

**Monroe Township Zoning Board of Adjustment Meeting**

**June 20, 2017 at 7:00 pm**

**Call to Order:**

Proper notice of this meeting was given as required by the Open Public Meetings Act in the Annual Notice of Meetings. Notice of this meeting was given on January 6, 2017 and a copy was given to the Township Clerk and a copy was posted on the first floor bulletin board.

“Be advised, no new business or item of discussion will be started after 10:30 pm and the meeting shall terminate no later than 11:00 pm”.

**Pledge of Allegiance**

Chairman Salvadori noted that due to the resignation of the Secretary, the Director of Community Development Rosemary Flaherty would be performing the attendance and roll call.

**Roll Call:**

Mrs. Fox - Present

Mr. Fritz - Present

Mr. Kozak - Present

Mr. Manfredi - Present

Mr. McLaughlin, Vice Chairman - Excused

Mr. Mercado - Present

Mr. Salvadori, Chairman - Present

Alt.#1, Mr. O'Reilly - Present

Alt.#2, Mr. Sebastian - Excused

**Professionals:**

Mr. Coe, Solicitor - Present

Mr. Sanders, Engineer - Excused

Mrs. Pellegrini, Planner - Present

Director Rosemary Flaherty, Acting Secretary - Present

Clerk Transcriber, Tara Park - Present

**Council Liaison:**

Councilman, Ron Garbowski - Present

**Memorialization of Resolutions:**

**Resolution #17-24 – Application WSP-20-2017, Skydive Cross Keys LLC  
Located at 300 Dahlia Avenue, Block 14701 Lot 40.01**

The applicant proposed a site plan waiver approval to have several RV motor homes parked seasonally for their clients. The applicant obtained a use variance approval. The board denied the request and required a resubmission of a modified site plan. A motion was made by Mr. Fritz and it was second by Mr. Mercado and followed by a roll call.

Roll Call:

Mrs. Fox - Yes

Mr. Fritz - Yes

Mr. Kozak - Yes

Mr. Manfredi - Yes

Mr. McLaughlin, Vice Chairman - Excused

Mr. Mercado - Yes

Mr. Salvadori, Chairman - Yes

Alt.#1, Mr. O'Reilly - Yes

Alt.#2, Mr. Sebastian - Excused

**Resolution #17-25 – Secretary Position for 2017**

A motion was made by Mr. Fritz to approve the appointment at the May 25th 2017 meeting, and 2nd by Mr. Kozak and was followed by a roll call.

Roll Call:

Mrs. Fox - Yes

Mr. Fritz - Yes

Mr. Kozak - Yes

Mr. Manfredi - Yes

Mr. McLaughlin, Vice Chairman- Excused

Mr. Mercado - Yes

Mr. Salvadori, Chairman - Yes

Alt.#1, Mr. O'Reilly - Yes

Alt.#2, Mr. Sebastian- Excused

**Resolution #17-26 – Transcriber Position for 2017 – Tara Park**

A motion was made by Mr. Fritz to approve the appointment at the May 25th 2017 meeting, and 2nd by Mr. Mercado and was followed by a roll call.

Roll Call:

Mrs. Fox - Yes

Mr. Fritz - Yes

Mr. Kozak - Yes

Mr. Manfredi - Yes

Mr. McLaughlin, Vice Chairman- Excused

Mr. Mercado - Yes

Mr. Salvadori, Chairman - Yes

Alt.#1, Mr. O'Reilly - Yes

Alt.#2, Mr. Sebastian- Excused

**Appointment of Secretary 2017:** At this time the board shall appoint a secretary due to resignation of the last appointed Secretary, Ninette Orbaczewski. There was an entertained nomination made by a member of the public, and second by another member of the public but Mr. Coe informed the Chairman, the Board and the public that nominations can only come from the members of the Board. A motion was then made to appoint Tara Park as Secretary of the Board by Mr. Fritz and it was second by Mr. Kozak. There were no other nominations, and a roll call vote was performed to vote on the nomination for Tara Park.

Roll Call:

Mrs. Fox- Yes

Mr. Fritz- Yes

Mr. Kozak- Yes

Mr. Manfredi- Yes

Mr. McLaughlin, Vice Chairman- Excused

Mr. Mercado- Yes

Mr. Salvadori, Chairman- Yes

Alt.#1, Mr. O'Reilly- Yes

Alt.#2, Mr. Sebastian- Excused

### **Public Hearings:**

#### **Application ZBA-17-07, Frank Bialowas, Use Variance**

#### **1640 New Brooklyn Road, Block 2601 Lot 31, Zone RD-A**

Mr. Coe swore in Frank Bialowas of 1640 New Brooklyn Road for the record, but his attorney Michael J. McKenna addressed the board stating that the applicant is seeking approval of a use variance to allow for parking of commercial vehicles pursuant to an existing in-home occupation permit per 175-11 previously approved on 2/1/16 and the use variance per 175-139 for the commercial vehicles. No new development is proposed. Mr. McKenna also gave Mr. Coe a copy of the Right to Farm Law information showing that he believes under this he should be exempt from the requirement of this application but they would proceed as requested.

