to remain 45.7 where 50 ft is required. The setback to Roberts Ave. is 34.4 ft. The setback will now be 34.2 ft. to the building. The rear yard setback goes from 53.9 ft. to the rear down to 43.8 ft. but still allows for plenty of room for circulation around the building. The side yard will remain at 41' ft. setback.

This property has existed as a non-conforming use and is basically the only gas station on Delsea Drive in Clayton. This is an undersize property and the zone requires 15,000 sq. ft. and they have 10,000 sq. ft. This will be a continued operation. There will be extra parking with the stalls. The impervious coverage is going to remain at 93%. There will be some green added to the site. Lastly there is no substantial detriment to the public good.

Wayne Roorda added that there is a variance needed for the parking space near Roberts Avenue. It is a dual front property and the parallel parking space would encroach in the front yard setback. Mr. Simonds in regards to landscaping that it is a pre-existing condition in that there isn't much of a buffer given in terms of landscaping. He believes a variance is needed to fully comply with the ordinance. The intent is there but to fully comply is not feasible given the circumstance of the property so a variance will be needed for that as well. Tiffany Morrissey, PP added that that space will be a handicap access space so as much as it is used it's not always utilized. So the space along Roberts Avenue isn't always going to have a car there continuously.

Wayne had an additional comment regarding a waiver for aisle widths. Twenty-four feet should be provided and they have one spot at 23.4 feet. This should be a waiver and not tied to the use variance aspect.

The Zoning Officer did not have any comments. Doc Cerone asked if they plan to put in an electric charging station. They said probably not as the location is not large enough.

MOTION TO OPEN TO THE PUBLIC

M/ Vondran, S/ Miller

MOTION TO CLOSE TO THE PUBLIC

M/ Vondran, Miller

Ayes: Unanimous

MOTION TO APPROVE THE D-2 USE VARIANCE WITH ALL CONDITIONS

M/ Vondran, S, Miller

Ayes: Abate, Cerone, Culver, Miller, Vondran, Wise, DePoe, Wiseburn

In regards to the minor site plan application, Mr. Simonds advised that they are asking for all bulk variances that Mr. Roorda mentioned. They are asking for a waiver for the drive aisle width. Mr. Roorda added that they are only talking a little over six inches so he doesn't object to the waiver. He also asked that there be a signature on the plan. The applicant has no issue with Mr. Roorda's comments #1 and #2 under general comments.

Mr. Roorda asked what the actual colors are going to be for the roof and the façade. They are going to be neutral colors. The building is going to have a brand new fresh appearance. All new materials for the façade windows, brick, a new front door, windows, and stucco. An interior floorplan, a new handicap bathroom, a storage area and sales space as well as new heating and air conditioning. The new bathroom will probably be double the size it is now. The roof will be a neutral color and the brick will be black.

Additional discussion took place about Phase I and Phase II with the replacement of the tanks and they will follow the State requirements. The town picks the trash/recycling up on a regular basis and the cans are taken to the curb. The applicant does not object to fixing any repairs to the sidewalk that is needed. Wayne Roorda briefly discussed the

parking and that the spots at the fuel tanks do count as parking spaces. The delivery to the store is normally between 2 p.m. to 4 p.m. and is just a van no large vehicles or trucks. They pull in behind the store and are there about 20-30 mins about three times a week. The board doesn't have a problem with them just parking in the back and that they wouldn't need a variance for it. The space is available but just isn't a delineated spot.

Mr. Roorda added that he understands the delivery trucks come in off of Roberts Avenue and exit onto Delsea Drive and doesn't have a problem with that. He suggested that the applicant may want to try the delivery trucks entering in off of Delsea Drive and exiting onto Roberts Avenue just in case. Or post a sign delineating that the delivery trucks enter in from Roberts Avenue and not from Delsea Drive. He also suggested that it be added to the plan that the fuel trucks fill the tanks on off hours during the middle of the night (approx. 2 a.m.). If the fuel truck cannot enter in on Delsea Drive because he cannot maneuver on the lot, Mr. Roorda asks that a sign be placed at the Delsea Drive entrance this is not a truck entrance. Mr. Simonds responded that they do not have an issue working with the board's professional.

Mr. Roorda indicated that they should have a Letter of No Interest from the DOT. If DOT doesn't have a problem with it, we wouldn't have a problem with it. Greg Simonds, P.E. agrees to comply with the lighting, landscaping and construction details. The lights will be LED and they are on for 24 hours. They agree to run it by the Borough's engineer so there is no light spillage, etc... It is the intent of the applicant to replace the wooden fence with a PVC fence. It will be a solid fence to minimize see-through.

MOTION TO OPEN TO THE PUBLIC

M/ Vondran, S/ Miller

Ayes: Unanimous

MOTION TO CLOSE TO THE PUBLIC

M/ Vondran, S/ Miller

Ayes: Unanimous

MOTION TO APPROVE MINOR SITE PLAN FOR GAS STATION & CONVENIENCE STORE WITH ALL CONDITIONS

Mr. Parenti asked for clarification on the sidewalks in front of the building if they were repairing/replacing all of the sidewalk. Wayne Roorda responded just where there is deterioration.

M/ Vondran, S/ Miller

Ayes: Abate, Cerone, Culver, Miller, Vondran, Wise, DePoe, Wiseburn

MOTION TO OPEN TO THE PUBLIC

M/ Vondran, S/ Miller

Ayes: Unanimous

MOTION TO CLOSE TO THE PUBLIC

M/ Vondran, S/ Miller

Ayes: Unanimous

CORRESPONDENCE:

None.

DISCUSSION:

None

RESOLUTIONS:

Motion to Approve Resolution #10-2023 – Granting Minor Site Plan & Variances – JBS
All Phase Construction

M/ Vondran, S/ Miller

Ayes: Abate, Cerone, Culver, Miller, Vondran, Wise, DePoe, Wiseburn

Motion to Approve Resolution #11-2023 – Granting Use Variance Approval to Permit
Boat Parking on Driveway – Leon Sanders

M/ Vondran, S/ Miller

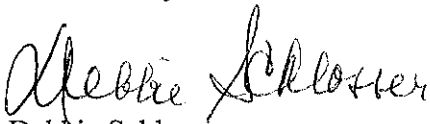
Ayes: Abate, Cerone, Culver, Miller, Vondran, Wise, DePoe, Wiseburn

ADJOURNMENT

M/ Vondran, S/ Miller

Ayes: Unanimous

Submitted by,



Debbie Schlosser

Planning Board Secretary