

The regular meeting of the Delaware Township Board of Adjustment held on the noted date, was called to order by Vice Chair Emmons at 7:30 p.m., in Township Hall, Sergeantsville, New Jersey, as supported by the virtual meeting procedures via ZOOM.

PLEDGE OF ALLEGIANCE

STATEMENT

Vice Chair Emmons 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, Warren, Cline

Absent: Szwed

Also present: Attorney Steve Goodell, Engineer Rob O'Brien, Planner Jim Kyle,
Traffic Engineer Maurice Rached

MINUTES: May 13, 2021

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

MEMORIALIZATIONS

Walter Ross, Block 17, Lot 33.04, use and bulk variances requested for accessory apartment in existing garage, as presented in submitted plans.

Conditions were added, as proposed by Board Engineer O'Brien in his May 10, 2021. Under General Comments, #2, is a condition related to a grading plan, to be approved by the Municipal Engineer; added to that is the approval needed for stormwater runoff requirements. Comment #3 of that report names the outside agency approvals that are needed.

There was a discussion about the size of the proposed unit, 994 square feet. Board Planner Kyle stated that this number is shown on the submitted plans.

There was a discussion about a possible expiration of a determined length. It was noted that several numbers had been discussed, but one was not settled on. Attorney Goodell stated that the conditions about how the unit would expire make this fixed term unnecessary. He also noted that only a person that qualifies per the ECHO ordinance provides more limitations.

Motion to approve, as presented and discussed: Member Gilbreath

Second: Member Manley

Roll Call Vote

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

Nay: None

Present but Ineligible To Vote: Cline

Absent: Szwed

APPLICATIONS

Brant Switzler, Block 55, Lot 2, use variance approval requested for tennis training facility, continued from 04.29.21 special meeting.

Vice Chair Emmons reviewed the meeting procedures. He noted that the applicant will bring forth witnesses, the Board members will question the witnesses, the opposition attorney then questions the witnesses, and public members will question the witness.

Vice Chair Emmons noted that there will be an open public comment session at the end of the application. He noted that would probably not occur at this meeting.

Member Manley asked that zoom participants be muted, except when speaking to the application.

Vice Chair Emmons noted that no new testimony will begin after 10:00 p.m.

Ms. Erica Edwards was present to represent the applicant. She welcomed back the Board members and stated that the applicant would like to share a power point presentation of the proposal with the Board. She stated that the applicant will probably not conclude full testimony tonight. She stated that two witnesses will be brought forth, as follows:

Mr. Switzler, owner of facility

Mr. Jay Troutman, the applicant's traffic engineer

Ms. Edwards stated that at the next hearing date, July 8, 2021, the applicant expects to have the Engineer reappear to review the revised plans, and testify to the revisions. It was noted that hard copies of the revised plans have been submitted to the Township and are available for review.

Ms. Edwards noted that future testimony includes the architect and the planner, Leah Bruder.

It was noted that Mr. Brant Switzler was sworn in and is still under oath. Mr. Switzler discussed his career at Hunterdon Central High School, where Delaware Township students attend high school. He noted that he has the highest career wins in tennis at Central. He noted that he has coached several students who have gone on to play tennis at the college level. He recently learned that one of his students just won a Division III title for tennis, said student attends Emory. Mr. Switzler stated that he specializes in coaching high performance tennis players.

Mr. Switzler introduced his dad, who coaches at Central and is the only coach to have coached both a men's team and a women's team to a championship in the same season.

Mr. Switzler introduced his mom, a high-level tennis player who is also one of the FERC "detainees" in the family's fight against the Penn East pipeline.

Mr. Switzler stated that he has done year-round coaching for high performance level tennis players and has had many players recruited in the Division I through III levels of college tennis. He discussed the high costs of coaching in the North East. He also noted that it takes about 10,000 hours of instruction/practice to be considered a professional player.

Mr. Switzler introduced his fiancé who is a portfolio manager at JP Morgan.

