

**MAYWOOD PLANNING BOARD
MINUTES
October 3, 2024**

A regular meeting of the Maywood Planning Board was held on Thursday, October 3, 2024 in the Council Chambers of the Maywood Municipal Building, 15 Park Avenue, Maywood, New Jersey at 7:30pm. “This Meeting was called pursuant to the provisions of the Open Public Meetings Act. Notice of this meeting was published in the Our Town and The Record newspapers on or about December 7, 2023. In addition, copies of this notice were posted on the bulletin board in the Maywood Municipal Building at 15 Park Avenue, filed with the Borough Clerk and distributed to all persons, if any, requesting copies of same pursuant to said act. This meeting is being recorded with both audio and video and may be rebroadcast. This meeting is a judicial proceeding, any questions or comments must be limited to the 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.”

Flag Salute

Call to Order

The meeting was called to order at 7:30pm with the following members present:

Mayor’s Designee Jacqueline DeMuro

Chairperson Charlotte Panny

Secretary Gary Neumann

Cynthia Petersen

John Gargagliano

Harry Hillenius

Douglas Herrick

Thomas Anzevino

Rick DeHeer

Board Attorney John Ferraro

Board Engineer Gregory Polyniak

Board Planner Michael Kauker

Approval of Minutes None

Bills None

Correspondence

1. 9/30/24 letter from Board Engineer Gregory Polyniak Re: Megaleaf 231 West Passaic Street Revised Completeness, Planning & Engineering Review
2. 9/30/24 letter from Dan McCarthy Re: Megaleaf 231 West Passaic Street EIS Waiver Request
3. 9/30/24 letter from Board Recording Secretary Tara Grunstra Re: Megaleaf 231 West Passaic Street Application Hearing Date 12/5/24
4. 10/2/24 letter from Board Recording Secretary Tara Grunstra Re: Acct #9717 SHDK 24-30 West Pleasant Avenue Escrow Shortage Letter

Resolution

Timothy J. Coe

181 Roosevelt Place

Block 18, Lot 15

Calendar #2024-04

Variance Application

1. Minimum Front Yard Setback (25’ minimum required vs. 22.5’ proposed)
2. Minimum Side Yard Setback (5’ minimum required vs. 3’ proposed)

Douglas Herrick made a motion to memorialize the resolution. Harry Hillenius seconded the motion. All eligible members voted in favor of the motion.

Completeness Hearing

None

Application Hearing

Tesla

1 Bergen Town Center

Block 2, Lot 9

Calendar #2024-01

Variance & Site Plan Applications

1. Maximum Impervious Coverage (25% maximum permitted vs. more than 25% existing/proposed-proposing additional 1,555 square feet of impervious cover)
2. Permit Less than 10’ Planting Buffer Along Property Line Abutting A-1 and A-2 Residential Zone (Pre-Existing Non-Conformity)
3. Minimum Front Yard Setback for Accessory Structures Along Spring Valley Avenue (75’ minimum required vs. 42’ proposed)
4. Minimum Front Yard Setback for Accessory Structures Along Forest Avenue (25’ minimum required vs. 10’ proposed)
5. Permit an Accessory Structure Closer to the Front Lot Line than the Main Building
6. Permit Non-Electric Vehicles to Use EVSE Spaces

From the Applicant:

Attorney Danielle Kinback of Prime & Tuvell

Engineer Deep Patel of Dewberry Engineers

Applicant Franz Gerdes of Tesla

Planner James Kyle of Kyle & McManus Associates

From the Board:

Board Attorney John Ferraro

Board Engineer Gregory Polyniak

Board Planner Michael Kauker

Danielle Kinback of Prime & Tuvell represented the Applicant Tesla. She summarized the application:

- The Applicant is proposing 16 Tesla-branded electric vehicle superchargers, supporting infrastructure and other site improvements in the southeast corner of the Bergen Town Center nearest Spring Valley Avenue and Forest Avenue

- She detailed the variances being sought
- She stated that the property owners within 200' were noticed and the public notice was published in the newspaper as required
 - Board Recording Secretary Tara Grunstra confirmed that the public notice was in order

The first witness was civil engineer Deep Patel of Dewberry Engineers who was sworn in, qualified and accepted:

