

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
MAY 17, 2018 – 7:00 PM**

OPEN PUBLIC MEETINGS ACT

Delran Township Zoning Board regular meeting of Thursday, May 17, 2018 was called to order by Mr. Jeney at 7:00pm, in the Delran Township Municipal Building.

The Open Public Meeting Act Announcement was read by Mr. Jeney and the Pledge of Allegiance was performed.

ROLL CALL

Present: Mr. Jeney, Mrs. Parento, Mr. Hewko, Mr. Lyon, Mr. Anderson, & Mr. Khinkis
Absent: Mr. Smith
Professionals: Brian Lozuke, Attorney, Joe Raday, Engineer & Joe Luste, Planner

DISCUSSION

**Mark & Rochelle Samara
127 Pine Valley Road
Block 173, Lot 14
ZZ2016-02
Extension of Approved Bulk Variance
Resolution # ZZ2016-06**

Mrs. Samara was sworn in by Mr. Lozuke, Attorney. She testified that back in May 2016 they applied for a Bulk Variance to install an inground pool. It was approved by resolution and they were under assumption they had a two year time to get the permits.

They were coming in right before the expiration of the 2 year time frame expiration. At that time they found out that it was actually only a one year time frame which by that time had expired.

They are here before the Board requesting for an extension due to not knowing the proper time period of expired approved applications.

Mr. Lozuke explained that generally Bulk Variance's do not expire, but rather run with the land. Delran Township is unique in that they have a specific section of the zoning ordinances,

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
MAY 17, 2018 – 7:00 PM**

Section 37-35 which provides that all Bulk Variances specifically approval Bulk Variance's, construction in connection with those must be commenced with-in a one year time period.

Unfortunately the Resolution which was adopted by the Board did not specifically reference the expiration period. Mr. Lozuke stated that it is his understanding that Mrs. Samara would abide by the conditions in terms that were incorporated in Resolution ZZ2016-06. Mrs. Samara stated, definitely. Specifically that granted a Variance to permit a construction of a pool no greater than 660 Sq. ft. Mrs. Samara stated that it is still her intention to construct the pool but would be possibly making it more compact, smaller than was first stated. With the additional relief granted by the Board, there was a front yard setback variance 30' granted where 35' is required & an 8' rear yard setback where 15' is required.

With respect to her proposal, any pool that is constructed would meet or exceed those bulk variance relief that's already been set.

An updated survey would be provided per the stipulation in the resolution.

Mr. Lozuke stated that the notice has been provided. If the Board should grant the extension, the 1 year time frame would start then.

Mr. Jeney asked of any questions from either the Board or the Professionals. There was no comments from either.

OPEN TO THE PUBLIC

Mr. Anderson made a motion to open to the public. Mr. Hewko seconded it.

There was no one from the public.

CLOSE TO THE PUBLIC

**Mr. Hewko made a motion to close to the public. Mr. Anderson seconded it.
The results are as follows:**

Motion passed with a unanimous voice vote.

Mr. Lyon made a motion to grant the extension of the approval of the Bulk Variance subject to the existing terms & conditions of the Resolution ZZ2016-06. Mrs. Parento seconded the motion. The results are as follows:

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
MAY 17, 2018 – 7:00 PM**

Aye: Mr. Jeney, Mrs. Parento, Mr. Hewko, Mr. Lyon, Mr. Anderson, &
Mr. Khinkis

Absent: Mr. Smith

Mrs. Samara asked if there was still a 30 day appeal period. Mr. Lozuke stated that there is a 45 day period and they should wait till then even though the resolution should be adopted at next month's meeting date.

**Dredge Harbor Yacht Basin, Inc.
Block 1, Lot 32
67 St. Mihiel Drive
ZZ2018-03
Use Variance**

Chuck Petrone, Attorney at the Law firm of Raymond Coleman Heinold on behalf of the applicant. They are before the Board for a Use Variance to permit the replacement of 2 existing residential uses at the marina with new modern elevated residential uses as well as a waiver of site plan approval because the only improvements that are being rendered at the marina would be the replacement of the 2 existing residential structures. There are no other site improvements contemplated at this point.

Mr. Petrone mentioned that about 3 years ago, they had come in for a similar Use Variance application where they did get approval. They since abandoned that, where circumstances have changed due to the next generation of family members getting older and assuming additional responsibility & eventually take over.

