

**DELRAN TOWNSHIP
ZONING BOARD
REGULAR MEETING MINUTES
MUNICIPAL BUILDING
JUNE 21, 2018 – 7:00 PM**

OPEN PUBLIC MEETINGS ACT

Delran Township Zoning Board regular meeting of Thursday, June 21, 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.

OATH OF OFFICE Mr. Lozuke swore in Mr. Randy Khinkis as a full time Board Member.

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

**1109 Fairview, LLC
1101-1109 Fairview Street (Riverdel Center)
Block 80, Lot 49
Use Variance
ZZ2018-04**

Mr. Joseph Paparo, Attorney from Porzio Bromberg & Newman, P.C. representing the applicant and property owner, 1109 Fairview, LLC. The application is for the Riverdel Shopping Center located at 1101-1109 Fairview Street, block 80, lot 49 in Delran & in Riverside Township, it's known as block 26.01, lot 1. As for the municipalities, the site is split with a portion in Delran & some in Riverside.

This application is for a Use Variance to allow one of the vacant stores to be occupied by the Universal Church. The site is located in a C1 zone, limited retail & services.

According to the Township code, Religious uses are prohibited. They are seeking a use variance to occupy 2,738 sq. ft. of vacancy in the center.

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There are no proposed modifications to the building or the site. Only minor interior renovations to the retail space. There will be a new wall sign above the entrance to the space identifying the Universal Church. The existing pylon free standing signs for the Riverdel Shopping Center has a panel available for their use.

They will be seeking a site plan waiver due to them not planning to make any modifications. They will review the Pennoni letter.

Mr. Lozuke swore in Mr. Joseph Alesso, Director of Development for Paramount Assets which is the owner of the shopping center. Jimmy Dumas, Licensed Architect & Professional Planner for 20 years in NJ.

Mr. Lozuke stated that he has reviewed the Notice & Affidavit and believes the Board has jurisdiction to proceed.

As the Director of Development for Paramount Assets, it gives Mr. Alesso the position to work on entitlements, approvals & construction. He stated that he had the pleasure to work on the Dollar General several years ago here in town.

They bought the site back in 2013 & in 2014 they started construction on an abandoned supermarket and converted $\frac{3}{4}$ of it into a Dollar General. They renewed some leases, resurfaced the parking lot, put improvements onto the roof & they dressed up the front elevation with some façade changes & additional lighting. They replaced the existing pylon sign with a new pylon sign.

Mr. Alesso stated that they work diligently with local brokers and national franchisees as well as different types of organizations that would lease space. The center is not on the main highway. Rt. 130 has that exposure & anyone they would have had is lost to that more desirable location. They found being in a strip mall in the middle of a residential area is where they have to cater more to the residential area.

They have had over a 15 year relationship with the Universal Church in various locations thru out the state. They are a tenant of theirs in 3 different locations. Universal Church is an International Organization with affiliates thru out the world. They do these small type churches to provide worship facilities.

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What they find is that they are a good tenant. They pay their rent on time & they don't create the type of environment that would be detrimental to the areas or their shopping centers.

What they find from vacant properties within a shopping center is that it creates other vacancies. They have had 2 vacancies since 2014 and when potential tenants see that, they seek other locations. Those that provide direct support to the local residence may stick around but anybody that can jump to Rt. 130 & get more traffic might do that.

They would like to secure this tenant for financial reasons but also because it's the right thing for the area. When you have a store that's dark, it creates a negative stigma. It hasn't happened there yet because the rest of the stores are vibrant. That fear is out there & for that reason they would like to see the church.

Two things will occur, there will probably be only one person daily at the church but it will bring in 30 to 40 people at their services. Those people will patronize the stores. The patronizing of the stores will keep the tenants healthy and flourish being local tenants with local employees which is good for the town.

Mr. Lozuke swore in Mr. William Borges, usher of the church. He is in the Boston, MA location for 1 year but 5 years with the church. They are a Christian Church that preaches only from the Bible. The closest location currently for people to attend is in Philadelphia, PA.

Services at the church take place Monday, Wednesday, Friday and Sunday. Weekdays are in the evening at 8pm till approximately 9 pm with about 15 to 20 people attending. Sundays are at 9:30 am till approximately 11am with about 30 to 40 people attending. The enrollment most of the time is more than what might attend at a given time. Also, most attendees are older w/ no young kids. The facility will not be used for any other services. The Pastor will be there thru out the day to be there for the members.

