

**READINGTON TOWNSHIP ZONING BOARD OF ADJUSTMENT MINUTES
REGULAR MEETING
May 16, 2024**

The Meeting was called to order by Chair Mittleman at 7:30 p.m. stating that the requirements of the Open Public Meetings Act have been met and that this meeting had been duly advertised.

ROLL CALL

Board Members in Attendance:

Bola
Kirk
Maurer
Mittleman
Roglieri
Saad
Barton

Board Members Absent:

Hendry
Nees

Mr. Roglieri moved, and Mr. Saad seconded a motion to excuse the absence of Board Members Hendry and Nees. The motion carried unanimously.

Others Present:

Board Attorney Joseph Tauriello, Board Planner James Clavelli, Board Engineer Rob O'Brien, and Board Secretary Ann Marie Lehberger

APPROVAL OF MINUTES

There were no minutes presented for Board consideration.

RESOLUTIONS

There were no resolutions presented for Board consideration.

ADJOURNMENTS OF ANY SCHEDULED HEARINGS OR MOTIONS

Ira Sumkin

Appl# ZB22-010- "D" Variance- Addition
Block 18 Lot 19 – 58 Old Highway 28

Chair Mittleman announced that this application will not be heard this evening. It will be carried to the meeting on June 20, 2024, at 7:30 p.m. No additional notice will be provided.

PUBLIC HEARINGS

Rodina Mikhail

Appl# ZB23-009- "D" Use Variance for apartment in existing 2nd building on property
Block 17 Lot 19 – 10 Old Highway 28

Rodina Mikhail and Eric Heuberger were present for a continuation of their hearing from April 18th for a use variance to utilize the second floor of an existing accessory building on

the property as a residential apartment for the applicant's mother. It was noted that they as well as the Board's professionals were previously sworn and remained under oath.

Ms. Mikhail stated that updated plans were sent to the Board to clarify the proposal.

The Board noted that the articles that were submitted by the applicant are not related to the application.

Ms. Mikhail stated that they would agree to a deed restriction that the apartment would only be used for a family member.

Board Planner James Clavelli reviewed his report and discussed some relevant case law for the Board to consider. He noted some conditions of approval that the Board could impose should they vote favorably on the application.

The Board asked for clarification on the use of the first floor. Ms. Mikhail stated that it will be used as an open recreation space.

The Board questioned sewer capacity.

Chair Mittleman opened the public portion of the meeting for questions or comments. There were none.

The Board deliberated and discussed some potential conditions of approval as follows:

- Update the survey to show 4 parking spaces
- Deed restriction to limit occupancy to an immediate family member
- Applicant will notify the Zoning Official of any change of occupancy
- Any change to the building layout or use other than routine maintenance would require Board approval
- Application to the Sewer Advisory Committee

Ms. Kirk moved, and Mr. Saad seconded, a motion to approve the application for Rodina Mikhail with the conditions as discussed. The roll call vote follows:

<i>Member</i>	Motion	2nd	Yes	No	Abstain	Absent	Not Eligible	Recused
Bola			X					
Hendry						X		
Kirk	X		X					
Mittleman			X					
Nees						X		
Maurer			X					
Roglieri				X				
Saad (Alt #1)		X	X					
Barton (Alt #2)			X					

JW Congregation Support, Inc

Appl# ZB22-016- Request for Extension of Preliminary & Final Major Site Plan with Conditional Use, Use and Bulk Variance approval for Block 15 Lot 23-3480 Route 22

Attorney Jason Tuvel was present on behalf of the applicant. Mr. Tuvel explained that the applicant received preliminary and final site plan approval from the Board in 2023 to construct a house of worship. He stated that they are requesting a one-year extension for the applicant to commence construction of the proposed development, from August 17, 2024, to August 17, 2025. He further explained that the applicant has completed resolution compliance and is in the process of obtaining building permits.

Chair Mittleman opened the public portion of the meeting for questions or comments. There were none.

Mr. Maurer moved, and Mr. Saad seconded, a motion to approve the application for JW Congregation. The roll call vote follows:

<i>Member</i>	Motion	2nd	Yes	No	Abstain	Absent	Not Eligible	Recused
Bola			X					
Hendry						X		
Kirk			X					
Mittleman			X					
Nees						X		
Maurer	X		X					
Roglieri			X					
Saad (Alt #1)		X	X					
Barton (Alt #2)			X					

Hunterdon Brewing Company LLC

Appl# ZB17-011- Final Major Site Plan
 Block 36 Lot 44.02- 12 Coddington Road

Attorney Nicole Voigt was present on behalf of the applicant. Ms. Voigt stated that the applicant was present this evening seeking final site plan approval. She explained that the applicant received a “d (1)” use variance to allow outdoor storage of vehicles that is not completely screened, bulk variance, exception, and preliminary site plan approval for an outdoor storage area for delivery trucks, a vehicular barrier gate, landscaping and fencing from the Board in 2019. She further explained that the applicant received two subsequent approvals for extensions of the time for the submission of a final site plan in 2020 and 2022 due to delays as a result of Covid. Ms. Voigt stated that the approved plan involved a retention pond that had certain design criteria to function as a stormwater basin and fire suppression. The design of the pond was to have a safety ledge around it of a certain dimension. She explained that the safety ledges are there but after many attempts by the applicant they are not able to get them to the approved 4 feet all the way around. She stated that the applicant is requesting that they be permitted to extend the existing fence all the way around the pond for an added layer of security.

