

Call to Order:

The regular meeting of the Zoning Board of Adjustment was called to order at 6:30 p.m. by Vice Chairman Kozak who read the following statement: Notice of this meeting was given as required by the Open Public Meetings in the Annual Notice of Meetings on January 12, 2022. In addition, this evening's public hearings were sent in writing on August 4, 2022. A copy was posted on the second floor bulletin board of Town Hall and on the Township's website. Be advised, no new item of business will be started after 10:30 p.m. and the meeting shall terminate no later than 11:00 p.m.

The Board saluted the flag.

Roll call: Present – Mr. Cossaboon, Mr. Colavita, Mr. Cummiskey, Mr. Kozak, Mr. Papson, Mr. Powers, Mr. Salvadori, Mr. Seidenberg. Absent – Mr. Sebastian (excused), Ms. Fox (excused). Also present – Mr. Coe, Solicitor, Mr. Dickerson, Planner, Mr. Sander, Engineer, Mrs. Orbaczewski, Secretary.

Memorialization of Resolutions:

1. Res. #46-2022 – App. #22-28 – ReLeaf Cannabis, LLC – Use Variance Approved

Motion by Cummiskey, seconded by Mr. Powers to adopt resolution #46-2022. Voice vote; all ayes, motion passed.

2. Res. 47-2022 – App. #513-SP – Carter Airstrip Solar 1, LLC – Waiver Approved

Motion by Mr. Cummiskey, seconded by Mr. Powers to adopt resolution #47-2022. Voice vote; all ayes, motion passed.

3. Res. 49-2022 – App. #22-32 - Nancy Rodney – Use Variance Approved

Motion by Mr. Cummiskey, seconded by Mr. Powers to adopt resolution #49-2022. Voice vote; all ayes, motion passed.

4. Res. 50-2022 – App. #22-39 – Sandra Ray - Use Variance Approved

Motion by Mr. Powers, seconded by Mr. Cummiskey to adopt resolution #50-2022. Voice vote; all ayes, motion passed.

5. Res. 51-2022 – App. #22-35 – Eric Cowie – Side & Rear Yard Variances Approved

Motion by Mr. Cummiskey, seconded by Mr. Powers to adopt resolution #51-2022. Voice vote; all ayes, motion passed.

Public Hearings:

Mr. Kozak announced that application #22-34 for Randee Butler was continued to the September 15, 2022 regular meeting and no new notice would be sent.

1. #22-42 – Daniel O’Donnell – Lot Coverage Variance

Present – Daniel O’Donnell, applicant.

The applicant is requesting a lot coverage variance to allow 10% lot coverage where 3% is the maximum permitted for the construction of a 40’ x 40’ pole barn, 20’ x 17’ porch, a 20’ x 17’ patio, a 20’ x 12’ deck, and a 7’ x 200’ driveway, along with any other variances or waivers deemed necessary by the Board. The property is located at 1584 Blue Bell Road, also known as Block 10301, Lot 10 in the AG Zoning District.

Mr. O’Donnell was sworn in by Mr. Coe. Mr. Kozak asked if the application could be deemed complete. Mrs. Orbaczewski replied that application was complete. Motion by Mr. Salvadori, seconded by Mr. Cummiskey to deem application #22-42 complete. Voice vote; all ayes, motion passed. Mr. O’Donnell stated he was before the Board for a lot coverage variance for his proposed 40’ x 40’ x 12’ pole barn, a 20’ x 12’ deck, the extension of his driveway which will be 7’ x 200’, so it can go back to the pole barn, and a 20’ x 17’ porch.

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Mr. Coe reviewed the variance request for the Board. Motion by Mr. Cummiskey, seconded by Mr. Powers to grant the lot coverage to allow 10% where only 3% is permitted for the construction of a 40’ x 40’ pole barn, a 20’ x 17’ patio, a 20’ x 12’ deck, 20’ x 17’ porch, and the extension of his existing driveway to 200’ x 7’ conditioned upon the applicant obtaining all Township permits and approvals, outside agency approvals if necessary, compliance with all plans and surveys submitted with the application, and maintenance of the escrow account. Roll call vote: Ayes – Mr. Cummiskey, Mr. Powers, Mr. Cossaboon, Mr. Colavita, Mr. Kozak, Mr. Salvadori, Mr. Papson. Nays – Zero. Abstentions – Zero.

2. #22-43 – Bob & Kim Scimeca – Front Yard Variance/Driveway Variance

Present – Kim Scimeca, applicant.

The applicants are requesting a front yard setback variance to allow a front yard of 39.3 ft. where 100 ft. is required, for the construction of a 4600 square foot single family home, as well as a variance for the number of driveways with one being more than 25 ft. in width, along with any other variances or waivers deemed necessary by the Board. The property is located at 1800 York Avenue, also known as Block 15303, Lot 29 in the R-3 Zoning District.

