

The regular meeting of the Delaware Township Board of Adjustment held on the noted date, was called to order by Chair Cline at 7:35 p.m., in Township Hall, Sergeantsville, New Jersey, as supported by the virtual meeting procedures via ZOOM.

PLEDGE OF ALLEGIANCE

STATEMENT

Chair Cline read a statement noting that the requirements of the Open Public Meetings Act had been met, with notice for this special meeting on April 19, 2022.

ROLL CALL

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

Absent: None

Also present: Attorney Steve Goodell, Planner Jim Kyle

MINUTES: May 12, 2022

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

MEMORIALIZATIONS – none

APPLICATIONS

Brant Switzler, Block 55, Lot 2, use variance approval requested for tennis training facility, continued from 04.29.21 special meeting; and regular meetings of June 10, 2021 and July 8, 2021; continued from special meeting of July 22, 2021; adjourned from November 11, 2021 and February 10, 2022 meetings; continued from the March 10, 2022 and April 14, 2022 meetings.

Ms. Edwards stated that the applicant has no additional witnesses. She proposed that the applicant's civil engineer will be back on at the next meeting to respond to the most recent report by Board Engineer O'Brien. She stated that she knew that both engineers would not be present at tonight's meeting. Mr. Simon stated that he was not aware that the engineering witness was not done. Ms. Edwards stated that the purpose of the next meeting is for the civil engineer to review information and submit anything that was requested. Mr. Simon countered that the applicant's case is not done, which could change the objector's plans and possibly add another meeting to bring back Mr. Steck.

Ms. Edwards stated that this information was proffered at the previous hearing. She concluded that the civil engineer did testify to the changes. Ms. Edwards stated that the civil engineer will not return and that the applicant's case is rested.

Mr. Simon introduced himself as the objector's attorney. He stated that he will present Mr. Steck as a professional planner.

Mr. Peter Steck was sworn in by Attorney Goodell. He stated that he has a thumb drive with documents to be shared. Mr. Steck provided his credentials and experience, noting that he has a bachelor's in civil engineering and a masters in city and regional planning. He stated that he has been self-employed for 25 years. He stated that he did work as Montclair's Municipal Planner. He stated that he has testified in over 200 municipalities, also in superior court and tax courts. He stated that he has appeared before various Hunterdon County Township board and committees. He stated that he also appeared before this Board. He concluded by stating that he was licensed in New Jersey in 1976.

Member Emmons made a motion to accept the credentials of Mr. Steck. Member Gilbreath seconded the motion that was approved by voice vote.

Mr. Steck provided information prompted in part by the questions of Mr. Simon.

Mr. Steck stated that he has reviewed the application and toured the area. He stated that he was present at prior hearings. He stated that he reviewed the zoning ordinance and the last Master Plan Reexamination Report. He stated that he reviewed the exhibits and listened to the applicant's planner and her testimony.

Mr. Steck stated that he had a presentation, on a thumb drive to be displayed as a shared screen and as paper copies. The packet of three pages, maps and photos, was marked into evidence, O-1.

Mr. Steck described the information on the pages, as follows:

Page 1 – 2020 satellite photo, from the NJ DEP GeoWeb site

He noted that the orange outline shows family-owned properties, of the Switzler family.

He noted that the yellow-outlined is the subject property.

He noted that the border between the A-1 and A-2 zones is shown.

Page 2 – view from Google street view showing the area of the power line and gas easements

He noted that the lower picture shows a gap in the vegetation along the road frontage of the subject property.

Page 3 – from the farmland preservation plan, soil types – green the best agricultural soil – prime soils; and the yellow being statewide important soils.

The right side of Page 3 shows a reproduction of applicant's plan, and same plan superimposed over the soils map.

Mr. Steck described the subject property as being in a location of rural character. He noted that the road does not have well defined shoulders and there is evidence of ponding. He noted that with approval there would be a dedication of right of way along the frontage of 735 feet.