This type of church doesn't have big events that would draw large crowds. They do have a program for the youth & parents which are held a few minutes before or after the service.

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Mr. Jimmy Dumas is a licensed Architect for over 20 years in the state of NJ. Also, a Professional Planner from Cornell University for about 15 years with a Bachelors of Architecture. He has testified before many Planning & Zoning Boards up in North Jersey. All licenses are in good standing.

Mr. Dumas stated that there is no change to the strip mall which currently has several tenants. The Church is looking to lease a 2,628 sq. ft. with no structural changes to the unit except for some simple cosmetic changes. The unit will comfortably fit over 40 people & the 2 pastors. There is adequate parking space for what the use of the unit will be for. He stated that he was out at the site and took a few pictures. There was quite a bit of space. It's in a residential area. On the Riverside side it is zoned residential, in Delran it is a C1 zone – limited retail & service. It has 2 towns with 2 different zones.

The signage on the pylon sign & on the building will conform to the ordinance so they are not seeking variances there. Exhibit A-1 on the board is the site plan which was submitted with the application.

Mr. Dumas wanted to discuss the Use Variance due to our township prohibiting a religious use. On the Riverside side it is a conditional use. From the Pennoni letter it was stated that they will need a variance for the impervious coverage which is an existing condition. The maximum impervious coverage is 60% where 100% is what that site has but they are not looking to add to it or make it any more intense than it is now.

Another Variance that was addressed in that letter was the trash enclosure. There isn't one that is part of the ordinance. Behind the center there are trash dumpster that are used by the tenants. Mr. Alesso stated that in order to comply they will enclose the dumpsters but they will need to determine if there will be several or the tenants will have their own. That will be acceptable to Mr. Raday that they have several trash corrals as long as they comply with the ordinance. Either fenced or shrubbery around them. An updated survey will be provided.

The clarification of the parking spaces goes off the square footage of the unit they will be occupying. The total number of parking spaces would be 152 and the total that is being provided is 196. There is a discrepancy with how the planner reviewed it as well as the calculations.

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It is their understanding that they will need to add a few more parking spaces that are required based on the employee count. The parking chart depicted on the plan for the restaurant use that is currently there, has a calculation based on the seats. It seems nominal and they have an excess of parking so there shouldn't be an issue per Mr. Dumas.

As far as outside agency's approvals, The Fire Official letters states that all is good.

In review of the Planners review letter he wanted to clarify that this a D1 (Use) Variance. It's not a permitted use. In order to justify the use, you need to look at the positive and negative criteria. For the positive, you have to consider the uniqueness of the property. One of the challenges in seeking a use variance, it creates a precedence for other properties in similar situation.

The uniqueness is that it is split between two towns. One being a residential area & the other being commercial in the other. One is conditional & the other is prohibited. Keeping it one cohesive property. If it is on the Riverside side, it shouldn't be held to different standards than the Delran side. In a municipal land use law, that if there are provision of services for the local needs. He feels that a church within a neighborhood could do just that as a positive for the local needs.

The courts in NJ have recognized religious uses as inherently beneficial. They inherently promote the public good. If a use is found to be inherently beneficial as the courts have found then that satisfies the positive criteria.

With the negative criteria, they need to establish how this would contribute to the detriment of this part of town. Also, that the variance will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. There is no retail but service for the area. He believes the positive criteria will definitely outweigh the negative criteria.

OPEN TO PUBLIC

Mr. Lyon made a motion to open to the public. Mrs. Parento second it. The results are as follow:

Motion passed with a unanimous voice vote.

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CLOSE TO PUBLIC

Mr. Lyon made a motion to close to the public. Mr. Khinkis second it. The results are as follow:

Motion passed with a unanimous voice vote.

There were no objections in reference to any of the comments from the Professional's review letters.

Mrs. Parento made a motion to approve the Use Variance application based on the stipulations in the professional's review letters. Mr. Lyon second it. The results are as follows.

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

ABSENT: Mr. Smith

DISCUSSION

**Bee Dee Associates
73 & 79 Hartford Road
Block 120, Lot 40 & 42.01
ZZ2018-02
Minor Site Plan**

Mr. Joseph Pinto, Attorney for Mr. Gaskill, the applicant. Bee Dee is before the Board to amend the prior Site Plan that was approved a few years ago to add more spaces to park some additional trailers in the lot. On the plan, he showed where he would like to add the spots.