- He displayed a rendered site plan which was marked as exhibit A-1
- He described the existing conditions and what was being proposed
 - Four (4) supercharger units are proposed and each supercharger unit would have 4 superchargers for sixteen (16) superchargers in total
 - One (1) parking stall would be ADA compliant and meet all standards
 - One (1) utility transformer and one (1) 2,000 AMP switchboard are proposed which would be mounted to the concrete pad screened by evergreen trees
 - Lighting is proposed which would be mounted to 20' poles
- Referencing the 7/25/24 Neglia Engineering review, Mr. Patel stated that the ADA grading requirements for the parking space and ramp will be met
- Board Engineer Polyniak noted that there were several technical comments such as curb thickness and confirmed with Mr. Patel that they would be addressed
- Board Engineer Polyniak asked about not restricting the parking to vehicles using the charging stations
 - Ms. Kinback deferred this question to Applicant Franz Gerdes
- Board Engineer Polyniak requested more robust landscaping to screen the transformer and switchboard and Mr. Patel agreed to the request
 - Ms. Kinback agreed to work with Board Engineer Polyniak on the additional landscaping
- Board Engineer Polyniak confirmed that the wiring will be below grade and the Applicant would pay for any electric utility upgrades needed to service the units

Board Attorney John Ferraro invited the Board to ask questions of Mr. Patel:

- Rick DeHeer asked if the location of the proposed 2,000 AMP switchboard posed any safety issues
 - Board Engineer Polyniak answered that he had reviewed the location and feels that it would work given that the applicable codes would be followed
- John Gargagliano noted that the superchargers are fan-cooled and he inquired how loud they would be
 - Mr. Patel replied that the fans produce 36 decibels of noise which is considered low and Board Engineer Polyniak added that it would meet the County and State requirements
- Chairperson Charlotte Panny inquired about non-EVs utilizing the supercharger parking spaces
 - Ms. Kinback deferred this question to Applicant Franz Gerdes
- Mayor's Designee Jacqueline DeMuro also supports Board Engineer Polyniak's request for more robust landscaping given the proximity of residential properties
 - Mr. Patel was amenable to adding more landscaping and noted that there is an existing grade difference between the roadway and parking lot which will help with screening

Chairperson Charlotte Panny invited the public to ask questions of Mr. Patel:

- Fire Official Thomas Tuttle confirmed that the superchargers would not contain a battery

Ms. Kinback noted that there was a comment in the 7/25/24 Neglia Engineering review regarding bollard protection and asked Mr. Patel to respond to that comment:

- Mr. Patel said that it is a common practice to not install bollard protection since it may interfere with charging non-Tesla brand EVs
 - He added that the superchargers are not energized unless they are plugged into an EV
- Board Engineer Polyniak recommended bollard protection and provided the example of a car accidentally hitting a charging EV
 - Mr. Patel has not heard of this happening
- John Gargagliano noted that the intersection of Spring Valley Avenue and Forest/Maywood Avenue has had several accidents
 - Using the same example that Board Engineer Polyniak provided, he asked if the connection would be broken or if the supercharger would remain energized
 - Mr. Patel replied that it would depend on the type of damage but the supercharger would not be energized if the connection was severed
 - Mr. Gargagliano asked what if the connection wasn't severed and the supercharger was still energized
 - Board Attorney Ferraro suggested deferring this question to Applicant Franz Gerdes

The next witness was Franz Gerdes of Tesla who was sworn in and qualified:

- Regarding Mr. Gargagliano's question, Mr. Gerdes said that if the connection is not severed, everything is insulated on the path of travel so there isn't a safety concern about live conductors being out
 - Mr. Gargagliano is concerned that a wayward vehicle could strike a charging EV
 - Mr. Gerdes agreed to provide the emergency response manual to the Maywood Fire Department
- Referencing the 7/25/24 Neglia Engineering review, Mr. Gerdes explained that they don't typically provide signage and wayfinding is done through the app or in-vehicle user interface routing drivers to the nearest charging station which would include pricing
 - He added that the hours of operation would be 24 hours a day/7 days a week
- The 7/25/24 Neglia Engineering review requested a will serve letter from PSE&G, Mr. Gerdes has been in contact with PSE&G and is waiting to receive the permits in order to complete the work
- Regarding allowing non-EVs to park in the supercharger parking spaces, Mr. Gerdes said that landlords prefer that they do not install signage or take away from charging stalls since it is a deterrent from drivers using those parking spaces
 - He added that the location was selected with the landlord as it has low utilization
 - He noted that they are comfortable with the charging spaces not being used by EVs during the holiday shopping season when parking demand is high