The following were present and sworn in for the applicant:

Michael Brophy, corporate facilities manager for the applicant
Edwin Caballero, applicant's engineer

Board Planner James Clavelli and Board Engineer Rob O'Brien were also sworn.

Edwin Caballero, PE, was accepted by the Board as an expert witness. Mr. Caballero described the existing conditions on the site and the improvements that have been completed. He provided testimony as follows: The site plans granting preliminary approval by the Board included 4-foot-wide safety ledges around the wet pond, one ledge to be installed 2.5 feet below the wet pond and another to be installed 1.5 feet above the wet pond. With the modifications that were made, the basin as constructed still adheres to the stormwater reduction factors that were previously approved.

Mr. Caballero stated that the lower safety ledge of the pond has areas that are less than the 4-foot-wide requirement and noted that they are recommending extending the existing fence with a gate added to allow access for the fire department.

Mr. Caballero reviewed the soil testing that was done on the site.

The Board questioned why the 4-foot safety ledge that was originally proposed could not be achieved. Mr. Caballero stated that it was a construction issue noting that the applicant made several attempts but could not get it to come out right.

Mr. Caballero stated that the proposed fence will accomplish the same safety goal as having the 4-foot-wide safety ledge. He confirmed that 66% of the ledge as constructed is 4-foot wide or greater.

The Board asked what the width of the ledge is on the areas that are not 4 feet. Mr. Caballero stated that it ranges between 2 ½ and 4 feet.

In response to a question from the Board, Mr. Caballero confirmed that the ledge width is the amount of surface on which you can stand.

The Board questioned if the fence would meet the original intent of the ledge. Board Engineer Rob O'Brien stated that it is a DEP (Department of Environmental Protection) BMP Manual requirement.

The Board inquired as to the purpose of the ledge. Mr. Caballero stated that it was to catch yourself before you go further into the water.

Mr. Caballero stated that this is a private site with no public access. There is a knock box and a control alarm at the entrance. He noted that there is an existing 4-foot-high fence with vegetation on the other three sides of the pond.

The Board inquired as to the construction issues that prevented them from constructing the 4-foot ledge all the way around.

Michael Brophy, the applicant's corporate facilities manager, stated that they had unsuccessfully attempted three times to construct the lower ledge at a width of 4 feet. Mr. Brophy explained that the topography of the wet pond, in particular a steep slope on one side, makes it nearly impossible to achieve the required 4 feet for the safety ledge on that side.

Ms. Voigt confirmed that Hunterdon County will also be reviewing the plan.

Board Attorney Tauriello suggested that the Board first make a determination as to whether the fence is a suitable safety measure in lieu of a 4-foot ledge and second whether the replacing of the ledge with a fence constitutes a substantial or insubstantial change. He stated that if the Board determined that it constitutes a substantial change, the applicant would need to do notice and return to the Board with an amended site plan application.

The Board questioned if there was a slope going into the basin.

The Board questioned if there was enough room for the fire department to access the basin with their hose. Mr. Brophy noted that there is a loop of fire hydrants off the pond already installed around the building and an existing pump house. The applicant agreed to consult with the Township Fire Official regarding the location of the gate and fence.

Chair Mittleman opening the public portion of the meeting for questions. There were no questions or comments.

The majority of the Board taking a straw poll agreed that the fence was a suitable safety measure in lieu of the 4-foot ledge and that it does not constitute a substantial change.

Mr. Caballero reviewed the reports of the Board's professionals.

The Board expressed some concerns about the fence being an adequate safety measure.

Board Engineer O'Brien confirmed that the County would be reviewing the plan.

Mr. O'Brien inquired as to the depth of the pond. Mr. Caballero stated that it was 5-feet deep at the deepest point.

The Board deliberated and discussed conditions.

Mr. Saad moved, and Mr. Maurer seconded, a motion that the proposed fence is an insubstantial change to the entire application. The roll call vote follows:

<i>Member</i>	Motion	2nd	Yes	No	Abstain	Absent	Not Eligible	Recused
Bola			X					
Hendry						X		
Kirk			X					
Mittleman			X					
Nees						X		
Maurer	X		X					
Roglieri				X				
Saad (Alt #1)		X	X					
Barton (Alt #2)			X					

Mr. Bola moved, and Mr. Maurer seconded, a motion to approve the final site plan application for Hunterdon Brewing Company with the conditions as discussed. The roll call vote follows:

<i>Member</i>	Motion	2nd	Yes	No	Abstain	Absent	Not Eligible	Recused
Bola	X		X					
Hendry						X		
Kirk			X					
Mittleman			X					
Nees						X		
Maurer		X	X					
Roglieri				X				
Saad (Alt #1)		X	X					
Barton (Alt #2)			X					

ADJOURNMENT

Ms. Kirk moved, and Mr. Maurer seconded a motion to adjourn. The motion carried unanimously, and the meeting was adjourned at approximately 10:00 p.m.

Respectfully submitted,
 Ann Marie Lehberger
 Zoning Board Secretary