Mr. Switzler narrated a presentation for providing background information about the proposed facility. He started with a map showing the property, with a potential subdivision for a flag lot. He noted that the map shows the family farm.

There was a discussion about the type of investment needed for this type of facility. Mr. Switzler also discussed the personal investment a tennis player makes to become a professional player. He noted that a player logs

about 10,000 hours to be considered a professional. He further discussed the cost of coaching in the North East, demonstrating the need for facilities such as this.

Mr. Switzler discussed the benefits of tennis as a sport. He noted that Forbes ranks women's tennis as the most female-friendly sport. He noted that as a sport, there is more athletic potential for scholarships, based on past, personal experience. He noted that by having a community facility, tennis students do not feel alienated from their own community. He noted the number of schools nearby the proposed facility, and the time distance to each. Mr. Switzler stated that for adults, tennis is a life-long sport. He also noted that there are very limited facilities within 30 minutes of Delaware Township.

There was a discussion about the tennis courts at Dilts Park. Mr. Switzler noted that with this proposed facility, on Sandy Ridge Road, there would be availability for year-round tennis. He noted that he would like to reinstate the former student tennis recreation program that has not been in place since the 1990's. He noted that this summer program was held at Dilts Park.

Mr. Switzler stated existing tennis clubs do not support pros, or players trying to attain pro status. He noted that Township businesses can benefit from this proposed facility. He noted that during the covid-19 pandemic, tennis was rated the most covid-friendly sport.

Mr. Switzler discussed the proposed facility. He noted that architecturally, the building would be similar to horse facilities found in the area. He noted that the proposed facility would bring auxiliary income to the family to assist in keeping the land in the family.

Mr. Switzler stated that his architectural inspiration is to create something as similar to horse stables as possible with more windows. He noted the Van Dolah stables which are within eye-sight of the subject property. He noted other farms in the area to which a comparison can be made; other farms such as Holly Farms and Irish Manor.

Mr. Switzler stated that he has been working with the neighbors to create something amenable to all. He noted that he added additional road screening to benefit Mr. and Mrs. Hoffman. He noted that there would be additional screening by the property of Mrs. Peacock. He noted that there is a minimal lumen lighting plan for the parking lot, as suggested by Mr. and Mrs. Peck.

Mr. Switzler displayed a map that showed actual courts that exist in the area.

Mr. Switzler displayed the schedule of lessons that drives the number of parking spaces. He described the different colors on the schedule and what those colors indicate which affects the number of cars. It was noted that the number of people involved affect the flow of cars per the use. Some lessons/activities are as follows:

- Adult tennis

 - Rented time, ball machine, no instructor

 - Private lessons, one player per class; could have a four-car movement

 - PeeWee, between 4 and 8 in the evening; one instructor per court, could have a 32-car flow

 - Performance program, 8 to 10 in the evening, more serious students; could have a 16-car flow

Mr. Switzler stated that there would be no tournaments. He explained that the facility does not fulfill the governing organization requirements for tournaments. He reiterated that this maximum capacity schedule helps to figure out what the parking could look like. He stated that the statistical analysis with the maximum capacity schedule shows that if all classes are full, there would be no greater than 22 cars for ten out of the 84 weekly operating hours; or for about 12% of the time.

Mr. Switzler stated that this schedule that he developed is based on a similar schedule at Nassau High Performance, where he works. He noted that at Nassau, not all classes are full and that the usual open court time is in the middle of the day. Mr. Switzler reiterated that his hope is to provide DT residents an opportunity to get involved in the sport.

Vice Chair Emmons asked Board Members what questions they have.

Member Gilbreath asked about hours of operation, to which the response was 8 am to 8 pm, seven days a week. Mr. Switzler reiterated that there would be no tournaments. He stated that most of the classes are in one-hour segments, some classes are two hours. He stated that court time can be rented for different lengths of time. He stated that most of the activity is from September to June, but that the courts will be open year-round. He noted that there could be schedule changes. He further noted that he wants to get on outdoor courts and will be researching the use of Dilts Park. He stated that adults generally play on the indoor courts and the kids like to go on outdoor courts. He noted that if there is bad weather, outdoor court time could be moved indoors.