The Board Planner Pam Pellegrini went through her review report dated April 11, 2017 and stated the following:

Re: Use Variance (1<sup>st</sup> Review)  
Plate 26, Block 2601, Lot 31  
1640 New Brooklyn Road  
Zone: RD-A, Rural Development Agricultural District  
Applicant: Frank Bialowas  
Application № 17-07  
MC Project №: MMZ-033

The above referenced application is a request for a use variance application review.

### **1.0 Project Description**

#### **1.1 Proposal**

The applicant seeks use variance approval to park approximately seven (7) commercial vehicles, utilized for a combination of his business and farm operations, in an existing parking area located on his residential lot. The applicant indicates there is a home occupation office at the property. No new improvements are proposed.

The 9.29± acre parcel fronts on Williamstown-New Brooklyn Road (C.R #536) and contains a 2-story, single-family frame dwelling with one paved and one

unpaved driveway, a pole barn and other accessory structures. The property is zoned RD-A, Rural Development Agricultural District.

*The applicant indicates in his application that he is Q-Farm assessed. Tax records do not indicate this property is currently farmed or Q-Farm assessed. This lot was previously farmed and Q-Farm assessed prior to its development as a residential Class 2 property. There is no farming that occurs on the lot in question. The applicant should confirm what property he farms currently.*

*The subdivision plan creating this lot indicates a 300' wetlands buffer adjacent to the wetlands on the property. It is not clear if this wetland buffer was ever reduced by Pineland's to 150' as indicated in the application.*

**1.3 Surrounding Land Uses**

The area is transitional in nature. The property directly across from the subject property on New Brooklyn Road is a commercial facility, the lands abutting the property to the west are agricultural and low-density residential, the lands to the south are agricultural, and the lands to the east are forested. A church is located across the property's forested portion on the opposite side of East Malaga Road. The block in which the subject property lies and the block directly east across Malaga Road are zoned RD-A. The block opposite the property on New Brooklyn Road is zoned R-2, and the property catty-corner to the subject property is zone FD-10.

**2.0 Materials Reviewed**

We have reviewed the referenced submission, encoded by the Zoning Board as #17-07, received via email April 4, 2017, consisting of the following:

<i>Sheet</i>	<i>Title</i>	<i>Date</i>
---	Application	March 31, 2017
---	B&W property photos	---
1 of 1	Plan of Survey (unsigned/unsealed)	August 27, 2002
---	Resolution #16-13 (Stephen Omrod)	April 19, 2016
---	Resolution #16-20 (Michael Markman)	May 3, 2016
---	Resolution #16-33 (Michael Markman)	July 12, 2016

**3.0 Zoning Requirements**

**3.1 Use**

In accordance with § 175-160, contractor's yards or commercial parking/storage yards are not listed as a permitted use in the RD-A, Rural Development Agricultural District, nor are they listed as permitted as part of a home occupation

use. As such, a use variance is required. The applicant previously received a zoning permit for a home “professional office” use per § 175-112 as cited in the permit in February 2016; however, the circumstances are unclear as the type of home office is not specified nor was the associated plot plan provided. Also § 175-160 does not list home professional offices or home occupations as permitted accessory uses in the RD-A zone. The applicant indicates a zoning permit for a pole barn was issued in August 2013; however, a copy was not provided nor was the intended use specified.

*Additional information should be provided to determine the extent and purpose of the zoning permits previously issued as they relate to this application. As the property is in the Pinelands and there are environmental areas to be protected, the creeping onsite improvements and proposed use expansion should be reviewed and approved by the Pinelands.*

#### **4.0 Master Plan Consistency**

The proposed use is not consistent with the goals and objectives of the Master Plan. Should the use variance be granted, any site improvements and/or physical impacts of the use need to be addressed and mitigated.

#### **5.0 Fees, Contributions, and Obligations**

##### **5.1 Escrow**

The applicant must contact the Township’s Finance Office to settle any outstanding review escrow accounts prior to any approval taking effect.

#### **6.0 General Comments / Recommendations** *(The applicant's response will appear in bold italics)*

6.1 In accordance with the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-76b), the applicant may elect to submit an application requesting approval of the use variance and a subsequent application for the approval of a site plan, if required, provided that the approval of the variance is conditioned upon the applicant obtaining all required subsequent approvals from the Zoning Board. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance.

Consequently, any variance granted permitting the proposed use must be conditioned upon the applicant obtaining the necessary site plan approval, if deemed required, from the Zoning Board.

