

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT
April 29, 2019

7:30 p.m.

Chairman Michael A. Cifelli called this Special Meeting of the Zoning Board of Adjustment to order at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. He stated that adequate notice for this Special Zoning Board of Adjustment meeting were given as required by the Open Public Meetings Act.

Names	Present	Absent
Michael A. Cifelli	X	
Helen Kecskemety	X	
Frederick Infante	X	
Douglas Herbert	X	
H.H. Montague	X	
Jean-Eudes Haeringer	X	
Patrick Tobia	X	
Alida Kass	X	
William DeRosa	X	
Patrick Dwyer, Esq.	X	

Also present:

Kendra Lelie, PP, AICP, ASLA, Professional Planner for the Board

Robert C. Brightly, P.E., Consulting Engineer for the Board

Public Comment

There was none.

Returning and New Applications

Application ZB #17-13

First Student, Inc.

29 River Road

Block 140, Lots 7.01, 8, 9 & 10

Amendments to Approved Site Plan/

Associated Variances to Park Buses

This is continued from the February 27, 2019 meeting.

Michael J. Oliveira, Esq., attorney for the applicant, came forward. He reviewed the initial variances that were being sought by the applicant. He also reviewed the witnesses who had testified at the February 27th hearing. Attorney Oliveira noted that the Board had asked for the applicant's relationship with adjacent parcel Lot 9. The Board had also requested aerial photos of other sites which operate in a similar fashion by the applicant.

Attorney Oliveira stated that the applicant has now revised his plans to eliminate Lot 9 entirely from any use by First Student.

Attorney Oliveira reviewed the names of the witnesses who will testify tonight.

At Chrmn. Cifelli's suggestion, Attorney Oliveira marked the recently submitted aerial photographs as Exhibit A-1.

Matthew Seckler, P.E., Principal at Stonefield Engineering & Design, the applicant's planner, was sworn in to testify.

Dylan Ryan, the applicant's engineer, came forward, He remained under oath from a previous hearing. The Board had also accepted his professional credentials.

Attorney Oliveira asked Mr. Ryan what had been done by way of revisions to the original plans that had been submitted.

Mr. Ryan testified that the applicant is now, because of a request by the Board's planner, requesting additional variances from the previous application that had been submitted.

Mr. Ryan reviewed the percentage being sought for the lot coverage. A variance is being sought seeking relief from the regulation not allowing for storage in front and side yards. The applicant will be storing buses and vehicles in side yards for all lots. Mr. Ryan noted that screening is required for any facility facing a public street. The applicant will be replacing the existing chain-link fence for Lot 7.01 and Lot 8 with decorative aluminum. Shrubs will also be planted. Shade trees are now being proposed for Lot 7.01 and Lot 8.

Mr. Ryan testified that the buses will still be visible from River Road on Lot 7.01. A variance would be needed for this situation. The applicant is willing to modify the fence gates to be more solid. He will meet with the Borough Engineer to come up with something more acceptable. Mr. Ryan discussed the option of having a slotted fence with tighter slats, making the buses less visible from River Road.

Mr. Ryan discussed the variance being sought for the proposed storage in the yard. He noted that the Board has been provided with the percentages of storage that will take up the front, side and rear yards.

As per Ms. Lelie's suggestion, Mr. Ryan testified that shade trees are being proposed for Lots 7.01 and 8. No variance will be needed.

Mr. Ryan brought up the Borough requirement specifying that there must be a landscape island for every 10 parking spaces in a parking lot. He stated that landscape islands would not work in this type of use.

Mr. Ryan discussed the Borough regulation requiring granite block curbing. He noted that any of the locations where the curb is visible from River Road, the applicant will be proposing granite block curbing. However, for the portion of the site not readily visible from River Road, the applicant is proposing to maintain the timber curbing that already exists on the property.

Mr. Ryan testified that the applicant will install an enclosure for the existing dumpster, thus eliminating another variance.