Public Hearings: (continued)

2. #22-43 – Bob & Kim Scimeca (continued)

Ms. Scimeca was sworn in by Mr. Coe. Mr. Kozak asked if the application can be deemed complete. Mrs. Orbaczewski replied the application can be deemed complete. Motion by Mr. Cummiskey, seconded by Mr. Powers to deem application #22-43 complete. Voice vote; all ayes, motion passed. Ms. Scimeca stated she is before the Board because they want to construct a single family home approximately forty feet back instead of a hundred feet that is required. They also are constructing two driveways one on Orchard Drive and one York Avenue with the one on Orchard Drive being wider than twenty-five feet. Mr. Kozak asked how large the property is they are building on. Ms. Scimeca stated it is a little over an acre but it's wider than it is deep. Mr. Kozak agreed that the property is not as deep as it is wide.

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Mr. Coe reviewed the variance requests for the Board. Motion by Mr. Cummiskey, seconded by Mr. Cossaboon to grant the front yard variance to allow 39.3 feet for the construction of a 4600 square foot single family home, along with the variance to allow more than one driveway, and one of the driveways to be more than 25 feet in width. The conditions of approval are the applicant must obtain all Township permits and approvals, all outside agency approvals, compliance with any COAH fees, and maintenance of the escrow account. Roll call vote: Ayes – Mr. Cummiskey, Mr. Cossaboon, Mr. Colavita, Mr. Kozak, Mr. Powers, Mr. Salvadori, Mr. Papson. Nays – Zero.

3. #22-41 – Dan & Linda Tomarchio – Use Variance

Present – Linda Tomarchio, applicant.

The applicants are requesting a use variance to allow an existing accessory structure larger than the principal use on their property, along with any other variances or waivers deemed necessary by the Board. The property is located at 3546 S. Black Horse Pike, also known as Block 5901, Lot 5 in the RD-C Zoning District.

Ms. Tomarchio was sworn in by Mr. Coe. Mr. Coe stated Mr. Powers asked to recuse himself from the Board for this application due to a conflict of interest. Mr. Powers was asked to leave the room until after this application was decided. Mr. Kozak asked if the application can be deemed complete. Mr. Orbaczewski replied the it has not been determined if the applicant's addition to the pole barn is an exemption under the Pinelands rules; however, she can request a waiver of the Certificate of Filing for the use variance until it is decided if the use is granted. Mr. Coe followed up and stated the Board routinely will grant such a waiver for completion purposes only but it will be part of the conditions of approval if required by the Pinelands. Motion by Mr. Cummiskey to deem application #22-41 complete.

Public Hearings: (continued)

3. #22-41 – Dan & Linda Tomarchio (continued)

Mr. Andrew Karcich, Esq. asked if he could speak to the motion to deem the application complete. He introduced himself as Mr. John Valentine's attorney. He stated he had an issue with completeness for several reasons. He stated the notice published in the newspaper states the application is for a use variance; however, it is actually an application for three variances. The property is a non-conforming use in the agricultural commercial zone where residential uses are not permitted. That makes this property a non-conforming pre-existing use. He also believed the application should address lot coverage issues which were not noticed for and should be part of the application. Mr. Karcich submitted aerial photographs of the property marked as Objectors 1. The application only noticed for a garage for parking vehicles but in addition to the garage that's already been constructed there has been some extensive grading. The grading waiver granted by the Township Engineer was limited to the grading for the building itself. He stated that the property is approximately 1.8 acres and clearly there is an issue with lot coverage. He also believes the applicant needs a D2 variance for the expansion of a pre-existing non-conforming use and a D4 variance for the maximum permitted square footage of a structure. None of these variances have been advertised. He did not see how the Board could determine the application is complete. Mr. Karcich also commented on the applicant providing an old survey with a hand drawn addition. He stated that the building contains three mechanical bays and at least two lifts and a bathroom.

Mr. Coe asked Mr. Karcich what those issues have to do with the issue of completion because they were discussing completion and not the merits of the application. Mr. Coe stated the application before the Board is for a 2160 square foot pole barn which is larger than the principal structure. The issues being raised do not have anything to do with the issue of completion. Mr. Karcich stated the zoning permit that was issued states the pole barn addition is for the storage of vehicles. Mr. Coe stated the allegations of what the garage is being used for does not have anything to do with completeness. Mr. Karcich replied they may not but the Board professionals should be given all the information when they review an application. Mr. Coe asked Mr. Dickerson if the application was reviewed solely on the size of the garage and if he saw any issues with lot coverage or bulk variances. Mr. Dickerson replied he did not have information concerning those issues. Mr. Coe commented that if necessary the application can be bifurcated to deal with any bulk issues. Mr. Karcich replied the bulk issues can be bifurcated but the notice sent was deficient and did not sufficiently educate the public. Mr. Coe stated that he has reviewed the notice and he believes is it adequate for the application submitted which is for a use variance for the accessory structure being larger than the principal use. If any other bulk issues become apparent the Board can address those as part of a bifurcated application. He stated a motion to deem the application complete would be in order.

Mr. Cumiskey made the motion and it was seconded by Mr. Kozak; there was a voice vote with all members being in favor, none opposed. The application was deemed complete.

Public Hearings: (continued)

3. #22-41 – Linda & Dan Tomarchio (continued)

Ms. Tomarchio stated she is before the Board to request a use variance for an accessory structure that is larger than her house. She stated in 2017 they put an addition on an existing pole barn. A lean to style addition. The addition is primarily to store their cars; it is a two car garage. The house is small with no basement and not a lot of storage so the addition is the length of the existing pole barn which makes the size of the addition 24' x 40'. There are three garage doors if that is what they mean by bays. The back part of the garage is used for storage and gym equipment that they utilize on a daily basis. Ms. Tomarchio stated back in 2017 they received all the permits necessary from the Township to build the addition along with all the inspections that were required. No one told us we needed a variance for the size of the garage; however, the addition is 960 square feet which is smaller than the house which is why it might have been looked over.