Chair Cline was present via zoom. Chair Cline questioned the information about nearby facilities, at varying distance from here, from 20 to 40 minutes. Mr. Switzler stated that most of these facilities are full to capacity, demonstrating a need for a local facility. He noted that many facilities to the south have no court time available. He noted that facilities further north have more open times. He stated that four of five facilities are booked to capacity or near capacity.

Member Fowler asked that this testimony, via this presentation be submitted into the record. Member Fowler asked about the mock-up of images for the barns and the expertise of Mr. Switzler to make such a display. Mr. Switzler stated that he used photo shop to create that image.

Member Fowler asked questions about the number of instructors on site. Mr. Switzler stated that there would be one instructor per court. Member Fowler asked about the data to support the numbers put on the schedule display. Mr. Switzler stated that this schedule was developed based on his experience. He further noted that he has been to all of the facilities that he mentioned in his presentation. Mr. Switzler stated that the programming schedule is based on his proposal and the projections of what will be in the proposal. He stated that the programming schedule does not represent what is found in other facilities.

Member Kenyon remarked that much information has been provided. Member Kenyon asked about students under driving age and how they will be dropped off. Mr. Switzler stated that if parents drop off, go away, and come back, this process does not change the number of cars. Mr. Switzler stated that this question should be answered by the traffic engineer. Mr. Switzler stated that his expertise is about the classes.

Mr. Switzler relayed information about the difficulty DT students have in following him as a coach. Mr. Switzler noted that any student that wishes to follow him as a coach would need to follow him to the facilities at which he works, such as Winning Touch, Princeton, or Skillman, some with outdoor courts. He noted that a High Performance player could spend as much as \$25,000 per year for tennis training. He noted that these players may be looking to qualify for Division I or Division III colleges/universities.

Mr. Switzler stated that tennis can be an expensive sport in the North East in an effort to attract quality players. Mr. Switzler stated that part of his mission statement is to keep tennis affordable so that people can play.

Member Fowler agreed with the information about the challenge to find right facilities in which to train. He questioned how many DT students would be gained because this facility is in DT. Mr. Switzler stated that this is part of his objective, to provide a local place for local players. He noted that other players, non-Delaware Township, may travel to this facility for training.

Mr. Switzler stated that there have been requests made of the DT Recreation Commission to have a tennis program, as was held in the past. Mr. Switzler reiterated that it is his priority to work with people in his home area. He noted that he has trained 15 to 16 clients who are gearing toward professional playing.

Chair Cline asked if Mr. Switzler has personally started any recreational programs. Mr. Switzler stated that all of his programs have been private. He reiterated that as a child, he participated in the DT Recreation program run by his father. He further noted that he is very interested in starting that program now.

Member Manley asked about food and beverage service. Mr. Switzler stated that there will be none, and no picnic table outside. Mr. Switzler stated that his program is to be run entirely inside the building.

There was a discussion about the tennis courts at the Dilts Park. It was noted that the courts are in poor repair and that there has been public outcry to get them refurbished. It was also noted that the tennis courts are on the schedule for repair this year.

Member Manley asked about an increasing school population as reported by Mr. Switzler. Mr. Switzler stated that this is information he heard from some of the teachers at the school. Mr. Switzler stated that he had no evidence of support. Mr. Switzler was asked to research the projections that the school has.

Member McAuliffe asked about the residence within the building. Mr. Switzler stated that this residence is to be his primary residence.

Member Warren stated that he has no questions at this time.

Member Fowler asked a few questions about the residence and concessions. Mr. Switzler stated that there will be no concession-type stands. Mr. Switzler stated that the engineer can discuss the pro shop at the next meetings. Mr. Switzler also stated that there should be more information about the gym viewing area. Mr. Switzler stated that the main purpose of the pro shop is to support the tennis players with racket strings, rackets, shoes, shirts, and other equipment that people might want or need. He reiterated that there will be no food or drink or machines for either.