Mr. Ryan testified that the existing wall-mounted lights at the building which are 35 feet high. They will remain.

As requested by the Board, Mr. Ryan noted, on the lighting plans, the lighting calculations have been broken up into separate lots. Variances would be needed for the candle illumination for Lots 7.01 and Lot 8.

Attorney Oliveira asked Mr. Ryan to review the revisions that were made to the plans, after the application's original hearing.

Mr. Ryan referred the Board to Sheet 3 of the original plans. Since Lot 9 has now been eliminated from the application. At the Board's request, a physical barrier will be installed to block any vehicle access to Lot 9. On Lot 10, additional timber curbing will be installed at the rear portion. On Sheet 3, Mr. Ryan pointed out where the applicant will be installing Belgian block curbing on Lot 9 where currently there are parking spaces that straddle the property line between Lots 9 and 10. The Belgian block curbing will prevent that parking from no longer existing. A connection will no longer exist between the two lots. Attorney Oliveira confirmed with Mr. Ryan that those parking spaces were being used by the owner of Lot 9.

Using Sheet 3, Mr. Ryan indicated how far the proposed aluminum fence may reach. Mr. Ryan explained that the tightest parking spaces on the property have now been eliminated. He reviewed the number of reduced parking spaces for buses and vans now being proposed.

Mr. Infante asked if there would be screening between the applicant's lot and Lot 9.

Mr. Ryan answered no. There will be an aluminum fence installed to replace an existing chain-link fence. Mr. Ryan noted that the aluminum fence is not really a screening measure.

Answering a question from Mr. Haeringer, Mr. Ryan testified that Lot 9 would no longer be used as a pass-through for vehicles. This application has no connection to Lot 9 whatsoever. Currently Lot 9 is a gravel lot. The owner of Lot 9 will decide what to do with it.

Mr. Ryan referred Board members to Sheet 5, showing the proposed lighting for all three lots combined. Variances are needed for these lots.

Mr. Ryan explained a new exhibit had been prepared, showing the turning movements for a bus at each lot. He testified that a standard school bus can maneuver the entire site. Therefore, any of the parking spaces could be accessed.

Using Sheet 1 of 1, the Summer parking exhibit, Mr. Ryan testified that the vehicle parking on site, changes just for the vans. The same number of buses will remain; however, not all of them are used every day during the summer. The vans are the most needed vehicle during the

summer. During the summer, the buses will be stack-parked at the rear of Lot 7.01. A couple of the buses could be parked at the rear of Lot 10. Additional vans could be placed in Lot 10.

Attorney Oliveira confirmed with Mr. Ryan that this summer parking on the site would eliminate any of the automobile parking spaces.

Mr. Ryan answered no. All of the automobile spaces will remain. They will not be taken up by any of the additional vans.

Mr. Herbert asked Mr. Ryan if he was now increasing his request with the four vans.

Mr. Ryan answered he wasn't sure how to address that situation.

After further discussion, Mr. Ryan testified that during the summer months only 16 vans will be used on the site.

Mr. Cline, representing the applicant, First Student, agreed with the number of vans as a condition, if the application was approved.

Mr. Haeringer asked where would parents park would when they come to the site to pick up lost items left behind by the students.

Mr. Ryan indicated that Mr. Cline will answer that question. It is an operational question.

Mr. Herbert had serious concerns about emergency vehicles being able to access the back vehicles on the lot, especially if all the buses are parked on the site at night. Mr. Herbert felt that the Borough may face liability some day if the Board approved a plan where emergency vehicles could not reach a bus in trouble, parked all the way in the back.

Using Sheet 1 of 1, Mr. Ryan pointed to a drive aisle which will always be open on the site, even when the buses are fully parked.

Ms. Lelie asked if the parking island, separating the bus parking from the other parking, was really needed.

Mr. Ryan noted that a light pole exists which the bus company would like to maintain. There is also a grade change in that area, that could be changed.