Mr. Lozuke swore in Mr. Robert David Gaskill, Sr. Owner of bee Dee, Associates. Mr. Gaskill explained what the site is about. They have ongoing parking & rentals of the buildings and area for that site going on 20 years when his father owner it prior to his death. In the last 5 years since he took over he has expanded & cleaned the area up. And did all the improvements.

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He stated that he gets calls from all the surrounding areas all the time asking about being able to park their truck trailers at his site. He stated that there is a big demand for spaces to park. They are not allowed to park at their home or in the parking lots. He knows that a place up in Burlington has about 50 spaces and there is a 2 year waiting list. He is trying to provide a service to people.

Mr. Lozuke asked that he identify all of the existing uses on the site. The property is broken up into 2 different spaces. One is Bee Dee Associates, the other is the Estate of Robert W. Gaskill, his deceased father. He pointed out different businesses that occupy the space. Bills Truck Service, Lindy's Landscaping, tenants empty building not occupied. There are some spots that he rents for small trucks & RV'S. Pizza Amore & the Beauty Shop which owns there spot from a minor subdivision application in 2004. The prior approval had required that certain things be done. All completed except a split rail fence across the rear area of the property.

The reason for this application is that he would like to move the location of that split rail fence back 120' towards rear of the property. There is a 50' buffer before the wetlands on the property of which he is looking to place it 10' before where that buffer begins. He has a letter from the DEP from the last application. It was a cleanup & re-planning according to the DEP requirement. Reason for that letter was due to the vegetation that had been disturbed. They wanted a plan so Bee Dee entered into a consent order to actually replant & regrade from back 15 years ago. The plan reflects the terms of the order. That was completed & signed off by DEP if needed, will be supplied from Mr. Pinto.

Mr. Pinto asked if this would generate a significant amount of traffic. Mr. Gaskill stated no. Most of the people that use that space are gone for a week or two at a time. Others will park there trucks for longer periods at a time. Mr. Gaskill uses 3 or 4 spots for his own truck that are used for maintaining the site.

The report stated that there was a part of a vinyl fence that was damaged. Mr. Gaskill stated that it has been repair. The report also mentioned about trailers for storage & sinking tires. There is a shipping container that a person uses to empty out contents of houses that people are selling and then disposes those contents. The container will remain empty till next run. There was a mention of tires sinking in the mud. The guys will put boards under their tires to keep it from sinking.

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The spaces that they are looking for approval on tonight will be in the back. The tractors will have to go to a point then back it into the spot. The spot is 18' at the mouth and opens to 25' but it's really bigger than that per Mr. Gaskill. The fire emergency trucks will have no problem maneuvering back there.

Mr. Lyon asked how he would know that the tractors don't sit loaded while there. Mr. Gaskill stated that that's how they make their money by dumping their loads. Doesn't believe someone would not empty the contents of it. Also, he asked about the area being big enough to jockey around with big trailers. Mr. Lyon's concern is that if someone accidentally knocks into one, it would be like a domino effect and they would just all fall over. There are two 45' trailers back there now.

Mr. Hewko asked if there would be lighting put back there. Mr. Gaskill replied no to any lighting. The parking lot will have some sort of gravel where ever it is needed according to me Gaskill. Mrs. Parento asked about the crush asphalt that is presently there. Mr. Gaskill stated that it is asphalt pieces of sort that have been there for many years. Also she asked about the fire lane and the 18' wide side for the emergency vehicles. He stated that if the plan needed to be changed per the Fire Official, then he would do it.

The intention in adding extra spots is to allow tractor trailers in the longer spots & smaller RV'S or boats in the smaller spots. The spot is not intended for cars but presently there are 2 cars, a landscaper chipper with chipper truck, a van & car that are junk which he is trying to get the lady to get them out.

The only time cars will be sitting there are when a trucker places his car in his spot while he is on a long distant run which sometimes can be up to 2 weeks. No intention having them sit for a long period of time per Mr. Gaskill.

Mr. Lozuke asked Mr. Gaskill about his previous approvals of the different uses on that site. This application is expanding the use of the site which had previous approvals. Is there any testimony on the Use Variance they would like to provide.

