

**CINNAMINSON TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
February 6, 2019**

MR. BEDNAREK: The Regular Meeting of the Zoning Board being held February 6, 2019, is scheduled for 6:30 p.m. in the Municipal Building, 1621 Riverton Road, Cinnaminson, NJ. Adequate notice of this meeting has been provided in accordance with the Open Public Meetings Act by advertising this Regular Meeting in the Burlington County Times on January 15, 2019 and by advertising this Regular Meeting in the Courier Post on January 15, 2019.

This meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Board may legally consider in reaching a decision, and decorum appropriate to a judicial hearing must be maintained at all times.

Members Present – Mr. Bednarek, Mr. Conway, Mrs. Galosi, Mr. Hare, Mrs. McStravick, Mr. Trampe, Mrs. Wolaniuk, Mr. Sell and Mr. Devlin.

Also Present: Mr. Strobel, Board Attorney and Patricia Rucci, Board Secretary.

MR. BEDNAREK: The Board's policy is not to commence hearing a matter after 10:00 p.m., but instead to adjourn the matter to the next regularly scheduled meeting. Any matters still being heard at 10:00 p.m. may be completed that evening or may be adjourned to the next regularly scheduled meeting, at the Board's discretion.

MR. BEDNAREK: Case #19-2-1 – John A. Feghali – Use Variance – 1015 Route 130 South, Block 1005, Lot 1 and 1702 Riverton Road, Lot 2.

MR. ROY: Attorney for the applicant. This is our request for variance approval to allow Mr. Feghali to sell a limited number of automobiles at the site located at 1015 Route 130 South, the Riggins Site. We had Bill Nicholson, our site Engineer prepare a Site Sketch.

MR. STROBEL: You would anticipate that if the Board grants this variance relief, you would be back before this Board for Site Plan approval.

MR. ROY: I think that is most likely.

MRS. MCSTRAVICK: She recused herself from this application.

MR. BEDNAREK: The only thing we are going to talk about is the use variance for the car lot.

MR. ROY: We want you to have the whole picture.

MR. STROBEL: He swears in John Feghali and the applicant's Planner, Jim Miller

MR. FEGHALI: He is the owner of the Cinnaminson Riggins. He owned the site for 24 years. He has four employees.

MR. ROY: We are here tonight to request the Board to grant you variance relief to allow you to sell limited number of cars. Is that correct?

MR. FEGHALI: Correct.

MR. ROY: There won't be any onsite advertising or any signs on Route 130. Is that correct?

MR. FEGHALI: That is correct.

Mr. ROY: Everything would be by internet or newspaper.

MR. FEGHALI: Word of mouth, internet.

MR. ROY: If the Board grants the variance we are requesting, a passerby really wouldn't be able to distinguish these cars.

MR. FEGHALI: They wouldn't know if they were there for sales or repairs.

MR. ROY: A-1 – Site Sketch – Prepared by William H. Nicholson Associates dated October 23, 2018.

MR. ROY: John, I said a limited number of car sales. It is not more than eight cars.

MR. FEGHALI: That is correct.

MR. ROY: It will never exceed that.

MR. FEGHALI: Correct.

MR. ROY: Is it fair to say the reason you are making the request to sell those vehicles, is to keep your business viable?

MR. FEGHALI: That is correct.

MR. ROY: Is it fair to say that other development in the area, what you have historically done in terms of gas sales, has been pretty, significantly reduced.

MR. FEGHALI: Very significantly reduced. Yes. Everybody knows that there are two Wawa's that just opened up and I am in the middle. Gas sales have been reduced between thirty to forty percent. Not only has the volume been reduced, the profit margin has been reduced. He referred to the shop operation. As you know, they are making cars a lot better. They last a lot longer and they break less. So there is not much volume as far as repairs. Mainly the gas is suffering within the past two months.

MR. ROY: As part of your proposal, you want to enlarge the shop.