Mr. Kline was present for Mr. Simon, the objector's attorney. He asked questions of Mr. Switzler.

Mr. Switzler reiterated that there will be no food or drink sold at the facility, nor any machines for such.

Mr. Kline asked about the ownership. Mr. Switzler stated that there are some details to be worked out but that there will be no outside ownership. He noted that outside financing is to be determined and that he has some ideas for financing, such as client support and crowd funding. He noted that there may be some co-signing with his parents. Mr. Switzler stated that he has seen financial information as part of his position as a director of High Performance classes. He reiterated that his information is based on his personal experience and his work in the field. He stated that at this time, no financial information is available.

Mr. Kline asked if there is a commercial or industrial zone that can be used for the facility. Mr. Switzler stated that he will have his planner respond to this question. He noted that commercial property is expensive. He also noted that a second goal of this project is to preserve the family farm.

Mr. Kline asked if there will be outdoor courts at this facility. Mr. Switzler stated that none are proposed, and reiterated his intent to use the outdoor courts at Dilts. Upon questioning, Mr. Switzler stated that he will stipulate that there will be no further expansion to the proposed facility.

Mr. Kline asked about employees. Mr. Switzler stated there would probably be three employees at the facility, per day, once a front desk person is employed. He stated that there would be another pro to be hired as an instructor. He also stated that cleaning and maintenance would probably be up to him. Mr. Switzler stated that the shifts for the employees would coincide with the lessons; he stated that the number of employees would depend on the class schedule. He stated that he would probably be the only employee after 8 p.m.

Mr. Kline asked about competitions between players. Mr. Switzler stated that such competitions would not need officials. He noted that a universal tennis rating is needed for official competition. He stated that most competitions would be match plays, or practice matches, for fun and practice.

Mr. Kline asked about people viewing the practices and match plays. Mr. Switzler stated that spectators could watch from the viewing area, but were not factored into his parking analysis. Mr. Switzler stated that a rec league generally happens on outdoor courts. He noted that the maximum capacity of a rec program is eight kids per court, 16 kids per class. Rec programs are not for kids between 10 and 18, but for younger kids. He noted that some rec programs are for adults.

Mr. Switzler stated that the purpose of different programs such as a youth program and a senior rec program is to try to spread out the use of the facility. There was a discussion about the similarities and differences of these programs. There was a discussion about the availability of space for added members. Mr. Switzler noted that people could be turned away if the schedule becomes closed. He also noted that the schedule will be developed to maximize coaching and the use of the courts.

There was a discussion about the parking lot and the possibility of an overfull lot. Mr. Switzler stated that in his experience, that almost never happens. He further noted that this can be addressed by carefully monitoring the number of students in classes.

Mr. Kline asked if this is to be a membership type of club. Mr. Switzler stated that this is still to be determined, but noted that membership does provide a consistent income. Concerning the gym space, Mr. Switzler noted that this space is primarily for performance players; he noted that physical training is very important. He noted that repetitive motion can create injuries and that physical training should complement the tennis training to avoid injuries. He noted that elite athletes would use the gym; four to six on the court; six to seven in the gym. Mr. Kline stated that means that there could be more people at the facility. Mr. Switzler responded that it does not change the number of cars, but changes when patrons may leave. Mr. Switzler noted that time in the gym would be scheduled in association with a class or lesson.

Mr. Kline asked about Mr. Switzler's knowledge of the parking. Mr. Switzler noted that he has much experience in directing high performance classes. Mr. Kline stated that four players equals four cars. Mr. Switzler responded that he could encourage carpooling to reduce the number of cars.

Mr. Kline asked about the residential use and questioned the overlap of visitor use to the residence and player use. Mr. Switzler suggested that visitors to the residence could be asked to park at his parents' house. Mr. Switzler also noted that extra cars have been included in the parking calculations.

