

The regular meeting of the Delaware Township Board of Adjustment held on the noted date, was called to order by Chair Cline at 7:31 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, Gilbreath, Kenyon, Manley, McAuliffe, Warren, Cline

Absent: Fowler, Szwed

Also present: Board Attorney Scott Miccio

#### MINUTES: July 22, 2021

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

#### MEMORIALIZATIONS – None

#### APPLICATIONS

Block 51, Lot 5.05, Tilch, use variance requested for two houses on one property of less than 30 acres, contrary to §230-16B(h) in the A-1 zone. Due to a defective notice, this application will be heard on September 9, 2021.

Block 36, Lot 24, Sergeantsville Volunteer Fire Company (SVFC), bulk variances for oversized accessory building, contrary to §230-19D(2) in the V-1 zone.

Mr. Greg Watts was present to represent the applicant.

Mr. Frank Banisch and Mr. Ed Fleming were sworn in.

Attorney Miccio stated that the notice is adequate and that the Board has jurisdiction to proceed.

Mr. Watts introduced the application by discussing two old buildings on the property, to be replaced by one pole barn of 1200 square feet. He noted that these two preexisting wooden structures and one canvas and frame building will be taken down and replaced by the proposed pole barn.

Mr. Watts asked Mr. Ed Fleming to provide more details. Mr. Ed Fleming stated that he lives at 587 Sergeantsville Road, in Delaware Township, but with a Flemington mailing address. He stated that he has been with the SVFC for 27 years. He stated that he has been firefighter and chief within this time.

Mr. Fleming stated that there are two wooden sheds on the property that are about 20 to 25 years old. He noted that both rooves have been replaced but are still leaking. He noted that both are the same size, 12 feet by 20 feet. He noted that one of these two buildings houses the emergency generator for the firehouse. He noted that the generator is a diesel military spec generator, but that the Township Road Department has a newer generator that will replace this one. He noted that the upgraded generator has an automatic switch. He noted that the fuel tank is underneath the generator and that the fuel is provided by the Township Road Department.

Mr. Fleming noted that the second shed houses lawn equipment, maintenance equipment, 35 square tables and 35 to 40 metal chairs for banquet use. He also noted that there is a banquet hall stage and a miniature fire truck for parades. He noted that due to the size of the shed, items must be moved to get to other items.

Mr. Fleming noted that the third structure is a 12-foot by 24-foot canvas type tent which houses the Fire Department utility pick-up truck, training props, and spare tires. He noted that one door on this structure is missing and that there are puncture holes in the top of the roof. He noted that the front door on this structure has been replaced twice.

Mr. Fleming stated that the proposed pole barn will house all of the storage items. He noted that there will be a lean-to on the back side under which the generator will be placed; with wire fencing around it. He noted that the lean-to gives proper exhaust to the generator. He noted that the pole barn will give additional storage. He noted that there will be two doors opening towards the lot, one will be 12 feet, five inches and the other will be 12 feet, six inches. He noted that currently one piece of fire equipment is stored at the Township Garage and that with this proposed pole barn, it can be brought back to the site.

Mr. Fleming noted that the utility pick-up utility will still fit in unless they decide to put two fire vehicles inside of the proposed building. He noted that the pole building is 40 feet long by 30 feet wide and that the longest fire truck is 33 feet long. He noted that all of the storage originally discussed will also be stored and that there will be room for some other "clutter" found within the firehouse.

Chair Cline asked if the proposed building will be large enough for the needs of the fire company, to which Mr. Fleming responded positively.

Mr. Fleming noted that the firehouse is the emergency shelter for the Township and that this lean-to space is needed for the generator. Mr. Fleming stated that money was left to the firehouse by a donor and that this gift donation should pay for the pole barn. He noted that the fire company intends to name the building after this benefactor.

Mr. Fleming noted some construction details. He noted that there will be a sealed radiant heat floor with a 100-amp electric panel; outlets and light fixtures. He noted that there will be a concrete pad when pole barn is constructed. He noted that there will be foam insulation.