MR. FEGHALI: Yes. He stated that the building was built back in the fifties. The ceilings are low. They are limited when it comes to repairs.

MR. ROY: Part of what you are proposing is to modernize the service area along with being able to sell a limited number of cars.

MR. FEGHALI: Absolutely.

MR. ROY: On the plan, we show a small area for convenience sales.

MR. FEGHALI: Yes.

MR. ROY: Do you anticipate that you will be able to sell soft pretzels, soda and if permitted, lottery tickets.

MR. FEGHALI: That is correct.

MR. ROY: You can't give the Board the exact menu at this time because you don't know what people will want.

MR. FEGHALI: We are going to try different things to see what works best for us.

MR. ROY: Without going through the whole list, we are talking about coffee, soda.

MR. FEGHALI: Yes. Correct.

MR. ROY: As you indicated with the vehicle sales and modernizing services. Is that something you need to do to diversify your operation in order to stay in business?

MR. FEGHALI: Absolutely.

MR. ROY: You are talking about offering products that are competitive with other people doing what you do.

MR. FEGHALI: Yes.

MR. ROY: If the variance is granted or when we come back (inaudible) site plan, are you anticipating adding any employees?

MR. FEGHALI: I anticipate on adding one.

MR. ROY: In terms of time, the service bays, the convenience facility, the paving and striping, You don't anticipate this happening the day after tomorrow, if you are approved.

MR. FEGHALI: No.

MR. ROY: You are going to have to phase this in.

MR. FEGHALI: It is going to be based on loans provided by the bank. Whatever I get approved for.

MR. FEGHALI: He would like to start with the convenience section then apply for the car dealers license. The final construction would be the added building for the repairs.

MR. ROY: Listed on our application are two separate lots. If the Board required you to consolidate the lots as a condition of approval, would that be okay with you?

MR. FEGHALI: That would be fine.

MR. BEDNAREK: Is the convenience store going to be 20' x 24'?

MR. FEGHALI: I think there was a mistake. 24 on the front and 20 on the back wall.

MR. BEDNAREK: Is the existing garage area still going to be a garage or is that going to get converted over into a convenience store?

MR. FEGHALI: The existing garage will remain.

MR. BEDNAREK: Stays a garage.

MR. FEGHALI: Yes.

MR. BEDNAREK: He referred to the garage in the back. Will the bay doors on that be facing the Jug Handle side or the Route 130.

MR. FEGHALI: Yes. I plan on having four doors. Two facing the Jug Handle, two facing the existing house.

MR. BEDNAREK: You will have two bay doors facing Leslies and have two bay doors facing the former Lukoil. The current plan is the Leslie Pool Lot – the area that is parking in that area is going to wind up being for the cars.

MR. FEGHALI: Yes.

MR. BEDNAREK: The eight blocks – they are just car repair spots that are over by the Lukoil.

MR. FEGHALI: Yes. That will remain the same as it is now.

MR. BEDNAREK: Your convenience store spots are the handicap spot and two other spots there that can be used for convenience. The ones right next to that - building two.

MR. FEGHALI: That will be a handicap spot there.

MR. BEDNAREK: You are looking at an operation convenience store wise, less than the average 7-Eleven would have.

MR. FEGHALI: It is going to be a mini.

MR. BEDNAREK: It is not tremendously larger than a two car garage in a residential area.

MR. FEGHALI: That is correct.

MR. DEVLIN: Is there any indication on how traffic will increase?

MR. FEGHALI: The convenience part will be pretty much strictly for people buying gas. Whatever customers I have coming in buying gas are the ones getting out of their cars looking for drinks or something to eat. So it is not going to increase.

MR. HARE: How many cars do you service, in terms of gas, a day?

MR. FEGHALI: I use to get about 300 to 350 cars a day. Now it is down to about 200, 205. It depends on which day of the week.

MR. HARE: What are your hours?

MR. FEGHALI: His hours are 6:00 AM to 10:00 PM. The convenience store will be open the same hours.

