

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.

#### ROLL CALL

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

Absent: shown by strikethroughs

Also present: Board Attorney Miccio, Board Engineer O'Brien, Board Planner Kyle

#### Applications

Block 13, Lot 22.04, Traina, use variance requested for conversion of accessory structure to a dwelling, not meeting the conditions, §230-31D(4)(e).

Attorney Miccio stated that the Board can take jurisdiction for the Traina application, due to proper notification. Attorney Rich Mongelli stated that this application needs five affirmative votes. Mr. Mongelli noted that there are two members who have conflicts of interest with Mr. Mongelli as attorney for the application.

Attorney Miccio stated that the application has been properly noticed. Mr. Mongelli asked that the application be carried to the October 14, 2021 meeting and that no further notice is required. Mr. Mongelli also noted that substitute counsel will be found.

Member Manley made a motion to adjourn the application to the October 14, 2021 meeting. Member Gilbreath seconded the motion.

#### **Roll Call Vote**

Aye: Gilbreath, Kenyon, Manley, Warren, Cline

Nay: None

Abstain: Fowler, McAuliffe

Absent: Emmons, Szwed

Chair Cline reiterated that no further notice is needed.

#### MINUTES: August 12, 2021

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

#### MEMORIALIZATIONS

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.

Prepared resolutions were distributed to all members for review and discussion. Items of clarification for wording and content were discussed. It was noted that the resolution should reflect that the generator will be outside of the building under the lean-to.

Member Warren made a motion to approve the resolution, as discussed and amended. Member Manley seconded the motion.

**Roll Call Vote**

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

Nay: None

Present, but ineligible to vote: Fowler

Absent: Emmons, Szwed

**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.

Mr. Greg Barnett, of Casey and Barnett, was present to represent the applicant.

Mr. Barnett stated that the property is located at 21 Kingwood Stockton Road. He noted that the request is for a temporary approval for two dwellings on one lot so that the applicants can stay in the existing house while the new house is being built. He noted that once the new house is completed, the existing home will be torn down.

Mr. Barnett stated that the property consists of 16.977 acres with a driveway access easement. He noted that it is a private access, not used as a public road. He noted that the family has three children with a fourth on the way.

Ms. Jennifer Tilch was sworn in.

Mr. Barnett asked that the aerial photo from the Board Planner's report be marked into evidence, B-1. The aerial map was described. Ms. Tilch noted that all of the property owners along the accessway are related to her and are all located in Block 51, as follows: Lot 5.02, her parents; Lot 5.01, an aunt and uncle; Lot 5, an aunt; Lot 5.03 an aunt and uncle. It was noted that the owner of Block 51, Lot 9 does not have access along this accessway. Ms. Tilch stated that she is not certain who the owner of that lot is.

Ms. Tilch reiterated that the purpose of the application is to get a use variance to temporarily reside in the existing house while the new house is built. She noted that the existing home will be demolished and land restored to farmland. She noted that there will be no occupation of both houses at any time. She also noted that the builder for the new home has agreed to demolish the existing house.

Chair Cline asked if the applicants had received the report from Board Engineer O'Brien, to which Ms. Tilch responded affirmatively. When asked, it was noted that no new map has been submitted containing the items outlined by Mr. O'Brien.

Chair Cline asked to hear from the Board members.

Member Fowler asked what exact variance is being requested. It was noted that the ordinance does not allow two principal dwellings on a property less than 30 acres. Member Fowler stated that if the existing home is to be removed, it should be allowed that the certificate of occupancy for that home would be removed; and a new c/o issued for the new home.

Attorney Miccio maintained that there can only be one c/o and that there cannot be two principal dwellings on a property (of less than 30 acres) at one time.

Member Gilbreath noted that the current house is right in the corner of the lot and the new house will be placed into a field and pasture area. Member Gilbreath questioned the intention of the land under the existing home. Ms. Tilch stated that the land under the existing home will become farmland. She noted that the driveway from

the old house will be extended to the new house. Chair Cline asked about the length of the driveway, to which the response was unknown.