Chair Cline asked about external lighting. Mr. Fleming stated that there would be lighting over the doors that will be angled towards the banquet hall. He further noted that these lights will be on motion sensors and that no light will impinge on the neighbors.

Mr. Fleming stated that he has pictures to show the depth of the hedgerow between the building and the adjacent neighbors.

Member Warren thanked Mr. Fleming and the fire company for their service to the community. Member Warren stated that his son is an active member of this fire company. He questioned the need to recuse himself. Attorney Miccio stated that such recusal is not needed.

Member Kenyon asked about the generator. Mr. Fleming stated that it is not a new generator, and that it was donated by a local electrician. He noted that the one to be moved to the firehouse is 100 kilowatts, replacing the current one of 75 kw. Mr. Fleming noted that the power capacity is up to 120 kw, which is more than enough power for the firehouse. Mr. Fleming noted that the new generator is much quieter than the old one and that it will be enclosed so that it does not have weather exposure. He noted that it will be positioned farther away than the current one.

Mr. Watts stated that he can vouch for the noise of the old one, as he is a neighbor to the firehouse.

Mr. Frank Banisch was present as Planner for the applicant. He stated that he has appeared before the Board many times. The Board accepted Mr. Banisch as planner.

Mr. Banisch stated that this is a c-2 bulk variance and the benefits outweigh the detriments. He noted that the SVFC is a life-saving organization, a use that is inherently beneficial. He noted that if considered a commercial use (as listed in the V-1 commercial list), there could be a request for an accessory building up to 750 square feet; resulting in a difference of 450 square feet compared to the proposed square footage.

Mr. Banisch noted that the proposed building will allow for the removal of the smaller, aged and decrepit buildings. He noted that the proposed building is in a compact location enhancing a compact arrangement for parking, including parking for elections. He noted that there is a slight impingement on the parking, but that the three separate buildings, with space between them takes up similar space. He noted that the location of the proposed building is the hardest part of the lot to get to for parking.

Mr. Banisch discussed the burdens of proof. He noted that the firehouse use meets the positive criteria per one purpose of the MLUL, which is to protect life and promote safety in the community. He noted that there is no substantial detriment to the public good. He noted that the proposed location is not detrimental to the parking. He noted that there is no impairment of the zoning ordinance.

Mr. Banisch reiterated the positive criteria, that this accessory building supports the purpose of the firehouse in its efforts for life-saving services; in particular, he noted that some of the fire vehicles will now be on site instead of at a location, which is not far away, but not on site. He noted that the relocation of one or more fire vehicles helps promote the fire company's ability to be more timely in responding to calls. He noted that this life-saving service of the fire company matches the intent of the zoning ordinance and the master plan.

Mr. Banisch reiterated that the request is a minimal departure from the size that is allowed, which is a request for 450 square feet more than what is allowed. He also noted that the applicant seeks waiver of site plan review and approval.

Mr. Banisch stated that the proposal offers nothing but benefit to the community.

When asked, Mr. Banisch stated that for a new building, site plan review is required by the ordinance.

Chair Cline noted that the proposed structure is not a substantially larger footprint than what is existing. He further noted that the proposal will keep engines in one location, where it is better to have all equipment in one place.

Chair Cline asked about the windows. It was noted that one faces the firehouse and one faces the parking lot.

Mr. Fleming stated that they received no questions from any of the neighbors.

Member Gilbreath asked about the height of proposed building. Mr. Fleming stated that the building has a lower profile with a peak of 13 feet, five inches.

There was a discussion about the waiver for site plan, per ordinance §230-91, and §230-94. It was noted that the requested waiver has no impact on existing conditions, circulation, or parking.

Chair Cline questioned if there would be any tree removal from the hedge row. Mr. Fleming stated that the trees would only be trimmed to allow the construction. He noted that the hedgerow is 25 to 30 feet wide, and that he does have pictures.

Member Manley made a motion to waive site plan review and to approve the application as presented. Member Emmons seconded the motion.