MR. TRAMPE: He asked about the parking for the convenience store.

MR. FEGHALI: We don't anticipate anyone pulling in and going to the convenience store other than people getting gas, but if they are, there will be plenty of room to park.

MR. BEDNAREK: When buildings are built, everything will look the same.

MR. FEGHALI: Cinder block – the same like the building. Same colors. The blue and white.

MR. FEGHALI: He referred to the used car sales. There is an agreement that there would be no signage at all. No flags, no pendants, no for sale signs.

MR. ROY: The only sign will be what the State requires.

MR. MILLER: Planner for the Applicant. This is in a BD Business District. It zone permits a variety of commercial and business activities. It does not permit gas stations. It does permit gas stations as part of a convenience store. He identified the surrounding area uses. The proposed use involves a car service area, an addition of a little over 3,000 square feet, realignment of the twenty parking spaces, and a 720 square foot convenience store. The relief we are seeking is a D(2) Variance. Modification and Expansion of the existing non-conforming use. There is the car sale component which would involve a maximum of eight vehicles. There are no signs advertising, except for the required stickers that have to go on any car that is offered for sale. These describe the convenience store and the potential inventory products that that would serve. You heard testimony about the existing service bays being enlarged. The business will continue to offer fuel sales as well. All these uses are uses typically associated with service stations. Convenience store type of facilities are almost universal now with service stations. The car sales aren't something always with service stations, but is something that typically does occur an ancillary or accessory use to a service station. In terms of the Positive Criteria, we need to show that we will advance the purposes of the Municipal Land Use Law. The two purposes that I believe this use would propose are:

A - to encourage Municipal action to guide the appropriate use or development of all lands in the State in a manner that will promote the public health safety and morals and general welfare.  
Purpose G - to provide sufficient space and appropriate locations for variety for agricultural, residential, recreational, commercial and industrial uses in open space, both public and private according to the respective environmental requirements in order to meet the needs all New Jersey Citizens. The site was developed in the 1950's. What this application is doing is it involves modifications to the use which allows to be modernized, more competitive and allow it to evolve the way competitive gasoline stations operate. The first change is the ability to expand the garage to allow repair of larger vehicles. The convenience store itself is a typical feature of a service station. In reality, because the convenience store and the dispensing islands are so much (inaudible) maximum and the lot is really about two thirds of what the maximum is. I think the addition and the intensity uses is parallel with the standards that are required in the Ordinance, in terms of you have a smaller lot, but you have a smaller operation.

MR. BEDNAREK: Who owns all the lots?

MR. MILLER: John.

MR. BEDNAREK: So you are the owner of both lots

(Inaudible) Yes.

MR. BEDNAREK: So, at some point, you have to have that combined into one?

MR. MILLER: Yes. That is the lot consolidation we spoke of.

MR. BEDNAREK: To me the pattern is consider the use. If the use is granted. Then joining lots and then construction of various things such as convenience store first, parking lot for used cars second, and expanding garage third. Is that the pattern we are looking at?

MR. FEGHALI: The convenience would be going first then the back garage with the paving (inaudible)

MR. BEDNAREK: So it is really two phases.

MR. FEGHALI: Yes.

MR. MILLER: When we talk about the used car sales. There is not going to be any air puppets or lights. We are volunteering conditions that we feel speak to the intensity of the use. We don't want this to be something that isn't consistent with what the Code is trying to accomplish. One of the conditions would be the consolidation of the lots because it allows the circulation to function the way you were just describing. It also eliminates any potential you need to have variances because the proposed garage travels the lot line. There are overwhelming reasons to have these two lots consolidated. The other thing we are volunteering are not having any of the (inaudible) you ordinarily have with a typical car dealer.

