

The regular meeting of the Delaware Township Board of Adjustment held on the noted date, was called to order by Chair Cline at 7:30 p.m., in Township Hall, Sergeantsville, New Jersey.

PLEDGE OF ALLEGIANCE

STATEMENT

Chair Cline read a statement noting that the requirements of the Open Public Meetings Act had been met.

ROLL CALL

Present: Emmons, Fowler, Gilbreath, Kenyon, Manley, McAuliffe, Szwed, Warren, Cline

Absent: None

Also present: Attorney Miccio for Attorney Goodell, Engineer Roseberry

MINUTES: January 9, 2020

The Board discussed the minutes, noting changes and typographical errors. It was moved by Member Manley to approve said minutes. Member Gilbreath seconded the motion. Said motion was approved by voice vote, with an abstention by Member Szwed.

MEMORIALIZATIONS - none

APPLICATIONS

Sparrow King and Kurt Hummler, Block 4, Lot 10, for use variance from the requirements of Section 230-104 of the Land Use Ordinance entitled Home Occupation, which requires that a home occupation be conducted from the residence or from an accessory building, and that the total aggregate area not exceed 40% of the total first floor area of the residence; preliminary and final site plan approval also sought.

Chair Cline noted that per the applicant's request, a postponement is requested until May 14.

Member Fowler made a motion to table this application to May 14. Member Warren seconded the motion.

Roll Call Vote

Aye: Emmons, Fowler, Gilbreath, Kenyon, Manley, Warren, Cline

Concurs: Alternates McAuliffe, Szwed

Nay: None

Absent: None

It was noted that the motion is carried.

Roger and Holly Locandro, Block 41, Lot 1.10, being sought: approval for Phase Two Final Subdivision, with all other necessary permits, waivers, variances, and conditions that may arise in the course of the public hearing.

Applicant Locandro stated that the application is not prepared to proceed and that a postponement is requested.

Objector, Larry Wohl stated that he has a concern about time lapses.

Member Gilbreath made a motion to move the application forward. Member Emmons seconded the motion.

Roll Call Vote

Aye: Emmons, Fowler, Gilbreath, Kenyon, Manley, Warren, Cline

Concurs: Alternates McAuliffe, Szwed

Nay: None

Absent: None

Applicant Roger Locandro and Objector Larry Wohl were both sworn in.

Attorney Miccio noted that a letter of objection concerning the time lapses for this application had been received from Mr. Wohl on March 10, 2020. Attorney Miccio read the letter into the record.

Attorney Miccio made the following recommendation based on the merit of Mr. Wohl's arguments. He noted that both should prepare a legal brief with legal citations, ordinances, statutes, and case law. He noted that Mr. Wohl needs to provide proof as to why time has lapsed. He noted that Mr. Wohl's brief will be prepared first and then submitted. Attorney Miccio noted that upon Mr. Wohl's submission, Mr. Locandro will have a chance to respond.

There was a discussion about timing.

Chair Cline emphasized that case law should be provided as to the continuation of this application before the Board. Chair Cline noted that the Board will listen to both presentations and the legal advice of counsel and the Board will then decide how to proceed. Chair Cline noted that the consideration of a time lapse and the consequence of that lapse is at issue.

Mr. Locandro stated that he has complied with appropriate submission for continuation of this final subdivision approval application, as noted in the memo of Board Engineer Roseberry, dated December 10, 2019. In Board Engineer Roseberry's memo, it was noted that waivers were requested. The memo also lists items missing from Engineer Roseberry's file and missing documentation from various outside agencies.

Chair Cline asked how much time is needed by Objector Wohl and Applicant Locandro to prepare a brief.

Applicant Locandro noted that he is still waiting for verification of the NJ LOI, Letter of Interpretation from NJ DEP. Mr. Locandro also noted that the County Board of Health has approved all septic on all lots, except one lot.

Chair Cline reiterated the question about time lapse. Applicant Locandro noted that the Board approved the application prior to the deadline of January 7, 2020.

Applicant Locandro stated that the Preliminary approval has been done. He noted that preliminary extensions do not have time limits. He reiterated that the application was approved at the Board's December, 2019 meeting. He also noted that no zoning has changed since this application was started.

Attorney Miccio stated that there is no need to argue these points at this time, he noted that this is the purpose of the briefs. Attorney Miccio noted that the Board wants to have firm legal ground on which to continue this application.

There was a discussion about dates of submission for the May 14, 2020 meeting. The Locandros noted that they cannot attend that meeting, so the discussion centered on the June 11 meeting. Mr. Wohl is to submit his brief by May 21 with a response by Mr. Locandro by June 4 for the meeting of June 11, 2020.

It was noted in Mr. Wohl's letter that certified notice referenced the incorrect Zoning Ordinance number. Chair Cline stated that while the change in numbers is minor, there will have been a time lapse in the application hearings of three months and that new notice will be required with the correct statutory reference.

Applicant Locandro provided a time extension to the June 11, 2020 meeting.

Member Manley made a motion to move this hearing to the June 11, 2020 meeting. Member Gilbreath seconded the motion.

Roll Call Vote

Aye: Emmons, Fowler, Gilbreath, Kenyon, Manley, Warren, Cline

Concurs: Alternates McAuliffe, Szwed

Nay: None

Absent: None

Planning Board update: Liaison Cline

Chair Cline noted that the Planning Board heard a conditional use application on a 35-acre property owned by Chris Habig, Block 58, Lot 4.01. He noted that the conditional use is for a farm rental unit. He further noted that a bulk variance was requested for placement of the septic within the setback area. Mr. Cline noted that the Planning Board granted the conditional use and the bulk variance for the septic system with the setback area.

Correspondence

Bill List

Bill List: Legal Services – Parker McCay, P.A.

Zoning Board Matters, Line Item #113-215

Through 12.30.2019, #3108875 \$176.00

Member Gilbreath made a motion to approve payment of this voucher. Member Manley seconded the motion.

Roll Call Vote

Aye: Emmons, Fowler, Gilbreath, Kenyon, Manley, Warren, Cline

Concurs: Alternates McAuliffe, Szwed

Nay: None

Absent: None

Bill List: Legal Services – Parker McCay, P.A.

Escrow Charges

58/3, Walker, #3107406 \$448.00

41/1.10, Locandro, #3110456 \$912.00

Bill List: Engineering Services – Maser Consulting, P.A.

Escrow Charges

41/1.10, Locandro, #559934 \$852.50

Member Gilbreath made a motion to approve payment of these vouchers from their respective escrow accounts. Member Manley seconded the motion that was approved by voice vote.

ADJOURNMENT: 7:55 p.m.

It was moved, seconded, and unanimously carried to adjourn at the noted time.

Respectfully submitted,

Kathleen E. Klink,
Administrative Officer, Secretary