

**LAND USE PLANNING BOARD OF THE
TOWNSHIP OF EASTAMPTON**

RESOLUTION # 9 -2021

**GRANTING MINOR SITE PLAN APPROVAL WITH A BULK
VARIANCE TO THE APPLICATION OF FLYNN'S TOWING,
INC. FOR THE CONSTRUCTION OF A FENCE ON BLOCK 700.
LOT 10 (2619 U.S. ROUTE 206)**

WHEREAS, Flynn's Towing, Inc. ("Applicant"), in which the sole shareholder is Bruce Flynn, has applied to the Township of Eastampton Land Use Planning Board ("Board") requesting minor site plan approval for the construction of a fence on Block 700, Lot 10 ("Property"), and a de minimis bulk variance; and

WHEREAS, the Property is owned by LLC, East Spring Properties, LLC, whose members are Nancy Lehmann, Katherine Didario, Dr. Raymond Litecky, Rosemary Kay, Joan Ziylek and Andrew Litecky, consented to the submission of the application; and

WHEREAS, the Applicant submitted the four page plan dated July 19, 2021, prepared by Kris Kluk, P.E. of Kluk Consultants, LLC, entitled "Preliminary and Final Minor Site Plan New Fence Location Plan For Lot 10, Block 700," as an as-built plan showing existing dimensions of buildings on the Property with the location of the proposed fence; and

WHEREAS, the Applicant provided the required notice of the hearing on the application; and

WHEREAS, the application provides that the minor site plan approval is requested for a security fence along the front portion of the Property which is used for the storage of vehicles; and

WHEREAS, Board Engineer Stacey Arcari, P.E., PP, PTOE, CME (“Board Engineer”) submitted a review letter dated August 4, 2021, noting that the wetlands letter of interpretation had expired in 2015 so that any fencing can only be placed in the developed area; and

WHEREAS, on August 18, 2021, the Applicant appeared before the Board represented by Patrick F.X. McAndrew, Esquire, and sworn testimony was provided at the public hearing by Kris Kluk, Ph.D., PE, and Bruce Flynn; and

WHEREAS, Mr. McAndrew advised that the Applicant is a tenant, the Property is non-conforming, and a wetlands letter of interpretation is not required for the construction of the fence; and

WHEREAS, Kris Kluk, P.E. testified as follows:

1. He has a master’s and a Ph.D. in engineering. He has been a licensed professional engineer in New Jersey since 1989. He has testified before many land use boards as an engineer and planner, and serves as a municipal engineer.
2. The fence will be located within the wetlands buffer. The fence posts will not be placed in concrete.
3. The fence will only be located in disturbed areas.

4. No trees will be cut for the installation of the fence.
5. The site plan is not final as the fence will have to be realigned in certain locations.
6. The fence satisfies the height requirement in Code Section 540-56.E.(4), however, with the decorative cap of 1.5 inches it exceeds the height requirement in Code Section 540-56.E.(8).
7. The fence is an attractive improvement to the Property. It provides security without being obtrusive. The deviation from Code Section 540-56.E.(8) is de minimis. There is no negative impact as the fence is located in the BP zone where fences are permitted and in the disturbed areas of the Property; and

WHEREAS, Bruce Flynn testified as follows:

1. He has operated the towing business at the Property for over twenty years. There has never been a traffic issue.
2. He gate will remain at its current location.
3. Any additional information requested by the Board will be added to the site plan; and

WHEREAS, the Board members engaged in substantial discussion with the Applicant and Mr. Kluk regarding the method by which the location of the fence is to be detailed on the plan, and the installation of a Knox Box should it be required by the police department or fire official; and

WHEREAS, the hearing was opened to the public and Zoning Officer Kathy Newcomb questioned if NJDOT approval would be required, and advised that the gate posts if placed without concrete will move, and there being no other public comment, the hearing was closed.

NOW THEREFORE BE IT RESOLVED by the Land Use Planning Board of the Township of Eastampton as follows:

1. The above preamble clauses are adopted as the findings of fact and conclusions of law.
2. The August 4, 2021 professional review letter submitted by the Board Engineer is incorporated herein.
3. Minor site plan approval is granted for the fence as depicted on the site plan showing the as-built conditions existing on the Property. No approval is granted for the other existing conditions on the Property as they are not the subject of the application. The approval is granted subject to compliance with the comments and conditions contained in the Board Engineer's review letter unless any comment or condition is modified by the express terms of this resolution. The plan is to be revised, subject to the Board Engineer's approval, to show the distance from the fence to the existing asphalt drive, and the location of the fence within disturbed areas of the Property.

4. A Know box shall be installed if requested by either the police department or fire official.
5. A variance is granted pursuant to N.J.S.A. 40:55D-70c.(2) as the purposes of the Municipal Land Use Law will be advanced by the deviation from Eastampton Township Code Section 540-56.E.(8) and the benefits of the deviation substantially outweigh any detriment. The deviation is to add a decorative cap not to exceed one and one-half inches on the permitted six foot fence. The deviation is de minimis. It improves the appearance of the fence permitted in the BP zone. By providing an attractive feature to a security fence the granting of the variance encourages the appropriate development of land in a manner that promotes the public health, safety and general welfare. The variance can be granted without substantial detriment to the public good and does not substantially impair the intent and purpose of the zone plan as it is minor in nature and improves the appearance of the permitted accessory use.

Members voting in favor of granting the approval on August 18, 2021:
Adams, Bayles, Blair, Chieco, Flower, Chairperson Johnstone, Rodriguez,
Mayor Santillo, Councilman Springer and Vice-chairperson Taylor.

Members voting in favor of adopting this resolution of memorialization

on July 21, 2021: Adams, Bayles, Blair, Chieco, Chairperson Johnstone, Rodriguez, Mayor Santillo, and Councilman Springer.

The foregoing is a true copy of a resolution adopted by the Land Use Planning Board of the Township of Eastampton at its meeting held on _____, 2021, memorializing action taken at its meeting held on August 18, 2021.

LAND USE PLANNING BOARD OF
THE TOWNSHIP OF EASTAMPTON

Jill Torpey, Administrator