Mr. Steck noted that the applicant is not the owner, but is a tennis professional. He noted that there is an arrangement with the owner to develop the property. Mr. Steck noted that the subject property is 30 acres, and that it is farmland assessed and clearly has been farmed. Mr. Steck noted that there is a hedgerow about 1/3 of way back into the property. He noted that there is deciduous growth along the road which would provide no buffering in winter time. Mr. Steck noted that the property is burdened by a power line easement and that there is a pipeline easement which has restrictions for building. He noted that the easement area is about 87.5 feet long.

Chair Cline noted that the pipeline project has been abandoned. Mr. Steck noted that it still is shown on the applicant's survey, and that he has to assume it is still in effect.

Mr. Steck noted that this is a bifurcated application wherein the applicant is seeking a use variance and would return for subdivision and site plan approval. Mr. Steck noted that the subdivision is inherent with the application and that the newly subdivided lot would have no frontage which requires relief. He noted that the front lot would be 13.7 acres, including a dedicated right of way; and that the property runs to centerline of the road. Mr. Steck noted that on the plans there would be a new single-family house on a new lot with one acre of space for development. He noted that the property would be still under farmland assessment. He noted that there would be preservation of land surrounding the tennis training facility.

Mr. Steck noted that the thrust of the proposal is a metal prefab building to house two tennis courts, a gym, lockers, and a small pro shop. He noted that the proposal includes a living unit in the building. He opined that it is unusual for there to be a residence within a tennis training facility.

Mr. Steck noted that the parking area includes space for 38 vehicles and that it could be illuminated during the hours from 8:00 a.m. to 7:30 p.m. He noted that light would be needed in the winter time. He noted that the proposal shows additional clearance for a septic system.

Mr. Steck noted that the applicant testified that this is a high-end tennis training facility. He noted that the applicant is not licensed or certified. He noted that the justification for the proposal is based on his reputation as a professional tennis player.

Mr. Steck noted that when classes are full, there could be 12 players on each court for a total of 24; he noted that others might be in attendance, such as the trainers, a manager, and parents. He noted that the use is active in terms of the number of people that can be there.

Mr. Steck noted that there has been discussion about preserving land on the subject property and land outside of the subject property. He noted that this information needs to be clarified.

Mr. Steck noted that in his analysis, the surrounding area is rural in character. He noted that the road is a rural lane, not a County or State road. He noted that the road is a local road with rural character. He noted that the houses on the opposite side of the road have wooded areas that have existed for several years. He noted that there is a lot of open land with much being farmland assessed.

Mr. Steck stated that he reviewed the Master Plan and the 2012 Reexamination Report and associated reports. He noted that one primary goal of the Township Master Plan is to preserve farmland. He noted that the Master Plan supports productive farmland and the image of being rural. He noted that Performance Standards help to promote agricultural use and ancillary uses, such as a farm stand. Mr. Steck stated that the farmland preservation plan has a map of soil types, Prime Soils and Statewide Importance Soils, as identified on the State's website and also identified as Class I and Class II soils. He noted that these soils have the best combination of physical and chemical characteristics for agricultural uses and productivity. Mr. Steck noted that the proposed location for the tennis facility is squarely on an area of prime soils.

Mr. Steck referenced the Zoning Ordinance, §230-15A, "*Purpose. One of the purposes of the Municipal Land Use Law (N.J.S.A. 40:55D-2g) is "to provide sufficient space in appropriate locations for agricultural uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens."*

Mr. Steck noted that protecting farmland is part of the State Development and Redevelopment Plan and part of the Hunterdon County Master Plan.

Mr. Steck stated that the applicant has the burden of proof for the application. He opined that the testimony offered is not substantially credible in terms of supporting the proofs that are needed to grant this use variance. He noted that the use variance must meet the standards of the Medici case, the hardest type of case to be proved because the proposal is most disruptive in terms of zoning. He noted that this type of request must be approved with five affirmative votes and that added proofs are need to support approval of this type of use variance. He noted advancing public purposes is a goal of the Master Plan, per MLUL 55:d-2, but this does not include private purposes.