Ms. Lelie asked if the light pole could be re-located closer to the edge of the parking. Perhaps the light pole could be made smaller.

Mr. Ryan said that arrangement could be looked into. He would have to check the grade change.

Ms. Lelie and Mr. Ryan discussed the proposed gate.

Chrmn. Cifelli asked the height of the gate.

Mr. Ryan answered that the gate and the fence will be 4 feet high.

Mr. Brightly, the Board's engineer, brought up the area between Lots 10 and 9 where the applicant is proposing to install block curbing. What will be going back into that area?

Mr. Ryan answered that the old section of pavement will be removed, Grass will grow in its place.

Attorney Oliveira confirmed with Mr. Brightly that a lot coverage variance is needed; however, the percentage of lot coverage is now being reduced.

Mr. Brightly asked for more clarification on the proposed light poles on Lots 7.01 and 8. Which light poles will be kept on all evening? What will the hours be? He pointed out some of the light poles appearing to have multiple fixtures attached.

Mr. Cline, the Sr. Property Projects Manager, came forward. He looked at Sheet 5, the application's lighting plan. Mr. Cline felt there may have been a mistake. He will meet with his Operations Dept. and get a better understanding on this lighting arrangement.

The Board had no further questions for Mr. Ryan. The public had no questions for Mr. Ryan.

Attorney Oliveira asked Mr. Cline about an exhibit that needed to be marked as evidence.

Mr. Cline submitted and explained Exhibit A-1: ten photos showing the other First Student locations in New Jersey. He pointed out that all of these sites share similar parking schemes. The buses are packed in as tightly as possible because of the limited properties that allow this particular use.

Mr. Cline answered Mr. Haeringer's earlier question about lost and found items left behind on the school buses. It is rare that a parent would come to the bus site to pick up the lost item. All lost items are sent back to the appropriate school. If a child is left on the bus, he/she is brought back to the school. A standard protocol is followed for that situation.

Referring to Exhibit A-1, Chrmn. Cifelli pointed out that these other First Student locations have trees surrounding their properties, providing screening of their facilities from public view. Will an effort be made at the River Road location to provide such screening?

Mr. Cline explained that a great deal depends on what site is available for First Student to run its operation. Most of the sites shown on Exhibit A-1 have been in operation as bus facilities for years.

Chrmn. Cifelli asked Mr. Cline if powerlines ran over First Student's property on River Road.

Mr. Cline did not believe the power-lines themselves actually pass over Lot 10.

Mr. Herbert asked Ms. Lelie if his concern, should be considered, about the buses being parked so tightly on the site as to hinder emergency vehicles trying to reach the rear of the applicant's property.

Ms. Lelie believed that Mr. Herbert's concern should be considered. She agreed with Mr. Ryan's suggestion that the parking island be reduced to allow for a better access point. Ms. Lelie noted that the bus stacking on First Student's Chatham location is similar to the company's other locations. However, Mr. Herbert's concern for emergency vehicle access is legitimate from a planning perspective.

Chrmn. Cifelli asked Ms. Lelie, from a planner's perspective, whether this property was overwhelmed with density.

Ms. Lelie pointed out that the subject property is in an industrial area. She noted that the applicant is proposing to add street trees, add sidewalks, and removing asphalt and adding grass and shrubs. Ms. Lelie commented that the screening of the fence at 4 feet, is probably not high enough. She suggested a front fence of at least 6 feet. Ms. Lelie noted that First Student is willing work with the Board about providing a variety of shrubs in that front area. What the applicant is proposing for screening is better than what exists there now.

Ms. Lelie felt that the variance for outdoor storage is de minimus. She believed that the Board's real concern is what the site, with the proposals, would look like from River Road. Ms. Lelie reminded the Board that the mitigation that is being proposed, on the negative criteria side, is outweighing any substantial detriment.

Mr. Infante brought up the possibility of Lot 9 eventually becoming residential property. How then could Lot 9 be screened from the First Student property?