Mr. Coe commented that a number of similar applications have come before the Zoning Board that were mistakenly handled by the previous Zoning Officer. He just wanted Ms. Tomarchio to know her situation is not unique. Ms. Tomarchio stated she did not see any negative impact for the structure to any of the neighbors. There is more than fifty feet from the side of the building to Mr. Valentine's property line. They did not do any extra grading and they did not clear any trees. She stated she spoke with Mr. Seeber from the Pinelands who indicated she did not need to make an application since the building was not twice the size of the house; the house being 1152 square feet and if doubled it equals 2304 and the accessory building is only 2160. Also because no trees were being removed and the property is not in the wetlands or in a wetlands buffer. She stated there has never been any other neighbor complain about their garage to them or the Township. It is just a conflict with Mr. Valentine. She also stated it took a while to come in for the variance because they were not notified until 2020 and then there was Covid, and then personal reasons, including litigation with the neighbor but they are here now for the use variance.

Mr. Coe asked if there is any other use in the building besides parking their vehicles. Ms. Tomarchio replied they have gym equipment in one side and some personal storage in the back. Mr. Coe stated typical conditions they place on accessory structures is that there will not be any commercial use. He asked if she would agree the building would not be used for a commercial purpose. Ms. Tomarchio replied they do not use it for any type of commercial business. The original building is used as a workshop by her husband. It has workbenches and tools, his motorcycles, so there would not be any room to park their vehicles. Mr. Coe also stated that no living space is permitted in the building. Ms. Tomarchio replied there is no living space and the utilities such as electric, a heater, cable, and telephone lines were all in the original building when they purchased the property probably because the previous owners had a trucking business called Magnum Trucking.

Public Hearings: (continued)

3. #22-41 – Dan & Linda Tomarchio (continued)

Mr. Kozak asked if there was any clear cutting of trees. Ms. Tomarchio replied they have not removed any trees. She stated their property is higher than Mr. Valentine's. They even had the NJDEP come to their house and they determined the property has been elevated since 1974 which is as far back as they could go. They have not elevated their property.

Mr. Karcich asked to question Ms. Tomarchio and stated he was confused by her testimony concerning the size in relation to the house. After some back and forth, he stated the structure in the back is larger than the house. He showed her the aerial photographs, one side taken in 2007 and the other side in 2020. There was a question concerning a driveway and a possible road behind the accessory building. Ms. Tomarchio stated they continued the driveway back to the garage and that there is no road behind the building. The property drops off behind the building and her husband parked his old plow truck back there. The driveway is a stone driveway. Mr. Karcich asked if there is a bathroom in the building and lifts. Ms. Tomarchio replied there is no bathroom but there is a lift in the original pole barn that was there when they purchased the property. Her husband does use it to change the oil in their vehicles and he will work on cars of relatives. Mr. Karcich asked if her husband barbers for his services. Ms. Tomarchio stated he had done that in the past but not anymore. He asked if their vehicles would fit in the pole barn if all the stuff was moved out. Ms. Tomarchio replied they might be able to fit two cars in there if all the stuff was moved out.

Motion passed to open the hearing to the public.

1. John Valentine, 3524 South Black Horse Pike, was sworn in by Mr. Coe. He stated his property is located on the left side of the Tomarchio's which is shown in the photographs. He stated that the previous Zoning Officer did a report which stopped them from building a road and clearing behind the building. That road stopped the water from flowing and caused the water to back up onto his property. They should have made them remove the road. He spoke about the billboard property and how the Tomarchio's have used that property as a parking lot. He stated the building is too big for the property and it does not belong there. The lights from their property blind his house. Mr. Coe asked how far his house is from the pole barn. Mr. Valentine replied it's about 200 feet. He stated the garage has been used as a commercial garage and he did not understand how they were able to build it with no blueprints. They did a lot of grading and extended the driveway and they are causing his property to flood. Mr. Kozak asked if the house was flooding. Mr. Valentine replied not the house, but the side field. He stated it started when they built the road back there and removed the trees. There is a report from the Zoning Officer telling them to stop building the road. He felt the road should have been removed since it stopped the flow of water and caused him to lose 289 trees from flooding, uprooting, and drowning.

Public Hearings: (continued)

3. #22-41 – Dan & Linda Tomarchio (continued)

Mr. Coe asked Mr. Valentine the direction of the flow of water runoff. Mr. Valentine replied it naturally runs from his property to the Tomarchio's property, but when they blocked it off in runs back onto his property. Mr. Coe also commented on his estimation that Mr. Valentine's house is approximately 320 feet from the Tomarchio's pole barn based on the Mr. Karcich's exhibit.