Mr. Steck discussed the particular suitability of the site. He referenced suitability and the relationship to the characteristics of the use that is prohibited, thus needing a use variance. He referenced a NJ Court case, Price vs. Himeji, resulting in a decision that there is a heavy burden to support the proofs needed for a use variance. He noted that one result of this case is the idea that the proposed use is "superior" to that which is presented. He noted that a use variance should not happen if the approval only advances purposes of the property owner. Mr. Steck noted that the testimony from the applicant is that a primary reason for using this property is that his parents own the property.

Mr. Steck noted that the proposed use is a commercial use that will operate all year round, contrary to agricultural use which is less active in the winter months. He further noted that the commercial use would be seven days per week, again contrary to agricultural use. Mr. Steck noted that public purposes could be advanced if this use were suited to the property.

Mr. Steck stated that the application must meet negative criteria by creating no substantial impairment. Mr. Simon questioned that this standard is set forth in the Medici case, and the standards set by this case. Mr. Steck agreed and noted that the standards go beyond the MLUL standards. Mr. Steck noted that there could be "wobble room" in that this use is not a foreign use.

Mr. Steck stated that negative criteria must be set forth that the proposed use is not detrimental to the public good, that there is no impairment to traffic, visual impact, noise, lights, etc. He noted that the building is an industrial type building. It was noted that the Board is approving the use not the building. Mr. Steck noted that there is no call for a private facility to fill public needs.

Mr. Steck stated that the applicant proposes to preserve land as part of the approval. Mr. Steck stated that no mechanism for preservation has been presented.

Mr. Steck discussed the nexus between the facility and agricultural use. He noted that the proposed use is taking prime land out of circulation and out of agricultural use. He noted that the two uses are not related. He noted that there needs to be a connection, one that allows farms to do things under the umbrella of farm use. He noted that the tennis facility is unrelated to agricultural use. He noted that it has been suggested that additional lands could be preserved, which could be done by selling the development rights. He noted that the property is under farmland assessment. Mr. Steck stated that approving a private tennis facility is not a mechanism to preserve land.

Mr. Steck stated that he had listened to the testimony and he stated that he heard no alternate proposal to subdivide. Chair Cline stated that such a plan was submitted and found to be conforming to the ordinance. Mr. Steck stated that a subdivision would not be detrimental because open space would be preserved as part of the subdivision.

Mr. Simon asked about preserving land that is not part of the subject property. Mr. Steck stated that these lands were not part of the application and thus not part of the public notice. He further opined that those lands should have been made a part of the application.

Mr. Steck stated that a question the Board needs to ask is why is this lot particularly suited to this specific use. He noted that the soils are agricultural and the land is flat. He noted that the property is on a rural lane. Mr. Steck opined that what presented this property as particularly suited is that the applicant's parents own this property.

Mr. Steck discussed the issue of public purpose. He noted that recreation is a good use but that one focus of this use is that it is a high end training facility and not a public facility. He stated that it is not like adding two more courts to Dilts Park. He noted that there is an entrance fee to be a part of this facility. He noted that due to the selective nature of this use and the population, the applicant can waive fees.

Mr. Steck further noted that there has been no market study to support the demand for this type of facility. Mr. Steck stated that through the testimony five facilities were listed. He noted that three are in New Jersey and two are in Pennsylvania. He noted that the facility in Hopewell valley is on a busy road, in an industrial zone. He noted that Courtside Racquet Club is in the Clinton office zone. He noted that the Nassau Club is on Route 206, a State highway. He noted that it is in the R-2 single family zone. He stated that he knows of no facilities on a farm. He noted that these facilities are on busier streets with visual exposure.