Ms. Lelie answered if Lot 9 was currently residential there would be a higher need for the Board to look at the buffering mitigation. The Board also has to consider how likely would it be for residential to go into that smaller lot. It may not be highly likely.

The Board brought up the properties across the street. Chrmn. Cifelli pointed out that if a structure is ever built across the street, beyond two stories, a sea of yellow school buses will be in view.

Ms. Lelie agreed with this point. She noted that what the applicant is proposing, with the regard to the street trees, is important. Ms. Lelie noted that the First Student building blocks a great deal of parking at the rear of the property. She believed that the Board ensure that all the necessary improvements along the street at Lot 7.01 and Lot 8 are incorporated.

Chrmn. Cifelli stated that the Borough cannot encourage future building across the street from the applicant's property, if the school buses are the only view from the street.

Ms. Lelie recommended that the Board make sure that they are comfortable with the mitigation of the landscape plan and the proposed screening from the fence.

Attorney Oliveira asked Mr. Cline if he would have any problems with increasing the height of the proposed fencing.

Mr. Cline answered that First Student would do their best to honor any request from the Board to increase the height of the fence.

Ms. Lelie asked the existing willow oak close to the street could be kept. She believed the willow oak did a good job screening First Student's property. Ms. Lelie recommended that the Board ask that the plant material, which will be installed close to the road, have the capability to grow to 7 or 8 feet tall, or possibly taller. Ms. Lelie explained that First Student's property could have a layered buffer as seen from the road. Both evergreen and deciduous could exist.

At Chrmn. Cifelli's request, Mr. Ryan reviewed the number of vans and buses currently on Lots 7.01 and 8. Mr. Ryan testified the proposed numbers for those lots are 33 cars, 33 buses, 3 chartered buses, and zero buses.

Ms. Lelie stated that the Borough allows for chain-link fences in the front yard, not to exceed 6 feet in height. The exception would be for an alternate fence material. Ms. Lelie pointed out that the applicant could propose a solid screened fence.

The Board had no further questions for Mr. Ryan. The public had no questions for Mr. Ryan.

Attorney Oliveira called Matthew Seckler, the applicant's planner, forward. Mr. Seckler submitted his professional credentials to the Board. The Board accepted them.

Attorney Oliveira asked Mr. Seckler if he could address the Board's earlier question on the easement and the power lines.

Mr. Seckler submitted Exhibit A-3: Aerial exhibit prepared by Stonefield Engineering Design dated 2/27/2019.

Mr. Seckler pointed out the different Borough streets and the lots belonging to First Student, as shown on Exhibit A-3.

On Exhibit A-3, Mr. Seckler drew in the overhead aerial lines that run over the back portion of Lot 7.01. He testified that the Borough's Overlay District ends at Lot 7.01. Mr. Seckler stated that the over-lay zone ends at the oil company's property across the street from First Student. Mr. Seckler testified, this area, that a light industrial use is permitted next to a residential use.

Mr. Seckler testified that the applicant is seeking a D-1 variance for the use on this site. He believed this particular use was a beneficial use. Mr. Seckler believed that there had been previous approvals relating to the applicant's site, bound in a resolution, indicating that this was an inherently beneficial use.

Attorney Oliveira answered that on Sept. 23, 1992, the Borough Zoning Board granted for Lot 7.01 and 8, a use variance. The Board agreed to the argument that it was inherently beneficial. The resolution approving this variance has been submitted to the Board.

Mr. Sackler discussed the Seeka vs. Wall case, which presents the Seeka balancing test for an inherently beneficial use. He pointed out that First Student provides safe transportation for students which meets an important government interest and intent.

Mr. Seckler reviewed the site's detriments that would be improved if the application was approved.