Mr. Kline asked about tournaments. Mr. Switzler stated that there could be match plays in a tournament structure, so that players can practice playing consecutive matches. He noted that such match plays would be limited by class size. Mr. Kline asked if competitors would stay and watch. Mr. Switzler responded that it would depend on the schedule.

Mr. Kline asked who might use the facility after 8 p.m. Mr. Switzler stated that he would. Mr. Kline asked if other people would be invited over to play after hours. Mr. Switzler stated that if this would be objectionable to the Board, he is open to discussion about that.

Mr. Kline asked about the visibility of the courts. Mr. Switzler stated that the architectural plans are still being developed.

Mr. Kline asked if there would be private rentals. Mr. Switzler stated that the class infrastructure would not allow it. Mr. Switzler stated that he could stipulate that any private rentals would have to be during non-court time. He also noted that there would be no non-tennis activities.

Mr. Kline asked about waste and recycling. Mr. Switzler stated that as an employee of the facility, he will be responsible for waste disposal. Mr. Switzler also noted that he will be maintaining the landscaping; or schedule an outside contractor for services that fit within the court schedule.

Mr. Kline asked about the Van Dolah horse building as a comparison to the proposed tennis facility. Mr. Switzler stated that he used google earth, took a screen shot and then clipped it on to the slide. Mr. Switzler stated that the slide is just for perspective. He noted that the architecture being reviewed is similar to the Courtside facility with which he has experience. Mr. Switzler stated that the proposed facility will adhere to the height requirement of 35 feet and that the architect will be present at the July 8 meeting.

Mr. Switzler stated that the usable farmland on the property will remain. He noted that the current property is farm assessed.

It was noted that any revisions to the site plan will be discussed by the applicant's engineer.

Mr. Switzler stated that many local tennis facilities are full. He named facilities in Hopewell, Princeton (Nassau), Bucks County, and Doylestown. When asked, Mr. Switzler stated that his response is based on his experience in the field and with other coaches telling him that classes are full. He specifically noted that he tried to send students to Hopewell but was told there is no space.

Public Questions

Mr. Steve Walker of Sandy Ridge Road was present. He asked about any janitorial or maintenance work that might have to be done. Mr. Switzler stated that he would schedule outside contractors to come in before any patrons arrive. He also noted that it is typical to close a facility for a week to perform regular maintenance. He reiterated that he would do the daily janitorial work and maintenance himself.

Mr. Alex Jeyschune was present. He stated that he understands the work of publicly elected officials, as he served three terms on the Hunterdon Central School Board. He noted that this proposed facility is an opportunity to integrate students in Delaware Township to be able to compete when they get to Central. Mr. Jeyschune described this as a feedback loop, private supports public, public supports private. He stated that he values the ability of a player to have the same coach for continuity of growth and gain.

Attorney Goodell noted that this is a time for questions. He noted that time for opinions or testimony will be given at a later date.

Mr. Howard Lopshire of 27 Sandy Ridge Road was present. He asked about the driveway and cars that might be departing the facility at night. He questioned the impact on the neighbors. Mr. Switzler stated that the driveway has been designed so the lights shine down the power line right of way on the opposite side of the road. He noted that there is vegetation existing on the opposite side of the road.

Mr. Lopshire asked if the existing driveway could be used. Mr. Switzler stated that this driveway belongs to his parents. There was a discussion about the road "acting" as a ridge, enabling light from cars to hit the rooves of houses and not shine into houses. Mr. Lopshire stated as neighbors, an impact will be felt. Mr. Switzler stated

that he is happy to talk to anyone about the project and wants to have open communication. Mr. Lopshire asked that the driveway be reconsidered, as the proposed location could be a problem.

Mr. Ed McLaughlin of Cemetery Road was present. He stated that this application is for a use variance in the A-1 zone and that the bar is high to satisfy the specific criteria for a use variance. He questioned other viable options, such as farmland preservation. Mr. Switzler stated that he is aware of this program and that the family is keeping their options open.

Mr. McLaughlin asked about conforming properties for this use. Mr. Switzler deferred to his planner.