- Cynthia Petersen inquired if there are other charges located at Bergen Town Center and Mr. Gerdes answered that these proposed charging stations would be the only ones at Bergen Town Center
- Secretary Gary Neumann asked if there is a concern that drivers would leave their car charging overnight
 - Mr. Gerdes replied that there are idle fees that are incurred once an EV is fully charged
 - Chairperson Panny questioned if drivers could arrive at 3am to charge their EV and Mr. Gerdes said that it may be cheaper to charge at 3am vs. 3pm
- Ms. Petersen asked if overnight parking was permitted at the Bergen Town Center and Ms. Kinback believes that there is a restriction on overnight parking
 - Mr. Gerdes believes that most drivers would park in the charging spot for the approximately 20 minutes to be fully charged and then continue their drive
 - Board Attorney Ferraro added that any overnight parking restriction would have signage posted
- Chairperson Panny inquired if there was sufficient lighting and Mr. Gerdes said additional lighting is proposed
- Board Planner Michael Kauker asked about monitoring and maintenance and Mr. Gerdes responded that Tesla has an Operations Department that maintains the chargers with monitoring
- Given that the parking area for the proposed development is considered underutilized, Board Planner Kauker asked why the charging station parking wouldn't be restricted to EVs only
 - Mr. Gerdes said that they want to be a good neighbor by not preventing anyone from parking in the stalls
- Board Engineer Polyniak provided the example of a wayward car hitting a charger while an EV was charging and asked about putting a fire out at an energized charger
 - Mr. Gerdes said that he does not have experience with that scenario but he understands that the safety features of a motor vehicle accident (MVA) on a charging station would prevent the charging to those posts
- Board Engineer Polyniak noted the Wawa on Essex Street in Lodi and asked for other locations with Tesla charging stations where the parking spaces are not restricted
 - Mr. Gerdes answered that all the neighboring superchargers are not restricted and provided two (2) locations: 501 Route 17 and behind the Raymour & Flanigan on Route 17
 - He noted that signage restricting the usage has been removed from other locations since they felt that it wasn't necessary
- Douglas Herrick asked if there is an emergency shut off and Mr. Gerdes said there was a switch to drop power
- Rick DeHeer asked about protecting the transformer with bollards
 - Board Engineer Polyniak concurred and asked that the landscaping screen the transformer and bollards
 - Mr. Gerdes replied that PSE&G does not require bollards for the transformer in this location but he is willing to install them if the Board wishes him to do so
 - Ms. Petersen confirmed that the plantings will not obstruct sight lines
- Ms. Petersen asked about the proposed lighting

- Board Engineer Polyniak said that the Applicant has provided information that illustrates that light will not spill into the right-of-way
- Mr. Patel wanted to comment on the transformer bollards and landscaping
 - He pointed out the utility clearance that is required and advised that the bollards and landscaping would need to go outside this area
 - Board Engineer Polyniak was amenable to this solution
- Chairperson Panny confirmed that County approval was not required
- Mr. Gargagliano asked if Tesla would provide training to the Maywood Fire Department and Mr. Gerdes agreed
- Mayor's Designee DeMuro confirmed that the proposed LED lighting is on 20' poles
 - She requested that the lighting be adjusted if the neighbors are impacted by any spillage and Mr. Patel agreed
 - Board Engineer Polyniak noted that this could be a Condition of Approval
 - Secretary Neumann confirmed that the lighting is on dusk to dawn and Mr. Gerdes believes that there is a motion detector

Chairperson Charlotte Panny invited the public to ask questions of Mr. Gerdes:

- Fire Official Tuttle asked about Tesla providing a fire blanket as they would cost the Maywood Fire Department several thousand dollars to purchase and Mr. Gerdes answered that they do not provide fire blankets but offered to ask

Ms. Petersen confirmed that Board Engineer Polyniak would collaborate with the Applicant on the bollard and landscaping layout. She then asked who would maintain the landscaping and Board Engineer Polyniak answered that the property owner would be responsible for maintaining the landscaping.