You are not going to have any significant change on how this operates or appears to the public. That is why we believe that the car sales is not going to significantly alter the character or the intensity of the business. The Code requires the lot to be 1.75 acres. The fact that that 1.75 acres actually assumes the convenience store of up to 6,000 square feet. Ours is ten to twelve percent of what the maximum of what would be allowed on a slightly larger lot. I think we are very much consistent with the Code in terms of matching the size of the convenience store to the size of the property. This is not a significant change in the character or intensity of the property and it would meet those criteria for the approval of the expansion of the pre-existing non-conforming use. I think this location remains fully appropriate for the use that is proposed. It is very much similar to the other uses in the area. I believe the relief is generally consistent with the area. The site remains appropriate for the use even with the modifications. For those reasons, I believe the expansion of this pre-existing non-conforming use meets the positive criteria. We also have to show that it meets the negative criteria that won't result in a substantial detriment to the public welfare or substantial detriment to the (inaudible) or impair the intent or purpose of the Master Plan or Zoning Plan and Zoning Ordinance. I think the primary public benefit is just maintaining the viability of this location and this business within this community. This application actually makes the use more conforming, in that your Ordinance tends to favor the combination of convenience store and service station. This is currently just a service station. Going forward with the convenience store it would be more consistency with what the use is permitted by the Zone, which is the convenience store with the fueling island. To that extent, it actually makes the site more conforming. It is a use that is compatible with the surrounding land uses. It has long been present in the area without any (inaudible) detriment to the surrounding land uses. I don't think it has the potential to have any further impact on any of the surrounding land uses by virtue of the additions being proposed. I don't see any impairment intent or purpose to the Zone Plan. As a result, of the relief that is being sought. I believe the application meets all of the criteria of the Statutes of the case law and will warrant your approval.

MR. DEVLIN: He referred to the service garage. I understand expanding it vertically, but it would also increase the number of bays. Is that accurate?

MR. MILLER: Yes it is. It modernizes so you can deal with a larger built cars. It provides space for ambulance vehicles. I think it gives him variety for equipment he can offer.

MR. BEDNAREK: Is the shed going to be for the car dealership?

MR. FEGHALI: That will remain a shed.

MR. HARE: By expanding these bays, is it going to allow you to do more things that you currently can't do?

MR. FEGHALI: Yes.

MR. BEDNAREK: He opened the public portion of the meeting.

MR. STROBEL: He swore in all members of the public who testified.

MR. MINTON: Director of Economic Development for Cinnaminson Township. He stated that they were working with Mr. Feghali for four years now. The Township Committee fully recognizes your full traditional authority, your independent authority. Please don't construe anything I am saying today to impinge on that authority and right. It is really by way of background. For the past four years, (inaudible) was probably five separate committees constituted by different members of the governing body. They are fully aware of this project and the majority have supported this project. He stated how important Riggins is to this Community.

MS. BURBACK: She supports Riggins on this expansion.

MR. SYMKOWSKI: He supports the variance.

MR. CRAIG: He thinks this is a great for our community. He applauds Mr. Feghali.

MR. CARR: She supports Riggins

MR. MARTIN He supports John from Riggins.

MRS. GOINS: She supports John.

MR. RIMKUNAS: He supports John,

MR. OBUCHOWSKI: If Mr. Feghali can't pump enough gas to pay his rent, he will go out of business.

MR. YOUNG: I fully support his willingness to expand his operation in repairs and maintenance. I fully support (inaudible) convenience store. The part I don't support is to have used car sales.

MR. PIOTROWSKI: He supports John and he thanked him for his years here in Cinnaminson

MR. BEDNAREK: He closed the public portion of the meeting.

The Board discussed the application.

MR. ROY: We are not proposing three uses. This isn't a used car lot, this isn't a convenience store, this isn't a service station. It is one integrated use that has to work together by an existing established business that is confronted with some significantly changes competitively.

MR. HARE: Do you want to give testimony to the comment that Mr. Young made about there being cars in the back of your property (inaudible)?