Mr. McLaughlin asked how many people will benefit from this on an annual basis. Mr. Switzler stated that he does not have an exact figure. He explained that his main purpose is to add a location as an option for local residents to be introduced to tennis. Mr. McLaughlin asked if the programs will be free to anyone in Delaware Township. Mr. Switzler stated that the public benefit is to give people the option to pursue this sport at a more readily accessible location. Mr. Switzler stated that he will try to obtain project figures.

Mr. McLaughlin opined that he feels that a small number of people will benefit from this proposal.

Ms. Toni Gentry of 37 Sandy Ridge Road was present. She asked about the number of people who use the courts at Dilts. She stated that she has seen a number of cars with Pennsylvania plates. Mr. Switzler stated he has no data on that topic. Ms. Gentry opined that she does not see a need for this type of facility, as a public benefit. Mr. Switzler stated that for anyone interested in tennis, this facility helps to provide an option.

Ms. Judy Allen was present. She stated that the recreation program being discussed through this facility is not related to the Recreation Commission of Delaware Township. She wanted to make certain that there is not confusion between these two topics.

Ms. Barb Berado of 11 Sandy Ridge Road was present. She stated that she has concerns with the traffic. She stated that she understands that kids will travel for good coaching. She expressed concern that time on the courts would be given to non-residents, including any programs at Dilts. She stated that the proposal may be a benefit to the community but that it is a big ask of the neighbors. She stated that she sees that the neighbors are giving up a lot for the benefit of a few.

Ms. Edwards, the applicant's attorney, stated that the traffic engineering should be able to be accomplished on July 8.

There was a discussion about having a special meeting. It was noted that the majority of those present will be able to attend a special meeting if set for July 22. Ms. Edwards stated that she hopes to follow with the architect at that time.

Planning Board Update: Liaison Cline

Liaison Cline reported that the Planning Board discussed Cannabis Ordinance, #2021-05 introduced by the Township Committee. There was a discussion about various issues. The Planning Board reached the conclusion that a recommendation be made to the Township Committee to proceed with its plan to opt out of the program. The conclusion was reached because once opted out, the Township can always opt in. It was noted that the Township is looking for looking for guidance and regulations from the State.

Correspondence

Administrative Officer Klink reported that an application is being submitted for a use variance for two houses on one property. The Board agreed that this application can be put on the August 12 agenda, before the continuation of the tennis training facility.

Bill List

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

General Zoning Board Matters

Through April 29, 2021, #3130592	\$425.00
Through May 28, 2021, #3131893	\$272.00

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

Roll Call Vote

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

Concurs: McAuliffe

Nay: None

Absent: Szwed

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

Escrow Charges

17/33.04, Ross, #3131892	\$527.00
27/22, Toth, #3130591	\$461.20
55/2, Switzler, \$3130590	\$806.60

Bill List: Engineering Services – Van Cleef Engineering Associates LLC

Escrow Charges

27/22, Toth, #3935012-3	\$133.00
55/2, Switzler, #3935008-4	\$914.00

Bill List: Planning Services – Colliers Engineering & Design

Escrow Charges

55/2, Switzler, #660083	\$968.75
-------------------------	----------

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

Chair Cline thanked Vice Chair Emmons for running the meeting.

ADJOURNMENT: 10:15 p.m.

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

Respectfully submitted,

Kathleen E. Klink,
Administrative Officer, Secretary

**BOARD OF ADJUSTMENT
TOWNSHIP OF DELAWARE**

RESOLUTION 17/33.04 (21)

Walter Ross
Block 17, Lot 33.04

WHEREAS, Walter Ross (the “Applicant”), of 60 Ferry Road, Stockton, NJ 08559, applied to the Delaware Township Zoning Board of Adjustment (the “Board”) for a use variance to allow the conversion of a garage to a temporary residential unit for elderly housing; and

WHEREAS, the Board held hearings on February 11 and May 13, 2021; and

WHEREAS, the Board considered the evidence presented at those hearings and made the following findings and conclusions:

Background

1. The Applicant, Walter Ross, owns the property located at 60 Ferry Road, Stockton, NJ 08559 (Block 17, Lot 33.04).
2. The property is located in the A-1 Agricultural Residential zoning district.
3. Conversions are allowed in the A-1 zone under circumstances this lot does not meet. ECHO units (Elder Cottage Housing Opportunity) are allowed in the A-1 zone. The Applicant asked the Board to grant a use variance to treat his proposed conversion as though it were an ECHO unit.