Mr. Seckler brought up the question of whether any of these detriments could be reduced through reasonable conditions. He noted that the Board and Ms. Lelie have made suggestions on the screening, the plantings. Mr. Seckler pointed out that the applicant had listened to the Board's concern about Lot 9 being used as a circulation lot or over-flow parking lot for buses. The applicant then eliminated Lot 9 from the plans. The buses will not be circulating on Lot 9.

Mr. Seckler noted that the Board could impose a condition that a letter must be obtained from the Fire Official deeming that the traffic circulation plan is appropriate. This would offset any potential detrimental effects.

Mr. Seckler testified that this particular use serves the Chatham community, and serves the School District. First Student reduces the amount of traffic on the roadway. First Student's location is a gateway to other communities, which he felt was beneficial.

Chrmn. Cifelli questioned how it would be inherently beneficial to go from six buses, that had been approved, to 33 buses. He felt such an increase would add to an already heavy amount of traffic on River Road.

Mr. Seckler understood that point. However, for every school bus that is on the site, a reduction of cars will be on the road.

Chrmn. Cifelli did not see how the number of school buses would reduce the number of cars on the Chatham roads. There are plenty of vehicles traveling River Road from nearby Chatham Township condos and townhouses.

On another concern, Chrmn. Cifelli asked Mr. Seckler that if, in the future, development was done on the lots across the street from First Student. Wouldn't the First Student's proposals have a negative impact on those residential properties?

Referring to Exhibit A-3: Mr. Seckler noted the close proximity between the two mixed uses.

Mrs. Kass asked for more information on the current approvals for the First Student property, and what additional items are now being sought.

Mr. Seckler had a copy of the approval dated September 23, 1992, relating to Lot 7.01 and Lot 8. Lot 10 was not included at that time.

Chrmn. Cifelli brought up Mr. DeNave's (Zoning Officer) Notice of Violation stating that in 1992, 66 automobiles, 37 vans, and six buses were approved for the site. When the violation letter was sent to First Student, there were 89 buses on the site.

Mr. Haeringer asked how many buses are now on site.

Mr. Seckler answered on Lot 7.01 and Lot 8, 37 buses and zero vans are kept.

Mr. Haeringer asked how many more buses are being proposed?

Mr. Seckler answered that the applicant is proposing 49 buses, 4 vans, and 3 charter buses during the non-summer months, and also using Lot 10.

Chrmn. Cifelli asked Mr. Seckler if he believed that the charter buses have no inherently beneficial use to the community. Mr. Seckler answered that unless the charter buses were being used by the schools, they have no beneficial use to the community.

Mr. Haeringer asked what the percentage of buses, on this property, are contracted by the Chatham School District.

Mr. Montague asked if there were any diesel or gasoline storage on the property for the buses.

Mr. Cline came forward to answer both questions. Mr. Cline answered that he will obtain the number of buses used by the Chatham School District. He testified that there is an above ground storage tank for fuel on the property. Using Exhibit A-3, Mr. Cline indicated that the tank is located at the very back of Lot 10.

Mr. Montague asked if there were times when personnel was not present on the site.

Mr. Cline answered that there are times when no personnel were present on site.

Mr. Montague asked how the site is then locked up.

Mr. Cline answered that Lot 10 is not locked up at all. Lots 7 and 8 lock up their gates once the last bus pulls in for the day.

Mrs. Kecskemety confirmed with Mr. Cline that the buses fill up on these tanks located on the site. Mr. Cline testified that these tanks have enough fuel for all the buses on site. Depending on the routes they follow, usually the buses fill up on site every three days.

Mr. Montague asked what type of sensors are used in case a fire should break out among the tanks.

Mr. Cline answered that fuel tank monitoring system is in place throughout the site. This type of monitoring is required for environmental purposes. He assumed that the Borough Fire Marshal has signed off on these monitors.

Mr. Montague asked Mr. Cline if First Student ever had any problems with outsiders had wandering around on their property.

Mr. Cline did not believe so.

At 9:00 p.m. a break was taken in the meeting.