Member Kenyon asked how long the applicant has resided in the existing house. Ms. Tilch stated that she grew up in this house, left for a time while living with her father and mother in the home on Lot 5.02, and then returned to this home with her family. She noted that for a period of time, horse trainers lived in this house. She also noted that her family has lived in this house for the past eight years.

Mr. Barnett stated that the request is for a use variance and that any deficient items can be addressed. He stated that the applicant would like to proceed with the request for a use variance. Chair Cline stated that the Board needs to see the details so that it can be determined that the use variance is not detrimental.

Attorney Miccio stated that the details are needed to help the Board evaluate the positive and negative criteria. It was noted that a planner may be needed to help establish those criteria.

Member Fowler asked about the timing of the removal of the existing home. Ms. Tilch stated that as soon as the c/o has been approved for the new home, the existing home will be removed. It was noted that this could be a Board condition. Ms. Tilch stated that they are requesting 60 days, for that to occur.

#### Public comments

Mr. Richard Skeuse and Mrs. Elizabeth Skeuse were present and Mr. Skeuse was sworn in. Mr. Skeuse testified that they are concerned about runoff that currently is a problem for his property. He noted that their property is Lot 5.01 and is downhill from the subject property. He noted that there is a bit of valley between the two homes and that water often collects there. He noted that there is an existing ditch in the hedgerow which often prevents water from flowing. He noted that he has a new driveway which appears as a white line on evidence item, B-1. He noted that this driveway allows access to Route 29 for his property. He also noted that on that driveway, about 200 feet from his home, there is a spot that often washes out.

It was noted that there can be a mitigation plan for water diversion so that the construction cannot create more water than currently exists/flows.

Mr. Skeuse stated that this water issue is his main concern.

Board Engineer O'Brien stated missing items for the stormwater design should be fixed. Mr. O'Brien stated that the water problem will be no worse than what is existing, when the requirements for the stormwater management for the proposal are approved.

Mr. Skeuse stated that members are welcome to come and look at the property. He noted that during Tropical Storm Ida, water was over the wheel of his pick-up truck.

There was no other public comment.

Mr. Barnett reiterated that the applicant is seeking a use variance not a building permit. Chair Cline reiterated that the positive and negative criteria have to be put on the record.

Attorney Miccio stated that he reviewed the notice and stated that the Board has jurisdiction over this application.

Member Fowler stated that he would like Board Planner Kyle to interpret ordinance 230-26H. cessation of operation.

Member Fowler made a motion to carry this application to the October 14, 2021 meeting. Member Manley seconded the motion.

**Roll Call Vote**

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

Nay: None

Absent: Emmons, Szwed

Chair Cline stated that no new notice is required.

Planning Board Update: Liaison Cline

Liaison Cline reported that the Planning Board had a 14-minute meeting, with nothing new to report.

Correspondence

Administrative Officer Klink reported that there is an application that has been submitted and suggested that there be a special meeting on October 28, because of the continued application of the Tennis Training facility on November 11. She noted that this application could have been put on the October 14 agenda, but both of tonight's applications were carried to that meeting. Members and Professionals reviewed the date and none found a conflict with that date. Administrative Officer Klink stated that she would contact the applicant and the applicant's professionals.

Bill List

**Bill List: Traffic Engineering Services – Colliers Engineering & Design**

Escrow Charges

55/2, Switzler, #0000682827

\$775.00

Member Gilbreath made a motion to approve payment of this voucher from its respective escrow accounts. Member Warren seconded the motion that was approved by voice vote.

Weiss application for October 28

Members agreed to this special meeting date. Member Fowler stated that he would recuse himself if Mr. Mongelli is the attorney.

ADJOURNMENT: 8:21 p.m.

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

Respectfully submitted,

Kathleen E. Klink,  
Administrative Officer, Secretary