Jurisdiction

4. The Board has jurisdiction over applications for use variances (*N.J.S.A. 40:55D-70d*).
5. The Applicant published timely notice and served notice by certified mail on neighbors within 200 feet of the subject property.

Hearing

6. The Zoning Board hearings were held February 11 and May 13, 2021. The Applicant substantially revised his application for the May 13, 2021 hearing.
7. The Board considered testimony from:
 - a. Board Engineer Robert S. O’Brien, PE, CME, who prepared reports dated January 28, 2021 and May 10, 2021.

- b. Board Planner James T. Kyle, PP, AICP, who prepared reports dated February 5, 2021 and May 11, 2021.
- c. Walter Ross.
- d. Applicant's Planner James Miller, PP, AICP, Engineering & Land Planning Associates, Inc., High Bridge, NJ.

Findings

- 8. The property is 3.243 acres. It is located on the east side of Ferry Road south of Mezaros Road and north of Locktown-Sergeantsville Road. The lot is approximately 540 feet deep and has approximately 250 feet of road frontage. Subtracting a Township right-of-way easement, total lot area is 3.099 acres.
- 9. The property contains a single-family dwelling, pool, frame sheds and a detached garage.
- 10. Originally the Applicant sought to convert the existing 24' x 24' single-story garage into an accessory dwelling unit by adding a 24' x 24' addition to the rear of the building and adding a full second story addition measuring 48' x 24' that provided 1,345 square feet of living area. The first floor was proposed to contain a two car garage in the front half and a large open room to the rear, with stairs leading to the second floor. The proposed apartment contained one bedroom, a large walk-in closet, a bathroom, a storage closet, a full kitchen and a great room. A second-story deck was proposed to the rear of the apartment off the great room with exterior stairs leading to the north side of the structure connecting to a paver walkway.
- 11. Between the first and second hearings, the Applicant revised his plan, reducing the size of the accessory unit and eliminating the second story. The revised plan proposed a single-story accessory dwelling unit measuring 38' long and 24' wide with a total floor area of 994 square feet, as shown on the submitted plans. The floor plan depicts a one-bedroom unit with a bathroom, walk-in closet, great room and kitchen, with a small utility room on the north side of the unit. Access would be along the south side via a proposed walkway leading to a porch, with secondary access provided via double doors at the rear of the unit.
- 12. The building in question is located on the south side of the property, approximately 50 feet from the lot line, and is buffered from the adjacent property by vegetation.
- 13. ECHO units are designed to provide housing for the elderly in small, self-contained modular homes that are temporarily placed on a single-family property. They are meant to be removed when there is no further need for the housing at that location.
- 14. Here, the Applicant wants to provide housing in the converted garage, for his sister-in-law, so that she can "age in place" with the family.

15. The building would be converted back to a garage once there is no further need for the elderly housing unit at that location.
16. In this manner, the converted garage would be treated like an ECHO unit – it would provide temporary housing to allow a senior to age in place, and the housing would be removed once there is no further need for the housing at that location.