2. Mr. Kevin Dixon was sworn in by Mr. Coe. Mr. Dixon stated he is not a resident of the town but a friend of Mr. Valentine's as well as a professional planner in various other towns in New Jersey. Mr. Karcich stated he is offering Mr. Dixon as an expert in planning and engineering. Mr. Kozak asked Mr. Dixon if he prepared a report. Mr. Dixon replied he did not prepare a report but would give his verbal opinion on the testimony. He stated he would ask for testimony of how the purposes of zoning are advanced by this application and how the site is particularly suited for the use. He did not hear any of that testimony. The applicant also must demonstrate that the use is not a detriment to the public good as well as not being a substantial impairment to the zone plan. These are the things the applicant is required to prove and if they cannot then the Board should not grant the use variance.

Motion passed to close the hearing to the public.

Mr. Dickerson reviewed Mr. Kernan's report for the Board. He stated there is one minor comment with regard to the outside agency approvals. He stated the Board should evaluate the testimony provided by the applicant and if it meets the positive and negative criteria. Mr. Karcich asked if Mr. Dickerson knew if Mr. Kernan realized there was more than one variance required for the application. Mr. Dickerson replied they reviewed the application that was submitted to them. There was some discussion on whether the residential use was permitted in the zone and if it was an expansion of a pre-existing non-conforming use and if a D4 variance is required. Mr. Dickerson stated it is his understanding that a D4 variance is only needed if there's a specific floor area ratio requirement in the zone. Mr. Coe stated the applicant may need an expansion of their pre-existing non-conforming use. He asked Ms. Tomarchio how long they have lived on the property. She replied since 2000 but she believes the house was built in 1992. Mrs. Orbaczewski stated she did see a resolution from 1988 for a variance to allow the house to be constructed in the zone. Mr. Coe asked Mr. Karcich if he did any research on the history of the property. Mr. Karcich replied he did not but it didn't matter regardless of the approvals granted at that time if the ordinance has changed since then.

Public Hearings: (continued)

3. #22-41 – Dan & Linda Tomarchio (continued)

Mr. Coe asked the applicant to address the positive and negative criteria concerning her application. Ms. Tomarchio replied she has already expressed the positive as their house is too small and they have no storage. They are now able to store their stuff in the back part of the garage as well as their gym equipment that they use every day as well as having shelter for their vehicles. Mr. Coe asked if they did not have the storage space for all of the things in the pole barn and the garage would they have to be stored out in the open. Ms. Tomarchio stated that yes the vehicles, the other things that could be stored outside, but the stuff they have in the back of the garage would have to go back into the house. Mr. Coe commented that it's a common question asked as some people might consider the outside storage as clutter on the property.

Ms. Tomarchio commented that there isn't a road behind the garage. She stated the property dropped off but that drop off was farther away before they put on the addition. So when her husband moved his plow truck there, Mr. Valentine thought a road was put in and claimed that is why his property is flooded. She stated counting this evening, Mr. Valentine has claimed five different causes his property is being flooded by them. He is just trying to figure out a way to make them liable for the water on his property. She stated they all have water behind their houses; when it rains there's water and when it doesn't rain there isn't any water. Mr. Valentine also removed all the trees along the property line and claimed they were dead from the water. She spoke about the property where the billboard is located and that the owner of that property has given them permission to use it if they want and that that matter is between them and property owner and none of Mr. Valentines concern.

Mr. Karcich stated the applicant is asking for a D variance which are disfavored by the law and the applicant must demonstrate why the use is particularly suited for the site. He stated they could have built onto the house if they needed more storage or removed all of the items from the existing pole barn to store their vehicles. He stated that there are no special reasons for this expansion and even if the items were stored outside, there was not testimony that claimed those items would be unsightly. He claimed the applicants have a self-inflicted hardship and that they were less than candid in their application stating they were only storing their cars when they are also storing other things. He stated it is clear the applicant has not met their burden to allow the granting of the variance and it should be denied.

Mr. Colavita asked for clarification on the application before the Board stating they are only looking at a use variance to allow the accessory structure to be larger than the house. Mr. Coe agreed that is the application before the Board and they are not there to remedy any other issues. Mr. Dickerson was asked if he thought this matter needed a site plan. He stated it appears the neighbor's house is quite a distance from the pole barn, but he would leave that to the Board. There was further discussion on a site plan or just lot grading being a concern.

Public Hearings: (continued)

3. #22-41 – Dan & Linda Tomarchio (continued)

Mr. Coe framed the motion for the Board. He stated the application before the Board is for an approval of a use variance to allow an accessory structure to exceed the square footage of the principal building. The applicant is proposing a 2160 square foot accessory building and the principal structure is 1152 square feet. The Board has to consider the positive and negative criteria; has the applicant presented sufficient special reasons such as storing things out of view and maintaining a neat and orderly property. If the Board is satisfied with that first prong, then the next is the negative criteria. The Board has to consider the evidence heard and determine if the applicant has demonstrated the use variance can be granted without substantial detriment to the public good and that it does not substantially impair the intent and purpose of the zone plan and ordinance. If you believe those things have been satisfied, then you can grant the variance and if you believe they have not been satisfied then you can deny the variance. The conditions that are typically imposed on this type of variance is that the applicant must obtain all Township permits and approvals, the applicant must obtain any outside agency approvals that may be necessary, the applicant must comply with all plans and surveys submitted, and the applicant must maintain the escrow account. If there are any COAH requirements, the applicant must comply. The accessory structure must not be used for any commercial purposes or as living space. The Board member making motion should indicate whether or not you think the applicant should have to come back to the Board with a site plan.