Mr. Raday mentioned things from the previous Resolutions on the site. ZZ2012-03 condition #2, outdoor storage of landscaping materials on lot 42.01 is not approved under this application. Mr. Pinto stated it wasn't intentional. Mr. Gaskill said, he didn't know it was part of their approval. That landscaper is trying to sell all his stuff & get rid of it. He stated that he will get rid of it.

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Also, the Use Variance for lease of outdoor storage with the conditions that either in operable motor vehicles unregistered nor inoperable mobile home shall be stored at the site and that the applicant will make every reasonable effort to remove any existing vehicles that meet that description. Mr. Raday noticed mobile homes & additional vehicles that are unregistered being stored there. Mr. Gaskill stated he only knows of one mobile home close to the entrance. He has been trying to get it out of there for 6 months.

The Resolution also states outdoor storage shall be located & limited to the areas portrayed on the plan. When they were out there they saw so much on the site that was way beyond the allowable limit on the plans.

He bought all the material for the split rail fence which is sitting on the site. He didn't put the fencing up because he had too many old trailers there that he had a hard time getting rid of. He finally got rid of them & people started asking him for parking. That's when he decided to come back for another approval for extra parking.

The Resolution also provided a design waiver for gravel parking instead of asphalt surface. The stipulation is that the Professional Engineer & the Township have to make sure that it's being taken care of. The Pennoni Office & the Delran Fire Department has visited the sight & it's their opinion that it's not being taken care of properly. Mr. Gaskill asked what area he was talking about. Mr. Raday stated that it the entire area. If you look at where the tractor trailer are parking it's beyond the designated gravel parking area per the plan. The ones in the back show that they sit in puddles of mud, it was observed that the trailers were leaning over. It is a safety concern, again these are things that should be address.

In the Resolution from previous application ZZ 2015, there was an access easement to allow ingress & egress for lot 40 thru 42.01. They saw that in that easement, there were vehicles & mobile homes parked in that area. That also would have to be addressed. One of the requirements in the Resolution was to remove all the vehicles that were not registered or not in service. Mr. Gaskill stated that the area in questions is 50' wide & he doesn't have anything blocking the access driveway. Bill's Truck goes in & out there all day.

Mr. Lozuke told to Mr. Gaskill that what Mr. Raday has alluded to is that, which was previously approved on Lot 40 is what the Board & quite frankly what the town

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expected would actually exist on the site. He believes the current conditions expand what was previously approved. By Mr. Gaskill's own testimony, he admitted that particularly in respect to the parking in the rear. The professionals & the Board Chair said they see several vehicles that were no in service & not registered. Mr. Gaskill begs to differ. He said there is only one that he sees.

Mr. Pinto asked Mr. Gaskill if he polices the property. He said he does. Mr. Jeney stated that the last Resolution is, as of today, is that the Master Plan, it doesn't fit in the Township Master Plan. There was a comment last time about the fact that it did not meet the intent of the Master Plan & there where some real opposition to any changes there. I think they compromised and came up with a plan that would work for both of them.

He stated that Mr. Raday is saying that is when the site was visited by several of the Board members & the Professionals, they saw things that weren't in compliance & it's not the Township's responsibility to comply with the Resolution, it's you're responsibility. Also, it is not the Townships responsibility to police it daily to make sure it is being complied to.

It would appear to Mr. Pinto that if somebody who has connection with the Board, whether it is the Engineer, or the Zoning Officer, someone should go with Mr. Gaskill and walk the site with him stating exactly what the resolution is calling for. Mr. Gaskill said he is down there 2 or 3 times a week. He doesn't have the money to pay someone to manage the site.

A citation from the Zoning Officer was issued to him about 6 months ago for Property Maintenance issues on the site. The Resolution called for a split rail fence to be installed 3 years ago but it was never done. This is the reason why they are back before the Board trying to add spaces before they install a fence.

The ground out there is practically flat so water doesn't run off. There is about 90% of milling which was called for in the last Resolution. The suggestion of putting blacktop down and curbing wouldn't be the thing to do now. Mr. Pinto stated that the property is up for sale & it would be very costly to do all that just to turn around & sell it and they would probably just rip it up.