Use Variance is required for several reasons. One, which states that residential uses are not permitted in the Harbor District. Two, there is a density provision in the ordinance that residential uses for greater than 30 days are not permitted in the Harbor District and occupancy of the replacement residential dwellings would be 365 days a year.

William Parsons, Owner of Dredge Harbor located at 67 St. Mihiel Drive, Delran, NJ. Robert Stout, PE, 705 Route 130 South, Cinnaminson, NJ were both sworn in.

Mr. Stout stated that there are 3 exhibits, A-1 is the Arial view, A-2 is the actual variance plan & A-3 Architectural drawings.

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
MAY 17, 2018 – 7:00 PM**

Mr. Parsons is a Co-Owner of the Marina along with his sister Tammy Savage. Dredge Harbor has been a family run business for 80 years next year. It sits on 110 acres. Mr. Parsons explained what the buildings are from Exhibit A-1.

Mr. Parsons stated that there are 2 shops where they do repairs on the boats. They have a dry stack for boats in & out of the water. There is a showroom for new & used boat sails, a store & offices and a residence up above. They have 2 homes where his sister lives in one & one of the managers lives in the other. They also have another home where his daughter lives in and one more where the store manager lives in. Those last 2 mentioned building 3 & 6 on the exhibit A-2 are the homes where they are wanting approval on for raising them & upgrading them due to being as old as the Marina. Pre-dating the Ordinances in which the residential use has been prohibited.

Mr. Lozuke asked the sq. footage of the 2 homes. Mr. Petrone stated that #3 is approximately 950 sq. ft. & building #6 is approximately 1,120 sq. ft. There is an architectural drawing of the new homes being constructed very similar in appearance to the existing ones with the same footprint. They will be elevated above flood level. They are very old so they will also be enhancing the site. Building #5 was done years ago & raised to the required level back then which is higher now.

The 2 homes they are replacing will be for Mr. Parsons' daughter Stacey & son Will. Stacy already works as a manager at the Harbor & Will has just graduated college & has now joined the family business being groomed to be the next generation of Owners. There is a need to have them at the Marina at all times due to emergency issues that may arise.

There are other Marinas in the area, a few farms and a radiator shop. Their place isn't that visible from the road. Out front of the site is a storage for boats.

Exhibit A-3 is the Architectural plan that was part of the Variance application prepared by Mr. Croft. Shows floor plans & elevations for both of the 2 residences which will have similar appearance. The footprints will match the existing footprints but will have a second floor on the newly constructed homes.

Mr. Parsons stated that most Marina's owners & or managers now have permanent residences on site. They will never rent them out. No other improvements to site. The trash for the Marina will have the dumpsters that will be privately picked up.

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
MAY 17, 2018 – 7:00 PM**

The sewer system is septic. Mr. Parsons stated they have 2 of them on site. One was replaced in the last 15 years. The other one he wasn't sure how old. Mr. Raday stated that he had questions about it in his review letter. Mr. Stout will go over that in more detail.

Mr. Stout testified that there are not a lot of site issues that they need to talk about. House #6 & #3, there is no tree removal or vegetation. There are some foundation plantings being removed but will be replaced.

The DEP stated from previous application that it wasn't applicable and they have submitted it along with this application. As part of it, there's a requirement that says, here's the parameters of why they're not applicable. Both these units meet the exact same parameters, so there is no need for a new Jurisdictional determination. They will coordinated it with the Engineer.

The parking is no issue, there is designated parking in front of each house. There is a pool in the rear of house #3 which will be removed.

The site works off of well & septic. The septic is not required to be replaced because it's based on the number of bedrooms. The number of bedrooms will remain the same on both homes so there is no change. What they are proposing to do is, use the same sewer & water line.

There is a brand new oil tank behind one of the units and they will be removing it. They will be converting over to gas. Reason being that they are raising the units & to get them much newer. Because they are remaining within the footprint, raising everything up, the township, county & the state recognize as an approvable use.

Due to staying in the same footprint, there will be no impact on the storm water management, impervious coverage, traffic flow. It's as much a site plan waiver as possible.

Both houses are surrounded by wooded areas. Both are situated behind larger evergreens, & trees & it set back quite a distance from River Road so they won't be too visible from the street.