There was discussion on the applicant needing a lot grading plan and a new survey. Mr. Kozak commented that the Board typically will make the motion in the positive, but that does not mean the member making the motion in the positive has to vote aye. It is done that way to avoid any confusion. After some discussion it was determined that the requirement for a new survey and lot grading would be made conditions of approval. Motion by Mr. Cummiskey, seconded by Mr. Colavita to grant the use variance with the conditions stated and without a site plan. Roll call vote: Ayes – Mr. Cummiskey, Mr. Colavita, Mr. Cossaboon, Mr. Kozak, Mr. Salvadori, Mr. Papson, Mr. Seidenberg. Nays – Zero. Abstentions – Zero.

The Board took a brief recess.

4. #512-SP – Best Auto Deals, LLC – Preliminary & Final Major Site Plan

Present – Sarvjeet Singh, applicant, Len Schwartz, applicant’s attorney, Katie Daroshefski, applicant’s engineer.

The applicant is requesting preliminary & final major site plan approval for a used car dealership to be located at 1521 S. Black Horse Pike, also known as Block 11205, Lot 36 in the RG-PR Zoning District. The applicant was granted use variance approval by resolution #51-2020. Mr. Schwartz introduced himself as the applicant’s attorney.

Public Hearings: (continued)

4. #512-SP – Best Auto Deals, LLC (continued)

Mr. Kozak asked if the application can be deemed complete. Mrs. Orbaczewski replied the application can be deemed complete. Motion by Mr. Cummiskey, seconded by Mr. Powers to deem application #512-SP complete. Voice vote; all ayes, motion passed. Mr. Dickerson, Mr. Sander, Ms. Daroshefski, and Mr. Singh were sworn in by Mr. Coe.

Mr. Schwartz stated the applicant received a use variance to allow the used car lot at this location without a showroom. A variance was previously granted to allow the cars to be located 10 feet from the right-of-way where 20 feet is required. The applicant has received his Certificate of Filing from the Pinelands. Mr. Singh currently operates a used car dealership on the Black Horse Pike near Piney Hollow Road. If the site plan is approved, he will be moving that business to this site. As a condition of approval, the applicant will provide a copy of the application to NJDMV; however, he cannot make that application until he has Township approval. The dealer license from the other site he operates is not transferable to this property and he will submit a copy of the license as well.

Katie Daroshefski introduced herself as the applicant's engineer. She stated the site is approximately 1.13 acres and is vacant. The proposal is to operate a used car dealership and the applicant will be constructing a 1980 square foot building that will contain a 900 square foot office with the remaining portion being used as a garage. There are 48 parking spaces proposed for the used car sales and five parking spaces for customers. There is stoned storage area for cars as well as a stormwater management basin. One driveway access is proposed that will exit onto the Black Horse Pike. A trash enclosure is proposed on the side of the building. The proposal also calls for a two-foot aluminum fence along the property line to Forest Drive and a four and half foot split rail fence that surrounds the basin. A waiver is being requested for the fence around the basin where the maximum height is four feet. Stormwater is being controlled onsite and will be discharged to an existing inlet along the Black Horse Pike. They will connect to public water via a lateral that exists in the Black Horse Pike and a sewer lateral will run from the building to the rear and connect to a main in Holly Parkway via an easement. The applicant is requesting a waiver from providing sidewalk along Forest Drive as the topography is not conducive to allow a sidewalk. They will coordinate with the NJDOT with regard to sidewalk along the Black Horse Pike. A waiver is also being requested for the Environmental Site Assessment.

Mr. Salvadori questioned the height of the fence along Forest Drive and people being able to pull over and climb over it. It was stated that there is a slope from the property to Forest Drive, which makes the fence higher and someone would have to climb up the slope and then climb over the fence. In addition, if someone wanted to pull over on Forest Drive to look at the cars the road is wide enough for other vehicles to get by.

Public Hearings: (continued)

4. #512-SP – Best Auto Deals, LLC – Preliminary & Final Major Site Plan

Mr. Colavita inquired as to the ingress and egress off of the Black Horse Pike. Ms. Daroshefski replied it will be a right in and a right out. Mrs. Orbaczewski asked if there will be a sign indicating no left turns from the site, similar to the one at the Forest Hills egress. The applicant agreed to put a sign. Mr. Kozak inquired as to a fence along the front of the site to keep the cars back the ten feet from the right-of-way. Ms. Daroshefski replied they can install parking bumpers or a small fence to prevent that from happening. Mr. Kozak also inquired as to the split rail fence around the basin and having something to prevent kids from climbing through. Ms. Daroshefski replied the fence has wire mesh.

Mrs. Orbaczewski stated she misspoke with regard to completeness as the waiver for the Environmental Site Assessment is a submission requirement. Mr. Sander reviewed his report for the Board. He stated the applicant has agreed to comply with the comments in his report with regard to reducing the light poles to sixteen feet, and submission of the Stormwater Management Report. The applicant must also provide all outside agency approvals that are required and satisfy his escrow requirements. Mrs. Orbaczewski asked that the Board revisit completeness with the requested waiver for the Environmental Site Assessment and a temporary waiver for completion only, from providing the Stormwater Maintenance Plan and providing the size, height, location, and arrangement of all existing and proposed buildings and signs showing all elevations by a licensed architect. Motion by Mr. Cumiskey, seconded by Mr. Powers to approve the waivers and deem the application complete. Voice vote; all ayes, motion passed.

