

**ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF MONROE
RESOLUTION # 17-16
APPLICATION #16-26 HAROLD PAUL KANADY**

**A RESOLUTION TO MEMORIALIZE THE BOARD'S APPROVAL OF THE USE
VARIANCE (D-1) APPLICATION FOR HAROLD PAUL KANADY, AT PROPERTY
KNOWN AS BLOCK 15202, LOT 10**

WHEREAS, Applicant Harold Paul Kanady, (the "Applicant"), with an address of 1887 York Avenue, Williamstown, NJ, came before this Board at this time; and

WHEREAS, Mr. Kanady is also the owner (the "Owner") of the subject property which is known as 1711 Glassboro Avenue and more specifically as Block 15202, Lot 10 on the Monroe Township Tax Map (the "Property"), and as Owner and Applicant he has submitted all proper authorizations to allow this application to come before this Board; and

WHEREAS, the Property is split zoned with portions of the Property located in the C-Commercial Zoning District and portions of the Property located in the BP-Business Park Zoning District; and

WHEREAS, specifically the Applicant has applied for a use variance to permit the storage and parking of trucks and equipment, the storage of bulk materials such as stone and gravel and the continued use of the structure for residential purposes; and

WHEREAS, the Applicant requires the following specific relief from the Board:

1) A D-1 variance to permit dual uses of the Property, namely a single-family dwelling and a vehicle storage yard.

2) D-3 variances to permit conditional use variances for the proposed vehicle storage yard as no opaque fence is proposed and it is unclear as to whether the Applicant meets the condition which requires 2,500 square feet for every vehicle stored; and

WHEREAS, a public hearing was held on August 2, 2016, at which time this Board determined that Applicant's application was incomplete for failure to submit a certified survey, as memorialized in Board Resolution #16-39; and

WHEREAS, the Applicant the submitted a certified survey and a public hearing was held on November 15, 2016; and

WHEREAS, at the November 15, 2016 hearing, after lengthy testimony, this matter was adjourned until January 17, 2017 to allow the Applicant additional time to engage a professional planner and to submit additional materials as requested by the Board; and

WHEREAS, all testimony and findings from the November 15, 2016 hearing were memorialized in Board Resolution #16-55 which is incorporated herein by reference; and

WHEREAS, a public hearing was held on January 17, 2017; and

WHEREAS, prior to the January 17, 2017 public hearing the Applicant made the Board aware that he was facing physical issues which made his attendance difficult and that his wife, who is his caretaker, was ill and could not attend; and

WHEREAS, due to these issues the Board agreed to adjourn this matter until February 21, 2017; and

WHEREAS, as interested members of the public had conflicts with the February 21, 2017 hearing date, the Board agreed to further adjourn this matter until the Board's March 21, 2017 meeting; and

WHEREAS, the public hearing on this matter was thus continued on March 21, 2017; and

WHEREAS, the Board has determined that the Applicant has met all public notice requirements of the New Jersey Municipal Land Use Law and has determined that the Board has proper jurisdiction to hear this matter; and

WHEREAS, the Applicant was again represented by John Makowski, Esq. as legal counsel; and

WHEREAS, as all testimony, from both the Applicant and public, was completed at the November 15, 2016 Board meeting, this meeting began with testimony from Tiffany CuvIELLO, PP, who is the professional planner engaged by the Applicant; and

WHEREAS, Ms. CuvIELLO was recognized by the Board as an expert in the field of planning; and

WHEREAS, Ms. CuvIELLO provided extensive testimony as to the nature of the uses of the Property; and

WHEREAS, Ms. CuvIELLO stated that based on her reading of the Township Code, the Applicant should only require the D-3 variances and not the D-1 variance, however she provided testimony for the positive and negative criteria for both the D-1 and D-3 variances; and

WHEREAS, Ms. CuvIELLO continually made the point that all proposed uses are permitted on the Property, as the home is a permitted use and the vehicle storage yard is conditionally permitted use; and

WHEREAS, Ms. CuvIELLO stated that the proposed use were much lower in intensity than other uses which were permitted by right at the Property; and