The next witness was professional planner James Kyle of Kyle & McManus Associates who was sworn in, qualified and accepted:

- Mr. Kyle summarized the C(2) variances being sought and noted which variances are for existing conditions
- He believes that the benefits of granting the variances outweigh any detriments
- He considers these types of facilities critical to enabling the State Energy Master Plan goal of carbon-free transportation by 2050 and no gas-powered vehicles sold in NJ after 2035
- He cited the NJDEP website that provides EV sales and usage by county and Bergen County has the most EVs in NJ
- He provided additional data that illustrated that EV ownership is trending upwards
- Based on this information, Mr. Kyle feels that there is a need for these types of facilities
- He stated that these types of Level 3 chargers can fully charge an EV in 20-25 minutes which benefits the public
 - He noted that there are no other Level 3 chargers in Maywood and believes that residents will use this facility
- He believes that granting these variances promotes 2 purposes of the Municipal Land Use Law (MLUL):
 - Purpose A: To promote the general welfare

- Purpose G: To provide sufficient space in appropriate locations for a variety of uses
- He feels this location is appropriate for this use given its proximity to multiple highways enabling long-distance travel, these are least used parking spaces in a shopping mall and the location is close enough for residents to use for a quick charge
- Regarding the negative criteria, he said that the charging equipment is not a significant source of noise or glare from lighting which would impact the neighboring property owners
 - He described the new design of the chargers
- He noted that the Applicant has agreed to additional landscape screening
- Regarding the impervious coverage, he stated that the parking lot is sloped toward two (2) existing inlets for stormwater runoff and added that the proposed increase in impervious coverage is small
- He does not believe that there is substantial impact or impairment to the intent or purpose of the zone plan or zoning ordinance
 - He feels the intent of the setback and impervious coverage requirements is to ensure that there is adequate light, air and open space to adjacent lots and adequate separation of uses
 - He believes that this equipment and the landscape screening would not substantially impair the intent of the zone plan or zoning ordinance
- Regarding not restricting the parking spaces to EVs only, Mr. Kyle said that the landlord helped pick the location, the Applicant is willing to accept that the parking spaces may be taken by non-EVs during the holiday shopping season and in the Applicant's experience this hasn't been an issue in other locations like Rockaway Mall

Chairperson Charlotte Panny invited the Board to ask questions of Mr. Kyle:

- Chairperson Panny said that Bergen County's dense population would likely result in it having the most EVs and Mr. Kyle agreed
 - She asked about the location being closer to Route 4 but Mr. Kyle deferred to Mr. Gerdes as he was not present at the discussions with the landlord
 - Mr. Gerdes said that the selected location was the landlord's primary choice
- Thomas Anzevino asked if the application was approved, when would construction begin
 - Mr. Gerdes said once the building permits are received, construction would begin in 2-4 weeks
- Mayor's Designee DeMuro believes that the location by Whole Foods would have a high turnover
- Rick DeHeer asked if this project would be considered an improvement to the property and Mr. Kyle does not believe that it would qualify as it is not a habitable structure
- Mr. Gargagliano asked if a Level 3 charger would heat up the battery since it is charging so quickly and Mr. Gerdes said it would not heat up the battery but offered to provide more information on this subject

Chairperson Charlotte Panny invited the public to ask questions of Mr. Kyle but no one came forward.

Ms. Kinback said that the Applicant is seeking preliminary and final major site approval, summarized the variances being sought and the proofs supporting the approval. She listed the agreed upon Conditions of Approval:

- Applicant will work Board professionals to enhance the landscaping and provide bollards around the transformer
- Applicant will provide the first responder training manual to the Maywood Fire Department and schedule a meeting to go over any questions
- Mr. Gerdes will investigate providing a fire blanket to the Maywood Fire Department and research the battery temperature for Level 3 chargers
- Applicant will adjust lighting if there are any complaints

Chairperson Panny clarified that the Applicant is seeking a waiver from the requirement that non-EVs are not permitted to park in EV charging parking spaces. Douglas Herrick asked if the Borough Ordinance determines the number of EV charging spaces based on the total number of parking spaces. Board Engineer Polyniak explained that the Ordinance requiring a certain number of EV charging parking spaces would only apply to new construction and not this existing parking lot.

Chairperson Charlotte Panny invited the public to comment on the application but no one came forward.

John Gargagliano made a motion to approve the application with the various Conditions of Approval. Douglas Herrick seconded the motion. All eligible members voted in favor of the motion.

Informal Hearing None

Old Business None

New Business None

Open Meeting to the Public

Closed Session None

Adjournment

A motion to adjourn the meeting was made by Harry Hillenius. Mayor’s Designee Jacqueline DeMuro seconded the motion. All eligible members present voted in favor of the motion. The meeting was adjourned at 8:34pm.

Respectfully submitted,

Tara Grunstra
 Planning Board Recording Secretary