Mr. Steck stated that this road is a rural roadway with ponding on the edge of the road which has no shoulder in most places. He noted that the roadway is used by joggers, bikers, and dog-walkers. He noted that the traffic study should not just look at volume but also at the character of the roadway.

Mr. Steck stated that the Master Plan includes the scenic value of roads. It was noted that while this area is not in an historic district, it has historic designation, which means that it is an area that is eligible to be a historic district per the State.

Mr. Steck again referenced the Price vs. Himeji case. He noted that one conclusion of that case is that proposing a non-permitted use should somehow be better than what is proposed. He noted that the proposal should disrupt fewer soils. He noted that the property is identified as PA 4, which is not an area that encourages growth.

Mr. Simon asked about the distinction between this property and others in the A-1 Zone. Mr. Steck stated that there is not much distinction, he noted that much land in this area is tilled land.

Mr. Steck reiterated that the ownership relationship has nothing to do with land use.

Mr. Simon asked about the other use being proposed, involving the apartment within the tennis facility. Mr. Steck stated that it is highly unusual to have an apartment in a tennis facility. He stated that this should be another d-1 variance in addition to the d-1 variance for the tennis use. Mr. Steck stated that comparing this apartment to a COAH unit does not apply to this use. He also noted that it is customary for a horse farm to have an apartment for a groom. He argued that the residential use is accessory to a use that is not permitted.

Mr. Simon asked about the features of this property as applied to the zoning ordinance. Mr. Steck stated that the property can be used for agricultural use or as a properly planned subdivision that complies with the zoning ordinance. He noted that such use meets the negative criteria in that it does not substantially impair the zone plan or the DT zoning ordinance. He further noted that there is no discussion for this use in Master Plan, thus supporting the lack of permission in the ZO. He noted that the proposed use is positioned on prime farmland, which is opposite the intention of the Master Plan.

Mr. Steck gave his opinion that the proposal does disturb the rural character of the street. He reminded the Board that the use, if approved, goes with the property, not the owner. He noted that this supports the review of the characteristics of the land.

Mr. Steck gave his opinion that this large building would have lighting in all seasons, which is foreign to the zone and does substantially impair the Master Plan. He reiterated that it is troublesome to add land for preservation that was not part of application.

Mr. Steck gave his opinion that a d-1 variance is needed for the apartment. He also expressed concern about a subdivision that has no road frontage.

Mr. Steck referenced the Master Plan and the goals that support agricultural use, # 6, 7, 8, 9, 10, 17. He stated that the applicant has improper quid pro quo concerning agricultural use. He reiterated that the property is not particularly suited. He opined that there is no distinguishing feature to support the proposal. He also expressed concern that an approval opens the door to other similar types of applications.

Mr. Steck concluded by stating that the public purposes are not furthered because this is a commercial use, not a public use. He stated that there has been no study that says there is a need. He stated that the site is not particularly suited to this use. He noted that if approved, there will be substantial detriment to the public good, the master plan, and the zoning ordinance. Mr. Steck stated that the Master Plan does not promote this type of use next door to single family homes. He opined that these homes will be impacted. He opined that the positive criteria is lacking to support the use and a two-bedroom apartment. Mr. Steck opined that this property is not particularly suited to the proposed use.

Mr. Simon stated that the applicant's planner stated that some purposes of the MLUL are met by this proposal. Mr. Simon referenced these purposes: A, G, I, M. (See notes from January 13, 2022 minutes, page 5, found at the end of these minutes)

Purpose A, Mr. Steck stated that Purpose A is not promoted because the proposal is a tennis facility.

Purpose G, Mr. Steck stated that this purpose is not met because there are other areas better suited than this zone.

Purpose I, Mr. Steck stated that he is not sure a metal building, while being agricultural in nature, creates a desirable visual environment.

Purpose M, Mr. Steck stated that the proposed use is detrimental to the area because it should be close to a business area where there is overflow between commercial uses. He noted that the proposed use will disrupt the nearby agricultural uses.