MR. FEGHALI: I offer a service to the community. We offer free towing for unwanted vehicles. If someone's car blew a motor or transmission and they don't know what to do with it, we will come out and tow it, put it on the lot, and send it off to the junk yard. The junk yard only pick them up in pairs. There is usually one there until I get another one. Then I call them and they come take them away. That is what the cars are there for. There is no more than two at any given time. It is a free service I offer to the community.

A MOTION IS MADE BY MR. HARE, seconded by Mr. Conway to grant a D(2) use variance for car sales on this lot with the conditions that there is no more than eight untagged cars on the lot at any given time. The cars are either for sale or if he has one or two cars that are going to the junk yard that are untagged that is part of the eight. Total of eight untagged cars. It is contingent upon there being a convenience store, garage and gas sales. Before anything else, the lots have to be consolidated. Contingent upon site plan approval. Anything in relationship to the size of the buildings, heights of the buildings, that is going to be addressed during site plan review. No advertising, no signage that says cars for sales. It is contingent upon the Used Car Dealer's License and any signage requirement that is specifically required to obtain by the State of New Jersey to obtain the used car license. (Inaudible) No for sale signs or auto sales advertisements anywhere on the buildings, on top of the buildings, on the corners of the property. No signage that will allow for used car sales. No for sale signs on the cars, except for the mandatory warranty information. The shed is a shed, not an office. All signage should be presented to the Board with a Site Plan with what the signage would be. ROLL CALL VOTE: Mr. Conway, Mrs. Galosi, Mr. Hare, Mrs. McStravick, Mr. Trampe, Mr. Sell and Mr. Bednarek, NAY, Mrs. Wolaniuk, motion passes.

The Board took a five minute recess.

The meeting resumed.

The Board took another recess to advise Mr. John Marshall that he can speak to the Board regarding the Zoning Board Planner.

The meeting resumed.

MR. BEDNAREK: Discussion regarding appointment of Zoning Board Planner.

MR. MARSHALL: He advised the Board that the Planning Board appointed CME Associates.

The Board discussed the appointment of the Zoning Board Planner.

A MOTION IS MADE BY MRS. MCSTRAVICK, seconded by Mrs. Galosi to appoint CME Associates.

MR. BEDNAREK: Are there any other nominations?

A MOTION IS MADE BY MRS. WOLANIUK, seconded by Mrs. Galosi to close the nominations.

ROLL CALL VOTE TO APPOINT CME ASSOCIATES AS the ZONING BOARD PLANNER FOR 2019 (Resolution 2019-5) . Mr. Conway, Mrs. Galosi, Mr. Hare, Mrs. McStravick, Mr. Trampe, Mrs. Wolaniuk and Mr. Bednarek, no opposed, motion passes.

A MOTION IS MADE BY MRS. MCSTRAVICK, seconded by Mrs. Wolaniuk to approve the Minutes from the January 9, 2019 – Reorganization Meeting. VOICE VOTE: ALL AYE, no opposed, motion passes.

A MOTION IS MADE BY MRS. MCSTRAVICK, seconded by Mrs. Wolaniuk to approve the Minutes from the January 9, 2019 - Regular Meeting. VOICE VOTE: ALL AYE, no opposed, motion passes.

A MOTION IS MADE BY MRS. MCSTRAVICK, seconded by Mr. Conway to approve the vouchers for Pennoni Associates listed on the Agenda. VOICE VOTE: ALL AYE, no opposed, motion passes.

MR. BEDNAREK: He opened the public portion of the meeting. No one came forward.

MR. BEDNAREK: He closed the public portion of the meeting.

A MOTION IS MADE BY MR. HARE, SECONDED BY Mrs. McStravick to go into Executive Session. . VOICE VOTE: ALL AYE, no opposed, motion passes.

The meeting resumed.

A MOTION IS MADE BY MRS. GALOSI, seconded by Mrs. McStravick to adjourn the meeting. The meeting is adjourned. VOICE VOTE: ALL AYE, no opposed, motion passes.

Duly passed and adopted

Respectfully submitted,

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Patricia Rucci