Mr. Dickerson reviewed his report for the Board. He stated the applicant has agreed to revise the plans to show additional landscaping at the rear of the site. He asked if the applicant is still requesting the waiver for the illumination on the site. Ms. Daroshefski replied they will revise the plans to comply. The applicant is still requesting the waiver of sidewalk. Mr. Kozak inquired as to what type of work is being done in the garage. Mr. Singh replied that they will be doing minor repairs such as brake work and oil changes only on the vehicles to be sold. Mr. Kozak commented that there cannot be any storage of materials outside including old tires once removed from the vehicles. The applicant agreed he would not store any materials outside.

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Mr. Schwartz stated the applicant has agreed to comply with all the professional's comments and comments by the Board on the record and is asking for preliminary and final major site plan approval.

Public Hearings: (continued)

4. #512-SP – Best Auto Deals, LLC (continued)

Mr. Coe reviewed the application for the Board. Motion by Mr. Cummiskey, seconded by Mr. Powers to grant preliminary and final major site plan including the waiver for the ESA and the sidewalk waiver with the following conditions; the applicant must submit the Stormwater Management Maintenance Plan and show the location, size, and arrangement of all existing and proposed buildings in accordance with the Engineer's report, the applicant must obtain all outside agency approvals, the applicant will establish an inspection escrow account, the applicant will comply with all design and performance standards, the applicant will submit revised plans within 60 days, and the applicant will maintain the escrow account. Roll call vote: Ayes – Mr. Cummiskey, Mr. Powers, Mr. Colavita, Mr. Cossaboon, Mr. Kozak, Mr. Salvadori, Mr. Papson. Nays – Zero. Abstentions – Zero.

5. #22-46 – Carter Airstrip Solar 1, LLC – Use Variance

Present – Al Marmero, applicant's attorney, Chris Dougherty, applicant's planner, Jim Wilde, principal with Carter Solar, Mark Malenowski, Engineer.

Mr. Marmero introduced himself as the applicant's attorney. He stated they are before the Board for a use variance and preliminary and final major site plan approval. Mr. Dougherty, Mr. Wilde, and Mr. Melanowski were sworn in by Mr. Coe. Mr. Kozak asked if the application can be deemed complete. Mr. Sander stated the applicant did provide the Environmental Site Assessment; however, there are two statements required by the Township which were not included. Mr. Marmero commented that they will be provided; however, they would ask for the waiver from providing the size, location and arrangement of all existing and proposed buildings since this is a solar field and no buildings are proposed. Mr. Sander was okay with the granting of that waiver for completeness. In addition, the Board will reaffirm its granting of the waiver for the Certificate of Filing. Motion by Mr. Cummiskey, seconded by Mr. Powers to grant the temporary waiver for the ESA statements as well as the waiver from providing the size, location, and arrangement of all existing and proposed buildings, and the temporary waiver of the Certificate of Filing. Voice vote; all ayes, motion passed.

Mr. Marmero submitted a letter of support for the project from Mayor DiLucia which was marked as Exhibit A-1. He stated the project is a solar array that is 2.75 megawatts which will be located at 256 South Tuckahoe Road. The property is approximately 18 acres and has frontage on Tuckahoe Road and Janvier Road. The property currently contains a single family home, a garage/repair shop, and the existing Carter Airstrip.

Public Hearings: (continued)

5. #22-46 – Carter Airstrip Solar 1, LLC (continued)

Mr. Marmero stated the solar panels will be installed on the airstrip so the use of the airstrip will be abandoned. This is a community solar project which will benefit the community by providing ten to twenty percent savings on the customer's annual electric bill and as required with the community solar program, the energy grid will serve low and moderate income residents. Mr. Marmero stated the use is permitted in the zone, however, because the property has multiple principal uses and frontage on two streets, where the solar panels are not permitted in the front yard, a use variance is required. The positive criteria for the granting of the use variance is that solar energy is an inherently beneficial use and with regard to the negative criteria, the Township's support of the project indicates there is no detriment to the public good or to the zone plan.

Mr. Wilde from Integrity Solar stated the Board of Public Utilities created a program a few years ago for distributed generation solar facilities, so rather than the solar being on a roof where some houses are not located in a good location for that, you can buy solar energy from a facility such as this and utilize the energy in your home. A big part of the program is to serve low to moderate income households. The reason for the request to waive the Pinelands Certificate of Filing is because they must have all the necessary Township approvals when they submit their application to the State Board. Mr. Wilde indicated they expect to submit the application closer to the end of the year.