There was a discussion about the 14-foot lighting that is being proposed for the parking area. It was noted that there are no commercial uses in the vicinity. Mr. Simon asked about horse barns. Mr. Steck stated that these uses do not require that type of parking or lighting.

Mr. Steck stated that he believes the applicant has not carried the proof that there will be no substantial detriment to the public good. He stated that he believes that the applicant has not met the burden of proof that there will be no substantial impairment.

Mr. Steck stated that the proposed use is a foreign use to agriculture and that the benefit of preservation is unrelated to tennis. Mr. Steck referenced the Medici case concerning that of a nonresidential use. Mr. Steck stated that the applicant has not met the enhanced burdens of the Medici case.

Mr. Steck opined that the bifurcated nature of this application has "closed the loop procedurally". He stated that the details of the application are intertwined and should be included with the site plan. It was noted that some evidence has been presented. Mr. Steck reiterated that if other property is involved there should be a composite application.

Mr. Steck opined that the proposal should not be granted because of the lack of burden of proof.

Mr. Steck was asked about the presentation of the soils map. He noted that the State DEP has a site called GeoWEB which allows certain overlays on some properties.

When questioned, Mr. Steck stated that he did not visit the tennis sites that he described. He reiterated that the Nassau facility is not in a commercial zone but does have access to Route 206, a state highway.

Chair Cline asked about other applications that Mr. Steck may be familiar with. Mr. Steck stated that he is familiar with two inflatable bubbles in Union and Essex Counties. Mr. Steck reiterated that it is unusual to have living facilities within a tennis training facility. He stated that he is familiar with a facility in New Providence that has a separate house for live-in support. Mr. Steck stated that such an arrangement for a live-in apartment is not impossible, but is unexpected or unusual.

Chair Cline asked about living arrangements within a horse training facility. Mr. Steck stated that a variance is not needed for that, following right to farm regulations. It was noted that the proposed building is large enough for a riding ring and housing for grooms. It was also noted that there is land associated that could be used for pastures. Mr. Steck stated that the tennis training facility does not qualify under right to farm.

Member Manley asked about other places in Delaware Township that would be more suitable. Mr. Steck stated that this information is the applicant's burden of proof. Mr. Steck discussed the idea that not every town has a need for every type of use. He noted that this is a high-end facility, which narrows down the market. Mr. Steck reiterated that there is no proof that there is a need for this proposal.

Member Manley questioned the idea that if an agricultural building had been built, could it be converted to a tennis training facility. Mr. Steck stated that the focus is on the use, not the building.

Member Manley stated that the conclusion of the traffic testimony was that the use would not be detrimental to the people on the road. Mr. Steck stated that traffic experts are not planners. He stated that the data may be correct but that extending traffic into the evening changes the environment.

Member Emmons asked about the source of the soils map, to which Mr. Steck stated that it was the DT Master Plan.

Member Kenyon asked about the soils. She questioned what the impact would be if the proposal were moved to the Statewide Important Soil. Mr. Steck stated that his opinion would not change. He opined that the applicant did not look at data in a scientific way. Mr. Steck stated that the statutory criteria are still not satisfied.

Member McAuliffe asked about his review of the discussed tennis facilities. Mr. Steck stated that he only looked at the ones submitted by the applicant.

Attorney Goodell asked about the Price vs. Himeji case. Mr. Steck stated that one decision from that case is that the proposed use is more beneficial than what is permitted. He noted that the decision is peculiar to that set of circumstances. Mr. Steck opined that this is not the only property in town that is suited for this use.

Short break

Ms. Edwards asked questions of Mr. Steck. She asked about the amount of farmland to be preserved with a properly designed residential subdivision. Mr. Steck stated that per the ordinance, with clustering, that 15 acres could be preserved. There was a discussion about farmland related to the proposal. It was noted that 9 acres

would be preserved on this lot with additional acreage on the subdivided lot. He noted that he has a recollection that 38 acres are proposed for preservation.