*The applicant seeks waiver of site plan approval as no site improvements are proposed.*

- 6.2 The applicant must demonstrate sufficient “special reasons” why the proposed use carries out a purpose of zoning, or how the refusal to allow the project would impose on the applicant an undue hardship. In addition, the applicant must demonstrate that the requested use variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

*Assuming the applicant requires a use variance, the applicant will address the positive and negative criteria.*

- 6.3 The submitted unsigned/unsealed survey from 2002 does not show current conditions, existing driveway locations, onsite circulation, vehicle storage/parking areas, fencing or buffer/screening areas. All existing driveway surface treatments are not provided on the plan. The applicant must provide testimony regarding onsite access, extent of proposed vehicle storage, site function, and any existing or proposed buffering to adjacent residents. The testimony shall also reflect whether existing ingress and egress is sufficient for types of vehicles entering and existing the site.

*The applicant addressed this with enlarged aerial photographs giving the description of condition requested and location of parking/storage areas, placement of trees, and any additional improvements along with providing a survey from Sickle and Associates dated 8/27/2002 which the buffer was reduced to 150 feet.*

- 6.4 Further, the existing improvements related to the pole barn, driveway and parking area are not indicated as they relate to the wetlands/wetlands buffer onsite to determine their regulatory compliance.

Site visit observations indicated evidence of clearing beyond these features into the wetlands buffer and possibly the wetlands area.

*Again, the survey does depict the pole barn outside the buffer. The driveway is the historical “farmer's driveway” that has been in existence since the property was utilized as Bill & Lin’s Nursery. The farmer’s driveway extends directly to the irrigation pond that waters the entirety of the site prior to the subdivision and indeed terminates directly at the site of the irrigation pump. There has been no clearing beyond that done when a recent tornado ripped trees out of the ground in the wetlands area. The applicant cleaned up all of these except for one which was unable to be removed. The tree remains in place and as can be seen was torn from its roots but not cleared. This tornado cleanup was permitted under NJDEP regulations.*

- 6.5 The zoning permit of the pole barn was not provided for review. It is not clear, although cited in the application, if the associated driveway and extended parking area received any kind of review or approval. In addition, the parking area in question and possibly even the pole barn may encroach into the wetlands buffer area.

*The applicant and his attorney brought in front of the Board the Zoning Permit for the In Home Occupation, and again providing a survey from Sickle and Associates dated 8/27/2002 which the buffer was reduced to 150 feet. Mrs. Pellegrini stated that there is no driveway seen on any of the plans that she has viewed thus far.*

- 6.6 Testimony is to be provided regarding the number of vehicles and type of vehicles to be parked and/or stored and frequent the site, and if any other commercial activity beyond “storage” of commercial and employee vehicles, is either existing or proposed.

*Site visit observations indicated there is storage of materials, construction equipment and commercial vehicles outside of the existing pole barn.*

*The vehicles used in this operation are those typically used in a blue collar town like Williamstown which includes F350 trucks. The trailers are used for both farming and in connection with the client’s business. There are no dumpsters with materials from job sites and the other two commercial pieces of equipment are usually at job site locations. It is rare that they are parked at my client’s home. The vehicles are three F-350’s, a small dump truck, a ten wheeler dump truck, a skid steerer, and two excavators (a 303 and 305).*

- 6.7 The applicant shall provide testimony on the proposed hours of operation during which the driveway will be used by commercial vehicles as well as employees’ private vehicles. The testimony shall reflect whether the traffic entering and leaving the site will be throughout the day, at the start/end of the workday, or both.

*The hours of entry and leaving are at approximately 6:30-7am when his crew arrives and then they leave to go to the job site, and then they return to leave for the day approximately at 5pm each day.*

- 6.8 The applicant shall testify as to whether signage will be provided along New Brooklyn Road that alerts motorists to vehicles using the driveway, which can be considered a blind driveway. The testimony should reflect whether brush clearance in the vicinity of the driveway will be performed in order to provide greater visibility. New Brooklyn Road (C.R. #536) is also a County road. Applicant shall indicate if County approval of the additional driveway was ever



approved. Proper sight distance is a requirement as was required for the residential driveway.

*No signage is proposed nor is any required or needed. No client's customers have ever been to this site nor does the site take deliveries of any kind. If County input is requested to validate a "farmer's driveway" that has existed for decades same will be sought.*

- 6.9 The applicant shall provide information confirming whether or not the existing development and proposed parking are within a wetlands buffer area, and provide confirmation of the required buffer width and approval of any of the existing or proposed encroachments into that buffer from the proper regulatory agency, being Pinelands.