It was noted that there were no members of the public present.

**Roll Call Vote**

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

Nay: None

Absent: Fowler, Szwed

Planning Board Update: Liaison Cline

Liaison Cline reported that there was no August Planning Board meeting.

Correspondence

The following correspondence from Erica Edwards, attorney for Brant Switzler, Block 55, Lot 2, was read into the record. Said correspondence was received on 08.12.21.

*Good morning, Kathy -*

*An unforeseen issue has arisen within the applicant's family this week that will prevent the applicant from appearing at the Board's September 9th meeting. Please note that in contemplating the effects of this required cancellation on the applicant's presentation, the applicant and his family have concluded that this would be an opportune time to re-evaluate the applicant's plan.*

*Ultimately the applicant and his family want to pursue a project that meets their own and the community's needs optimally. Admittedly, that is a tall order but one that the applicant and his family have and continue to be committed to pursuing. With that in mind, it has been disheartening to experience the dissatisfaction with which a few members of the community have received the applicant's plan. It has caused the applicant and his family to consider and ultimately conclude that it would be wise to take a step back and consider the extent to which this particular plan is optimal for all involved.*

*Accordingly, the applicant is respectfully seeking an adjournment of the applicant's hearing from the Board's August 26th special meeting date to the Board's November regular meeting date. The applicant is aware that he will be required to re-notice for the November meeting.*

*The applicant and his family along with the applicant's entire team of consultants thank the Zoning Board and its staff and consultants for the time and consideration expended upon the applicant's plan to date. We look forward to reconnecting with the Board in the fall.*

*Sincerely,*

*Erica*

*Erica Edwards, Esq.*

*Erica Edwards, Esq. Law Offices LLC*

*47 East Main Street, Building 2, P.O. Box 252*

*Flemington, New Jersey 08822*

*(908) 782-2700 (Office Phone); (908) 782-2786 (Office Fax)*

*(908) 244-8288 (Mobile Phone and Text Messaging)*

*[erica@edwardslawofficesllc.com](mailto:erica@edwardslawofficesllc.com) (E-Mail)*

The Board discussed the correspondence and agreed to a continuation of this application to the November 11, 2021 meeting. (Switzler application, Block 55, Lot 2)

Chair Cline requested that Administrative Officer Klink contact the applicant's attorney one month ahead and see if the application will proceed at the November 11, 2021 meeting.

Second application for September 9, 2021: Traina, Block 13, Lot 22.04, conditional use variance for conversion of an accessory structure to a dwelling unit, with living space beyond the second floor (§230-32D(4)(e)).

It was decided that the September meeting will be a hybrid meeting. Chair Cline asked that members be present, if possible.

Bill List

**Bill List: Attorney Services – Parker McCay P.A.**

General Zoning Matters

Zoning Board Matters

Through July 31, 2021, #3134594 \$493.00

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

**Roll Call Vote**

Aye: Emmons, Gilbreath, Kenyon, Manley, McAuliffe, Szwed, Warren, Cline

Nay: None

Absent: Fowler, Szwed

**Bill List: Attorney Services – Parker McCay P.A.**

Escrow Charges

41/1.10, Locandro, #3134595 \$17.00

55/2, Switzler, #3134593 \$578.00

**Bill List: Engineering Services – Van Cleef Engineering Associates LLC**

Escrow Charges

51/5.05, Tilch, #3935013-1 \$1,190.50

55/2, Switzler, #3935008-7 \$1,480.25

**Bill List: Planning Services – Kyle McManus Associates, LLC**

Escrow Charges

17/33.04, Ross, #2887 \$397.60

51/5.05, Tilch, #2901 \$624.80

55/2, Switzler, #2888 \$1,121.80

Member Emmons made a motion to approve payment of these vouchers from their respective escrow accounts.

Member Warren seconded the motion that was approved by voice vote.

ADJOURNMENT: 8:15 p.m.

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

Respectfully submitted,

Kathleen E. Klink,  
Administrative Officer, Secretary