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
MAY 17, 2018 – 7:00 PM**

The 2 homes will be lower than the tallest commercial buildings at the Marina.

There are no issues with the zoning ordinance.

The professional had no questions at this time of Mr. Stout. Mr. Hewko asked Mr. Stout about the possibility of asbestos from the houses. Mr. Stout stated that if there is any asbestos found when demolishing the current homes which will be determined by the company who will be doing the demo. They will follow all guidelines from the EPA & DEP on containment & disposal.

It was reiterated by Mr. Petrone that there will be no rentals of any of the properties in the Marina.

Mr. Lozuke asked about the Jurisdictional determination from the prior application back in 2016 for the reconstruction of a dwelling that since has been abandoned. Mr. Petrone stated that the trailer that was approved as part of that Use Variance application has already been removed. According to the MLUL that since that's been removed, one, was the intent of the application to abandoned that particular residential use & the other act that's required under the MLUL for the abandonment of the non-conforming use was the actual demolition. No intent to be replaced. They are not looking to rely on that letter. Mr. Lozuke's question specifically is, would this application not trigger at least an additional review by DEP? Mr. Stout stated, no it would not.

Mr. Stout stated that since this a Waterfront development, there are a lot of requirements that the Waterfront development makes you go thru. In the section NJAC7:7:2, there are a list of exemptions which they tried to apply for in the beginning but they wanted something formal from the State. So they went thru the State requirements and got the letter. If you look at the letter, the first requirement says they are exempt due to this reason. The reason in there is listed as the proximity to the waterfront, no wetlands available on the site. So both of the houses meet the exact same determination that the letter did. If they were less than 100 feet then they would have to go for another jurisdiction determination. Both of these are more than the 10' so just by definition, they have an exemption.

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
MAY 17, 2018 – 7:00 PM**

Joe Raday stated that in the second part of the letter, it states about the flood hazard rules. He asked Mr. Stout to describe why he feels that he doesn't need a permit to meet the flood hazard rule. Mr. Stout explained to the Board that they have what they call zero net fill. What that is, picture if they have a bath tub filled with water filled all the way to top & you drop a brick in it, the water flows over. What they require is this. You need to have zero net fill so if they are going to build a house in that area, they have to dig out somewhere or enlarge somewhere of that same volume. The ultimate volume of the Delaware River Basin does not change. The flood hazard area has been updated. December 21, 2017 the new flood maps were released. That's elevation 10. Anything below elevation 10 they need to account for. Elevation 10 is already filled. The foundation of this house is already below elevation 10. They are not changing that, therefore there is no need to go for a flood hazard determination because they are going up. Anything above that is above elevation 10 which is unregulated by DEP.

They have done flood elevation certificates for all the buildings thru-out the site. They know that this is below that so what they can tell you is that upon construction, they can certified or give the Board back another flood elevation cert that says, they are now above elevation 11. They are not touching anything under elevation 10 which is where the flood plain level is. It's only the foundation so that's why they are saying that it is not applicable. Neither is the Jurisdiction determination.

Joe Raday asked if he could send a letter stating it. Mr. Stout stated that the last time it took 6 months stating that it wasn't applicable. Mr. Stout's request is that he works with Mr. Raday on giving him some of the regulations on it. He really hopes that he won't have to be going to the DEP and wait another 6 months just to tell them it is ok. Mr. Stout stated that he would be glad to do a flood elevation certification that certifies that the houses are above 11 since it has to be a foot above.

They can provide a plot plan that shows where it is going to be. Mr. Raday said as long as it shows the elevations he will be okay with it.

OPEN TO THE PUBLIC

**Mr. Hewko made a motion to open to the public. Mr. Anderson seconded it.
The results are as follows:**

A motion was carried with a unanimous voice vote.

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
MAY 17, 2018 – 7:00 PM**

There was no one from the public to speak out.

**Mr. Hewko made a motion to close to the public. Mr. Lyon seconded it.
The results are as follows:**

A motion was carried with a unanimous voice vote.

Mr. Walt Bauer, Fire Official stated that the Fire Department has no objection to this project. They are familiar to this property & already have a water supply plan in case needed. The only concern was about the elevation & that was addressed.