*There is nothing "proposed" in this application as all existing improvements have been used for years.*

- 6.10 The applicant shall provide testimony explaining the nature and location of farming uses mentioned in the application. The subject property in question, based on tax records does not appear currently to be "Q-Farm assessed" and has had a residential property class since at least 2010.

*Agreed. The property has been farmland assessed since originally subdivided back in 2000. See Planning Board Resolution PB 27-2000. All the properties created out of this subdivision have the same activity of farming as the subject property and are assessed at a lower value. Upon further review we see that my client's assessment is now larger than the adjacent assessments although it does show the prior farm land assessments and we will undertake a review of the same. When the change took place it was thought the higher taxes were simply because of the substantial residential improvements on the property. The applicant has utilized the property as a tree farm which originally began before he went to closing. Applicant continues the pre-existing nursery use of Bill & Lin's. Evidential photographs will be submitted. As previously stated on several occasions above, the Q-Farm assessment issue will be immediately addressed by the applicant in the applicant's own interest in saving taxes.*

- 6.11 Based on the above, our office recommends that any approval be conditioned upon an updated survey and minor site plan along with County & Pinelands approvals.

At this point Chairman Salvadori asked if the members had any questions or concerns. The members discussed concerns of wanting to see a current survey, the ratio between tree farming business to concrete business, and Right to Farm requirements. Upon hearing that the Board Members request him get a current survey of the property, the applicant Mr. Bialowas requested to withdraw his application.

Mr. Fritz made a motion to accept the applicant's withdrawal of his application, Mr. Kozak second the motion and a roll call vote was performed.

Roll Call:

Mrs. Fox

Mr. Fritz - Yes

Mr. Kozak- Yes

Mr. Manfredi- Yes

Mr. McLaughlin, Vice Chairman - Excused

Mr. Mercado- Yes

Mr. Salvadori, Chairman- Yes

Alt.#1, Mr. OReilly- Yes

Alt.#2, Mr. Sebastian - Excused

**Application ZBA-17-09, RREF II IB-NJ SMF, LLC, Use Variance/Density**

**Mink Lane, Block 2201 Lot 11, Zone Mink Lane Redevelopment Overlay**

The applicant is seeking 1.86 single family density per acre, clustered on 27.92 +/- acres on 60' x 120' (7200 square foot) lots (being 52 units) with bulk standard set by variance per the proposed bulk requirements with recognition that perimeter buffer will aid the lot size impact or variance to waive the buffer and include same as a restricted use area of the lot.

Mr. Mintz was sworn in by Mr. Coe, and as well as his first expert witness, Mr. Henry Haley of Consulting Engineer Services who went over the plan of the development and discussed the new pump station that would service both this development and neighboring Chelsea Farms. This was explained to be quite a large cost factor by Mr. Mintz who explained that this why the increase in units is being requested. He also said that this would be helpful to the residents of Chelsea Farms whose pump station is old and could need repairs or replacement at any time. Mr. Haley went over the exhibits provided for the board such as the proposed plan, aerial photos of the current area, and elevations/depictions of what the models will look like if approved. Chairman Salvadori asked if there were any questions or concerns about the testimony provided, and the members brought up possible credits received from the MMUA in regards to the new pump station they are proposing, the side yard distance being only ten feet, open space requirements and the size of the lots being so small. There were also concerns about the buffers and who would police or maintain that there was no action in this area by a

property owner, especially without a HOA as Mr. Mintz stated they did not want to have one.

Mr. Coe then swore in David Shropshire of Shropshire Associates who went over his Traffic Engineering Assessment dated June 20, 2017 that he provided to the members of the Board and went over his findings stating that there will be minimal impact caused on Mink Lane by the development.

At the conclusion of the testimony by Mr. Shropshire, Chairman Salvadori and Mr. Coe noted that the time was almost 11 pm and the Board still had matters to discuss in closed session. They advised the public present and the applicant that the remained of this application would have to be postponed until July 11th, which is the date of the next meeting. Mr. Coe also made the public aware that there would be no more requirement of notifying the public to the applicant so that they must keep themselves informed.

At this point Mr. Kozak made a motion to carry the application to the next meeting and Mr. Mercado second the motion and then a roll call was performed.

Roll Call:

Mrs. Fox

Mr. Fritz - Yes

Mr. Kozak- Yes

Mr. Manfredi- Yes

Mr. McLaughlin, Vice Chairman - Excused

Mr. Mercado- Yes

Mr. Salvadori, Chairman- Yes

Alt.#1, Mr. OReilly- Yes

Alt.#2, Mr. Sebastian - Excused

**At this time Mr. Kozak made a motion to adjourn the meeting, and Mr. Mercado second the motion. All Board members were in favor and none were opposed.**

These minutes are a brief summary of the proceedings and should not be taken as verbatim testimony

Respectfully submitted,

Tara Ann Park