Mr. Steck reiterated that tennis is unrelated to agricultural. He noted that single family homes are related to agriculture as a permitted use in this zone.

Ms. Edwards asked about residential units in tennis facilities. She questioned Mr. Steck concerning his monitoring of this detail online. Mr. Steck stated that it is relatively uncommon to have residences within a tennis facility.

There was a discussion about the subdivision concept that was provided to the Board. Mr. Steck stated that if the information was presented to the Board, he opined that the applicant is contemplating subdivision with single family use. Ms. Edwards stated that such a subdivision is a permitted use in the A-1 zone, as well other types of single family uses.

Ms. Edwards asked about the preservation of prime soils and statewide important soils. Mr. Steck agreed that if the land is developed, the soils are not preserved.

Ms. Edwards asked about approving the tennis training facility vs. subdivision. Mr. Steck stated that if the Board feels that proofs are present to make such an approval, such an approval can be made.

Ms. Edwards asked if farming is seasonal, not 365 days. Mr. Steck stated that horse training can be somewhat seasonal, with greater activity in good weather. He stated that an indoor tennis facility could be 365 days. He agreed that animal care is 365 days.

Ms. Laura Hornby of Ferry Road was present. She asked about one goal of the Township Master Plan – Reexamination – to restrict or preserve 500 acres per year over ten years. Mr. Steck stated that in granting the application, the Board encourages other applicants to follow with similar applications that could impair the Master Plan.

Ms. Hornby questioned the foreign nature of a facility that trains riders 365 days per year, with indoor rings. She questioned the difference between 365 days of tennis vs. 365 days of horse training. Mr. Steck stated that the State of NJ likes farming and that horse raising and training are permissible under farmland activities. Ms. Hornby stated that she is not discussing horse training, she is questioning the training of riders. Mr. Steck stated that raising horses is automatically protected under right to farm.

Ms. Hornby stated that Mr. Steck has characterized this use for high end players with a small population. Mr. Steck stated that public tennis facilities are mostly outside and are usually seasonal. He noted that there may be a low entrance fee. He noted that that the different level of expertise was part of the evidence as provided in the schedule. Mr. Steck stated that the applicant has created a need for 38 parking spots. He reiterated that the use travels with the land not the applicant.

Mr. Tim Soltis of 9 Rittenhouse Road was present. He asked about the soils, Prime vs. Statewide Important Soil. Mr. Steck stated that this information was a part of his analysis and part of the farmland preservation plan. He noted that one should review what use causes more soil disturbance. He also noted that a cluster subdivision is a permitted use, a tennis training facility is not. Mr. Soltis asked which would create more disturbance. Mr. Steck answered that the cluster development would create more disturbance.

Ms. Ravenna Taylor of 43 Lambert Road was present. She asked Mr. Steck to repeat the information about the residential subdivision. Mr. Steck stated that the Master Plan allows a residential subdivision. He further explained that some open space could be preserved as part of a subdivision. Mr. Steck stated that the Master plan has no allowance for a tennis facility on agricultural lands. Mr. Steck explained that having an agricultural-only district would be too restrictive. He noted that some residential development compensates with some land preservation as part of the development. Mr. Steck stated that there is no public policy that a tennis facility promotes agriculture.

Ms. Jes Stahl of 38 Dunkard Church Road was present. She asked about a subdivision and what the mandatory open space is. Mr. Steck agreed that the property can be divided into eight lots. Mr. Steck stated that eight lots would disturb more soil than the tennis facility.

Attorney Goodell asked about quid pro quo and Mr. Steck's opinion of it. Mr. Steck stated that it is illegal for this Board to accept that condition of preservation on the other property. He further noted that this is a legal question concerning the basis on which to grant a subdivision. Attorney Goodell stated that both attorneys can argue this point to the Board.