Conclusions

17. The Board found that the Applicant had met his burden of proving the legal requirements for a d(1) use variance to allow the conversion of an existing garage to a temporary dwelling unit for the elderly.
18. Addressing the positive criteria, the Board found that the proposed use promotes the general welfare because the site is particularly suited to the proposed use. The existing garage can be easily converted and its location on the lot gives it access to the driveway and main house, while being appropriately secluded from neighboring properties. In addition, the proposed use provides sufficient space in an appropriate location for a residential use – on-site housing for the elderly – that is encouraged by the Master Plan and Zoning Ordinance.
19. Addressing the first element of the negative criteria, the Board found that the variance can be granted without substantial detriment to the public good, because the building is appropriately buffered from neighboring lots.
20. Addressing the second element of the negative criteria, the Board found that the Applicant had proven by an enhanced quality of proof that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance, because the conversion is being treated as an ECHO unit, which would be allowed under the zone plan and zoning ordinance. In addition, the unit will be smaller than an ECHO unit would be, and is in a better location on the lot than a portable ECHO unit would be.
21. Any and all bulk variances required for the development are hereby subsumed into and granted based on this d(1) use variance.

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Township of Delaware, that Walter Ross be and hereby is granted a use variance to convert an accessory garage to a temporary residential structure for elderly housing, in accordance with the conditions listed below.

CONDITIONS:

1. The conversion shall be built in accordance with the plans and specifications as approved by the Board Engineer below.

2. The plans and specifications shall be amended in accordance with the Report of the Board Engineer dated May 10, 2021, including but not limited to:
 - a. The original variance plans prepared by EL&P Assoc. Inc. must be revised to reflect the change in application, as that change was testified to at the May 13, 2021 hearing.
 - b. Signed & sealed copies of the revised plans must be provided to the Board Engineer for review and approval. Any dispute regarding the Engineer's approval shall be adjudicated by the Board.
 - c. A detail for the proposed walkway must be provided.
 - d. Individual square footage for the existing dwelling must be provided.
 - e. Individual square footage for the existing frame shed next to the pool must be provided.
 - f. Any and all exterior light fixtures shall direct the light downward.
3. Municipal Engineer Approval for the following:
 - a. Prior to the issuance of a building permit, a detailed grading plan shall be prepared in accordance with §230-112, to the Municipal Engineer for approval.
 - b. Per §230-112, all stormwater runoff from roof areas shall be transported to dry wells, seepage pits, detention basins or other on-site stormwater management facilities, as approved by the Municipal Engineer.
4. Outside Agency Approvals:
 - a. Hunterdon County Soil Conservation District.
 - b. D&R Canal Commission
 - c. Hunterdon County Health Department
 - d. Delaware Township Board of Health
5. The converted unit shall only be occupied by a senior who would otherwise qualify for ECHO housing pursuant to Section §230-40.
6. The converted unit shall be converted back to a garage, or other nonresidential structure, within 90 days of the earlier of either the death or permanent change of address of the original occupants. Upon written request by the owner/occupant, the Township Committee, for good cause shown, can extend this period up to an additional 90 days. Upon written application to and approval by the Township Committee or municipal agency within that time period, the converted unit may be occupied by other individuals 60 years of age or older who are related by blood, marriage or adoption to the owner/occupant of the primary residence.

7. This variance shall expire upon the sale of the property in question or the circumstances set forth in Condition 4, whichever comes first.
8. The terms and conditions of this use variance shall be recorded by deed with the County Clerk. The proposed deed shall be reviewed and approved by the Board Attorney.

ROLL CALL VOTE ON MOTION TO GRANT USE VARIANCE
May 13, 2021

Those in Favor: Emmons, Fowler, Gilbreath, Kenyon, Manley, Warren

Those Opposed: Cline

Those Concurring: McAuliffe

Those Absent: Szwed

ROLL CALL VOTE ON MOTION TO APPROVE
RESOLUTION OF MEMORIALIZATION
June 10, 2021

Motion to approve: Member Gilbreath

Second: Member Manley

Those in Favor: Emmons, Fowler, Gilbreath, Kenyon, Manley, McAuliffe, Warren

Those Opposed: None

Present but Ineligible To Vote: Cline

Those Absent: Szwed

Certified to be a true copy of a Resolution adopted by the Delaware Township Zoning Board at a public meeting held on June 10, 2021.

Kathleen E. Klink
Administrative Officer

Application Approved: May 13, 2021

Resolution Adopted: June 10, 2021

Distributed: June 16, 2021