Mr. Dougherty placed his credentials on the record as a licensed professional planner in the State of New Jersey. The Board accepted him as an expert in his field. Mr. Dougherty stated he is familiar with the site and the Township code that effects this property. He reiterated that the use is listed by the State as an inherently beneficial use. They are before the Board for two use variances and they must meet the requirements under the positive and negative criteria. Because this use is classified as an inherently beneficial use that does satisfy the positive criteria so they do not need to go through the site suitability analysis. The airstrip use on the site will be vacated for this project. Due to the size of this project it does not meet the ordinance standard as an accessory use and is considered a third principal use on the property. With regard to the negative criteria, Mr. Dougherty stated that this solar array is a very low intensity use with virtually no traffic and very little noise. The solar panels will be just over eight feet high and will cover the existing airstrip. There will be little if any clearing of vegetation on the site, no loss of farmland, and no loss of protected open space. There are a few single family homes and small business that surround the area but there will not be any impact from this project on those uses. The only negative is that some people find the solar arrays unattractive so to mitigate that, the applicant is proposing substantial buffering along both frontages which includes the fifty-foot setback on Tuckahoe Road and a sixty foot setback on Janvier. New buffering will be installed along Tuckahoe Road; however, there is existing vegetation along Janvier that will serve as the buffer.

Public Hearings: (continued)

5. #22-46 – Carter Airstrip Solar 1, LLC (continued)

Mr. Dougherty stated that while there is no mention of solar uses in the Master Plan, it does speak to enhancing the quality of living for the residents and this project being a community solar project will provide discounts to the low and moderate income users. They understand the property is located in the Pinelands and they will need their approval. He stated that the standards of proof for this type of inherently beneficial use are reduced. He indicated it was his opinion that the positives outweigh the negatives. The issue of multiple uses on the property is not so much the number but whether the site can accommodate all three uses. The Board granted use variance approval some months back to allow the residence, the airstrip, and the auto repair facility. All they are doing is swapping out the airstrip for the solar array. Mr. Dickerson reviewed his report and stated that he has no objections to the testimony given with regard to the use variance.

Motion passed to open the hearing to the public.

1. Diane Walker Elam, 1557 Janvier Road, was sworn in by Mr. Coe. She stated her concern is the noise that will be generated from the project. She remembers the noise when the airplanes used to go in and out but it has been quiet and she is concerned with the noise. Mr. Ed. Carter was sworn in by Mr. Coe. He pointed out the location of Ms. Elam's house on the aerial photograph. Mr. Dougherty stated that none of the existing vegetation between the properties is being removed and estimated that Ms. Elam's property is about 200 feet from the solar array. Mr. Wilde stated the solar panels themselves don't make any noise; it is the inverter panels that are mounted on the racks which are placed every hundred feet or so, that make some noise. He stated if you stood at the end of a row of solar panels and the inverter was located halfway up the row, you would not be able to hear it. He compared the noise to the noise a desk fan would make and stated that the inverters will shut off in the evening. Mr. Marmero stated that if there is any noise over the allowable decibels at the lot line then they will mitigate but they do not believe there will be any decibels at the lot line. Ms. Elam stated she just wanted to come and educate herself on the project and how it would affect her property.

Motion passed to close the hearing to the public.

Mr. Coe reviewed the use variance request for the Board. Motion by Mr. Colavita, seconded by Mr. Cossaboon to grant the use variances for multiple uses, generating electricity offsite, and having solar panels in the front yard conditioned upon the applicant complying with the statewide nonresidential fees, obtaining Pinelands approval, all outside agency approvals, comments in the Planner's report, submission of the completion items agreed to in the engineers report, obtaining preliminary and final site plan approval, and maintenance of the escrow account. Roll call vote; Ayes – Mr. Colavita, Mr. Cossaboon, Mr. Cummiskey, Mr. Kozak, Mr. Powers, Mr. Salvadori, Mr. Papson. Nays – Zero. Abstentions – Zero.

5. #513-SP – Carter Airstrip Solar 1, LLC - Preliminary & Final Major Site Plan

Mr. Marmero asked Mr. Wilde to describe the terms of the lease agreement to the Board. He replied the initial lease is for twenty years with an optional ten year extension and then beyond that two five year extensions. There were questions with regard to glare from the solar panels. Mr. Wilde stated that the modern solar panels have an anti-glare coating and are designed to absorb the sunlight not reflect it. The racking is galvanized steel which is relatively dull and not reflective. The height is approximately 7.7 feet with the two foot clearance at the bottom of the racking. With regard to sound, the ordinance requires that they be under 35 decibels at any common property line and Mr. Wilde confirmed that they will be under that decibel level. In terms of maintenance on the property, the applicant will be seeding any areas that are disturbed during installation. To maintain the grass area they estimate they would mow twice a month. The wiring to the power grid will be underground where they can, but it will ultimately be up to the utility company. Post construction there will be minimal traffic to the site as stated twice a month to mow. During construction there may be twenty trucks a week for six months and all work will take place during regular working hours.

Mr. Seidenberg asked if there will be substations and transformers. Mr. Wilde replied that they do not anticipate onsite substations but there will be a transformer. The existing grid has the capacity so they do not anticipate having much large electrical equipment on the site. There was some discussion on the substation with Mr. Wilde stating a substation will not be located onsite; if one is needed they would be paying the electric company to upgrade an existing one. Mr. Colavita inquired as to the entrance for the construction traffic. Mr. Wilde stated the construction traffic will be utilizing Tuckahoe Road. He stated there will not be any access from Janvier Road. There will also be a six foot high fence surrounding the entire solar array site.