Mr. Simon asked about the Price vs. Himeji case and what it says in context. Mr. Steck stated that the case implies that for a particular parcel, strict adherence would be less beneficial, resulting in the decision that the proposed use is a better one that is permitted. Mr. Steck stated that one has to evaluate the use and decide what is inherent by right on the property.

Mr. Simon asked about the conceptual subdivision. Ms. Edwards stated the subdivision is conceptual only. Mr. Steck stated that the submission of this concept lends additional support that the application should not have been bifurcated. Mr. Steck stated that he is not sure of the relevance of the concept subdivision.

There was a discussion about the subdivision of the other lot, which can be done by right. Mr. Steck noted that use is not permitted by right and that if a prohibited use is allowed, such approval opens the door to other applications.

Ms. Edwards stated a single-family development is not before this Board. She noted that there is no evidence that the owners will further develop.

Chair Cline discussed the next meeting of June 30, 2022. He noted that the attorneys will do summations. He also noted that statements of the public will get on the record. He noted that on July 14, 2022, Attorney Goodell has to provide the Board with a charge and that the Board will vote.

The Board reviewed dates. It was noted that the applicant is unavailable for June 9. The Board decided to hold a special meeting on June 30 for attorney summations and public comment. Member Warren stated that he will be unavailable for that date.

It was noted that July 14 will be the meeting for Attorney Goodell's charge, the Board's discussion and vote. It was noted that there will be no audience participation on July 14.

The applicant provided an extension of time through July 14.

Planning Board Update: Liaison Cline

Liaison Cline reported that there is no further update from the report of May 12, 2022.

Correspondence

Administrative Officer Klink stated that an application may be ready for submission for the June 9 hearing date.

Bill List

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

Zoning Board Matters

Through April 28, 2022, #3146951 \$425.00

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: McAuliffe, Buchanan

Nay: None

Absent: None

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

Escrow Charges

55/2, Switzler, #3146950 \$680.00

Bill List: Planning Services – Kyle Planning and Design, LLC

Escrow Charges

55/2, Switzler, #3401 \$1,207.00

57/14.04, Nyland-Elliott \$894.00

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

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

ADJOURNMENT: 10:03 p.m.

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

Respectfully submitted,

Kathleen E. Klink,
Administrative Officer, Secretary

Notes from previous minutes, January 13, 2022, page 5:

Ms. Bruder discussed special reasons, as noted in the NJ Municipal Land Use Law (MLUL), 40:455D-2 Purposes of the Act.

Ms. Bruder first discussed 2a. *To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare.* Ms. Bruder noted that the proposed use promotes the public health and general welfare. She noted that in granting a d-1 variance, there is more efficient use of land in a suitable location that is compatible with surrounding agricultural uses. She noted that there is no viable location within the municipality for the proposed use. She noted that granting relief also helps with the recreational needs of the community.

Ms. Bruder discussed 2g. *To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective requirements in order to meet the needs of all New Jersey citizens.* Ms. Bruder stated that approving this proposed use helps to provide other types of uses to meet the needs of the citizens. She noted that approving the proposed use helps to preserve the land as farmland and to remain in agricultural production, thus promoting the public welfare.

Ms. Bruder stated that there are 35 properties that are considered commercial, but they are on small lots. She noted that approving this proposed use is a creative response to allow added amenities. She also noted that approving this proposed use shows that there is a commitment to designing a facility to preserve farmland within an appropriate location that is compatible within the area.

Ms. Bruder discussed 2i. *To promote a desirable visual environment through creative development techniques and good civic design and arrangement.* Ms. Bruder noted that the creative design for this proposed use is in alignment with the prevailing agricultural character of the Township. She noted that the parking is located behind the building. She also noted that the site plan will allow for more site improvements that enhance the visual environment.

Ms. Bruder discussed 2m. *To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.* Ms. Bruder stated that the proposed indoor tennis facility adds recreation to the community, as a private venue. She also noted that 37 acres of land will be preserved with no public investment. She noted that there are prime agricultural soils found on the subject property.