Mr. Petrone stated that Mr. Stout mentioned that Mr. Raday according to his letter was looking for additional architectural plans for the second house as part of a condition of this. They don't have them finished yet. He stated that it will be very similar to the first one. What they are asking is that, they will supply them as part of the building permit but make reference that they will be very similar to the first one's style. They agree to maintain the existing footprint.

Mr. Luste went thru his letter's completeness. He stated that this is a unique application. Its previous application shows that there has been a use variance granted on the property before for a house on the property. Also, that this is a replacement of existing structures that have been there for a number of years. The exact same place, exact same footprint & almost the same square footage. There are still some issues that they would like to discuss based on the criteria set forth in the land use law.

Based on the positive criteria, does this address purposes of zoning, in that it provides for various uses in appropriate locations? Mr. Stout stated it does. That's because one, it's on the water which creates the recreational use. Thru the testimony of the applicant with respect to needing to secure the recreational use 365 days a year, the only way of doing that is by including residential as part of the properties uses. Mr. Stout stated that it helps in the zoning because it's part of the safety that is involved in the use of the facility itself. That would also include protection from flood.

With respect to the negative's is that it is an existing Marina, there is existing residential uses at the Marina so they are not intensifying those uses, and they are not increasing the number of residential uses. They actually decreased the number of residential uses from what was previously there.

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
MAY 17, 2018 – 7:00 PM**

It wouldn't be a substantial detriment to any public good within the Township. In fact it would be an advantage to the public. Similar to self-storage where there is a residence on premises at all times.

Mr. Raday reviewed his letter stating that point by point we have already previously talked about issues. They talked about plants, trees & pools whether they will be removed. Mr. Stout stated that there are no trees to be removed. There are some plantings that will be removed & updated after construction is complete. There is an above ground pool being removed also.

The environmental comments in the letter are being addressed. They will be removing the fairly new oil tank. They will be converting to propane or gas and the asbestos will be abated if there is any upon demolition.

Mr. Petrone stated that the testimony that was offered satisfies the applicants burden with respect to the grant of the Use Variance by the Zoning Board for the replacement of existing dwellings with new dwellings on the exact footprint and to modernize & elevated the property above the flood plain.

Mr. Khinkis made a motion to approve the Use Variance. Mr. Anderson seconded it. The results are as follows:

AYES: Mr. Jeney, Mrs. Parento, Mr. Hewko, Mr. Lyon, Mr. Anderson & Mr. Khinkis.

ABSENT: Mr. Smith

MINUTES

Minutes from April 19, 2018 meeting.

Mrs. Parento made a motion to approve the minutes as written from the April 19, 2018 meeting. Mr. Lyon seconded it. The results are as follows:

A motion was carried with a unanimous voice vote.

RESOLUTIONS

Resolution ZZ2018-01 & ZZ2018-02 for Dunkin Donuts have been carried over till June meeting date.

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
MAY 17, 2018 – 7:00 PM**

RESOLUTIONS (con't)

**Resolution # ZZ 2018-03
Lester Bohony
242 Southview Drive
Block 143, Lot 3
ZZ2018-01
Bulk Variance**

Mrs. Parento made a motion to adopt Resolution #2018-03. Mr. Lyon second it. The results are as follows:

AYES: Mr. Jeney, Mrs. Parento, Mr. Lyon, Mr. Anderson & Mr. Khinkis.

ABSENT: Mr. Smith

ABSTAIN: Mr. Hewko

Mr. Lozuke took a minute to discuss the Ordinance provisions as far as the expiration on a Variance. He spoke briefly with Mr. Paris, Mayor about amending the Ordinance. He said he was inclined to amending it. Mr. Lozuke stated that he would appreciate any input. With respect to Mrs. Samara, he thinks that was a hardship, particularly since it wasn't incorporated into the Resolution. A run of the mill generic Bulk Variance should not have a time frame. Under the Municipal Land Use law, A Use Variance or Bulk Variance's do not expire unless there is a change in the Zoning Ordinances because they run with the land.

ADJOURNMENT

Mr. Lyon made a motion to adjourn the meeting at 8pm. Mr. Khinkis second it. The results are as follows:

A motion was carried with a unanimous voice vote.

Respectfully submitted

Kathy Phillips,
Secretary Planning & Zoning Board