Mr. Melanowski placed his credentials on the record as a licensed professional engineer. The Board accepted Mr. Melanowski as an expert in his field. He stated he has heard all of the testimony and is in agreement with what has been stated. He displayed the color aerial photograph showing the limits of the site with a yellow boundary. The exhibit was marked as Exhibit A-2. He reaffirmed that there will not be any clearing of the existing trees or vegetation and that the construction will be confined to the already cleared airstrip. Mr. Melanowski displayed a color rendering of the solar array site which was marked as Exhibit A-3. The rendering depicted the rows of arrays, twenty-five in total with varying lengths, which will hold six thousand six hundred and five solar panels. He stated the six foot high security fence does encroach into the front yard so they are requesting a waiver. There will be a number of swing gates along the fence for easy access. They are proposing to supplement the buffer in the bare areas which included the adjoining lots to the south and along Tuckahoe Road as well as to the south and north along Janvier Road. He pointed out the path that goes through the woods and stated they separated the enclosures to two enclosures which will provide the continuation of that path through the woods so there will not be any type of impediment for the traffic that goes through there.

Public Hearings: (continued)

5. #513-SP – Carter Airstrip Solar 1, LLC (continued)

The code has two buffer requirements and this site being in the RD-A Zoning District, requires a twenty-five-foot setback buffer for the improvements. They do encroach into that a little bit with the third array off of Janvier Road, which is setback from the property line at 24.2 feet so they are seeking relief from that requirement. There is also a buffer requirement for the solar facility which requires a fifty-foot buffer. They do not comply with the fifty-foot setback because they wanted to keep the solar arrays within the cleared area so as not to remove any existing trees. The arrays range from the 24.2 to about 77 feet setback from the property lines.

Mr. Sander reviewed his report for the Board. He restated the need for the two statements as part of the ESA and Mr. Marmero replied they do have those and they will submit those to him. There are no EVSE parking spaces are required. The site does not require them to be in compliance with the stormwater rules. The applicant will be required to provide approvals from the outside agencies such as the Gloucester County Planning Board, the Fire Marshall, and any others that are necessary. The applicant will also be required to provide inspection escrow and maintain the current escrow account. Mr. Sander stated any documents and plans required must be submitted within sixty days. Mr. Marmero agreed that they will provide the requested items within that time period with the exception of the outside agency approvals. Mr. Dickerson reviewed his report for the Board. He stated there is a lot coverage variance also required in addition to the variances already stated and testified to. He commented that they would like to see a little more landscaping, maybe some staggered landscaping with a little more variety. Mr. Marmero stated that they have revised the plans and added additional landscaping which have not been submitted yet; however, they will work with the planner to be sure that issue is satisfied. There was discussion on the Fire Marshall approval with Mrs. Orbaczewski stating she will give the revised plans to the Fire Marshall once they are submitted to her office.

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Mr. Coe reviewed the preliminary and final major site plan request for the Board. Motion by Mr. Powers, seconded by Mr. Cossaboon with the following variances and waivers; to allow a six foot fence in the front yard, to allow a side yard setback of 0 feet where 20 feet is required, to allow 7.71% lot coverage where 3% is the maximum, to allow less than a 25 foot buffer setback from Janvier Road and to allow less than a 50 foot buffer setback around the entire site where the buffer will range from 24.2 feet to 77 feet in some areas, and the waiver of sidewalk. The conditions of the approval include all the conditions of the use variance, plan revisions in accordance with the Planner's and Engineer's reports and comments agreed to on the record, posting of inspection escrows, submission of all supplemental information, the landscaping plan approved by the Planner, and submission of the revised plans within 60 days.

Public Hearings: (continued)

5. #513-SP – Carter Airstrip Solar 1, LLC (continued)

Roll call vote: Mr. Powers, Mr. Cossaboon, Mr. Colavita, Mr. Cummiskey, Mr. Kozak, Mr. Salvadori, Mr. Papson. Nays – Zero. Abstentions – Zero.

6. #22-45 – Jason Sbalcio – Rear Yard Variance

The applicant is requesting a rear yard variance to allow a rear yard setback of 16.25 ft. where 25 ft. is required for the construction of a 16' x 21.5' deck, along with any other variances or waivers deemed necessary by the Board. The property is located at 1122 Dublin Court, also known as Block 13.0101, Lot 85 in the R-2 Zoning District

Mrs. Orbaczewski stated this hearing is supposed to be done via Zoom. After several attempts to connect with the applicants via Zoom, it was determined they would be rescheduled to the September 1, 2022 and announced to any members of the public present that no new notice would be sent and the hearing will be held on September 1, 2022. Motion by Mr. Colavita, seconded by Mr. Cossaboon to adjourn the hearing to September 1, 2022. Voice vote; all ayes, motion passed.

Public Portion:

Motion passed to open the meeting to the public. There being none, motion passed to close the meeting to the public.

Reports:

1. Mrs. Orbaczewski just stated the next meeting is on September 1, 2022.

Adjournment:

The meeting was adjourned at 10:09 p.m.

These minutes are an extract from the meeting that was held on the above date and are not a verbatim account or to be construed as an official transcript of the proceedings.

Respectfully submitted by: Ninette Orbaczewski, Secretary.