WHEREAS, Ms. CuvIELlo entered the following photographs into the record, which were labelled as follows:

- A1 - Area between existing residential use and vehicle storage yard
- A2 - Employee Parking Area
- A3 - Landscaping along western property line
- A4 - Closer view of western property line
- A5 - Vegetation on Eastern property line
- A6 - Eastern property line
- A7 - Eastern property line fence
- A8 - Buffering adjacent residential property
- A9 - Buffering of adjacent residential property
- A10 - Buffering of adjacent residential property
- A11 - NJDEP imap; and

WHEREAS, the Applicant then provided additional testimony as to the actual operations which take place at the Property; and

WHEREAS, the Board's Planner discussed his report, dated February 21, 2017, which is incorporated herein by reference; and

WHEREAS, upon proper motion, the matter was then again opened to the public and the following testimony was heard:

- Mr. Richard Wells, Esq. appeared as the attorney for several adjacent residents who opposed the granting of the proposed variances; and

- Mr. Wells summarized his clients' objections to the proposed variances, pointed out areas where they agree with the Board Planner's report, pointed out areas where they disagreed with the Applicant's Planner's report, and highlighted reasons why the Application should be denied; and

- Mr. Wells submitted the following photographs into the record, which were labelled as follows:

- O-2 - View from Ms. Gullo's front yard dated 3/20/17

- O-3 - View of berm created to block Ms. Gullo's view; and

- Ms. Jeannie Gullo, of 1687 Glassboro, provided testimony which centered on the lack of effectiveness of the existing berming and buffering; and

- Mr. Wells closed by arguing that any hardship faced by the Applicant is self-created and based on testimony the Board has heard from the public at this hearing, and at prior hearings, it is clear that the proposed variances would create a substantial detriment to the surrounding area;

- Ms. Bunni Bouchard provided testimony which centered on her belief that every time the Applicant gets relief from the Board, he ignores all conditions and does whatever he wants; and

WHEREAS, upon proper motion, the public session was closed; and

WHEREAS, based on the evidence presented, the Board renders the following findings of fact and conclusions of law:

1) The proposed D-1 variance is necessary to allow the Property to continue to have two primary uses, namely the single-family home and the vehicle storage yard.

2) The Applicant addressed the positive criteria by arguing that each of the dual uses are permitted at the Property.

3) The Applicant addressed the negative criteria by arguing that the proposed uses are much less intense than other permitted uses and are all contemplated and permitted in the Township Code.

WHEREAS, in consideration of all of the evidence submitted and the applicable law;

NOW THEREFORE BE IT RESOLVED, that the Board **GRANTS** the Applicant the requested D-1 variance subject to the following **CONDITIONS**:

1. The Applicant shall maintain their escrow account and satisfy any and all outstanding escrow, if any.

2. The Applicant must return to the Zoning Board for site plan approval as a condition of any variance approval.

3. The Applicant is limited to storage of forty (40) vehicles at the Property, conditioned upon the Applicant demonstrating the Property can accommodate forty (40) vehicles during the process of site plan review.

4. The Applicant must secure all necessary Township Permits including Construction Permits.
5. The Applicant has agreed to fence the employee parking area.
6. The Applicant has agreed to fill in any buffer gaps which shall be reviewed and discussed during the process of site plan review.
7. The Applicant must continue to abide by the terms of the Court Order executed on February 8, 2016 in litigation with a Docket Number of L-1161-15.
8. The Applicant agrees there shall be no further clearing of the Property.
9. Resolutions #16-39 and #16-55 are incorporated herein by reference and remain in full force and effect except as modified by this Resolution.

ROLL CALL VOTE

	Ayes	Nays	Abstentions
FOX	X		
FRITZ	X		
KOZAK	X		
MANFREDI			
MCLAUGHLIN	X		
MERCADO	X		
SALVADORI	X		
O'REILLY(ALT I)	X		
SEBASTIAN (ALT II)			

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF MONROE

BY: Brent Salvadori
BRENT SALVADORI, CHAIRMAN

ATTEST: Dawn M. Tamm, SECRETARY
DATE MEMORIALIZED: 4/4/17