At 9:10 p.m. the meeting resumed.

Attorney Oliveira informed Chrmn. Cifelli that during the meeting break he had conferred with his client. His client is proposing to eliminate the charter buses from the application. However, if the Board agrees, First Student would like to be allowed three additional school buses on site. Attorney Oliveira stated that Mr. Seckler has a comment on the proposed curbing and how it relates to emergency vehicles.

Mr. Seckler pointed out the area of Lot 10, near the entrance. A proposal is now made to cut back the curbing between Lot 10 and Lot 9, so the drive aisles will provide better access for emergency vehicles. Mr. Seckler stated that the applicant is willing to follow any recommendations made by the Borough's emergency services to create better access for their vehicles.

Attorney Oliveira asked Mr. Seckler to continue his testimony.

Mr. Seckler testified that the application can meet the Seeka balancing test. He reviewed some points of the Borough Master Plan that he believed were met by this application. Mr. Seckler discussed the improvements that will be made to the First Student site. He believed there is sufficient justification for this Board to approve the D-1 use variance.

Chrmn. Cifelli pointed out that there will be a great deal of traffic coming in and off of the First Student property. With the fuel tank at the back of Lot 10, all the buses and vans will be traveling from one lot to the other to fuel up at least every couple of days. That's a great deal of intense activity on the First Student site.

Chrmn. Cifelli asked about the licensing agreement for Lot 9.

Mr. Cline answered that it's a month-to-month licensing agreement with the landlord. It would allow First Student to park on Lot 9, which could include the school buses.

Mrs. Kass asked Mr. Seckler how he felt this particular lot was suitable for this use.

Mr. Seckler stated that this lot is in the M-3 Industrial Use Zone. It is a fitting site for a bus service. However, the Seeka standards do not require to meet a higher level of suitability.

Mrs. Kass confirmed with Mr. Seckler that the oil facility across the street from Lot 10 has been sold and will become a residential development. Chrmn. Cifelli and Mrs. Kass were concerned

about the all the bus circulation on Lot 10, in front of a residential development. Mr. Seckler noted that half of Lot 10 is across the street from the M-3 Zone. The parking on Lot 20 with the building is not seeking that same D-1 use variance. Ms. Lelie, the Board's planner, agreed with that point.

Chrmn. Cifelli asked Mr. Seckler if the Board was to grant a variance of this magnitude for those lots, would it be in danger of spot-zoning?

Mr. Seckler answered that there are aspects of this application that had been had been previously approved, which would counter-act concerns about spot-zoning.

Answering a question from Mr. Haeringer, Ms. Lelie pointed out that if the application was approved, the conditions that are placed on the applicant's property will run with the property and will supersede what the Borough has already approved.

Mr. Brightly reviewed the proposed lighting with Mr. Seckler. Mr. Seckler stated that the Board could grant a reasonable condition to mitigate the site light in some other way, if shielding is required or a certain foot candle required.

Board members had no further questions for Mr. Seckler.

Chrmn. Cifelli reviewed what further information the Board still needed from the applicant:

- 1) The lot coverage for Lot 10.
- 2) The plans needed to be submitted to the Borough Fire Code Official
- 3) The proposed shade trees need to be shown on the plans
- 4) What type of fencing should be decided on & shown to the Board

Mr. Herbert asked that First Student provide definitive dates on their summer schedule versus their regular school year schedule. Mr. Cline pointed out that during the summer months, summer camp attendees use the First Student vans.

Chrmn. Cifelli told Attorney Oliveira and Mr. Cline that he will consult with Mrs. Baldwin on which Board meeting First Student could continue their application.

At 9:35 p.m. the meeting adjourned.

The next Chatham Borough Zoning Board of Adjustment meeting will be on Wednesday, May 22, 2019, 7:30 p.m., Council Chambers, upper level, Chatham Borough Hall.

Respectfully submitted:

Elizabeth Holler
Recording Secretary