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What that site has right now is just a stop gap till it is sold so he can have enough money To pay the taxes and keep the place going. Once it is sold, he said a developer would do something totally different to what is there now. With the Resolution and the decision they come up with follows the property. If it is sold, they wouldn't have to do any improvements if it wasn't called for from this application. Mr. Pinto said that he couldn't imagine anyone purchasing this property to continue this existing use.

Mr. Jeney asked Mr. Raday if there is something that he can put down for the surfacing. Mr. Raday stated that they can do the asphalt millings or a thicker base of dense graded aggregate. They have to come up with something to improve the site. Mr. Gaskill stated that he can put milling down and make it thick in the middle & spread it out.

Mrs. Parento question Mr. Bauer about his review & observation of the site. Mr. Bauer stated that he took the pictures in a 2 week span. Some trucks show no gravel under them, just mud where one of the vehicle's is already sinking in it. They do have enough turning radius to get in there but the minimum standard for the isle width is 20'. The other concern was the dilapidated vehicles and other storage items there. Not only being an eyesore but also a target for vandals. His concern is the condition of the property, not just the Fire Departments access but also the stability of the trailers that are parked there in case they do have an incident there, that it's safer for his people.

The biggest concern is the ground and putting gravel down. If the Board proposes a condition of the gravel to be put down, they will do it. Mr. Raday stated that the application's engineer should provide documentation that they are going to adhere to the previous Resolution in 2015. He would rather see an updated plan and show that they are going to be able to apply with that. Right now there are too many issues on that site.

Mr. Raday said that he would recommend that in lieu of using asphalt, he would say a minimal of 6" of DGA (dense graded aggregate) with a filter fabric.

Mr. Jeney asked of the applicant & his Attorney that they meet with Mr. Raday and talk with his Engineer to discuss what we would be looking for. That way they will know & be ready to discuss exactly what is expected of them. We will give them a 3 month time frame and expect that when they come back to the Board that they will be squared away.

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OPEN TO THE PUBLIC

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

Motion passed with a unanimous voice vote.

Mike Bigaj is the homeowner who lives at 3105 Bridgeboro Road. His concern is that if they open that up for more parking spaces, will it be policed & will his family be safe. As the parking lot has grown in the last few years, he has noticed more trash coming on his property. If this does develop, he would like trash taken care of correctly. People sitting in their trucks overnight keeping their selves warm. He wants to know if there are any regulations on that to be met. Mr. Raday stated that it is a federal law that they can't keep trucks idling. He would like the tenants be aware of it & that it's upheld. Also, the noise. In the summer it's better but in the winter he hears everything. If this goes thru, he would like to request a fence so their property is protected & they wouldn't have to look at it. His concern is that the property is for sale & he is worried about what might go there. The mention of the grading of the area for the trucks is a concern also of possibly water being directed onto his property. He said that maybe they can grade it to flow off to the wet lands.

CLOSE TO THE PUBLIC

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

Motion passed with a unanimous voice vote.

Mr. Lyon stated that if tenants leave their belonging in a trailer left behind, you should have some provision when they come to lease the space. He has a concern of this happening in the past, how do they know it's not going to happen in the future should this Board approve the application next time you come in.

Mr. Jeney stated that we will move forward, you will meet with the Engineer's and try to get this under control & understandable and then move forward. Applicant agreed to wave all time requirements.

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Mr. Lozuke stated in order to establish a time frame to come back before the Board they will work with Mr. Raday to craft a plan particularly with respect to the parking surface. Then the second issue if the Board was inclined to grant Use Variance approval and amended site plan, there would be conditions within any such Resolution as far as time parameters to install & construct the improvements. One of the additional conditions could be that that additional area that is being proposed not be used or utilized until the Engineer has signed off on any approved improvements to that surface. That would also be a bonded item as well as any open conditions such as the fence.

For notice requirements, we will presume that you will be at the August meeting so that no additional notice is required however if it extends beyond August then additional notice will be required, in addition to submission of the plans at least 10 days before the meeting.

Mr. Jeney wanted to let the Board be aware that the Secretary told him that the 2 corner properties on Bridgeboro & Hartford have been sold to a developer looking to do something in the Neighborhood Commercial Zone.

MINUTES

Minutes from the May 17, 2018 regular meeting.

Mrs. Parento made a motion to approve the May 17, 2018 minutes. Mr. Khinkis seconded it. The results are as follows:

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

ABSENT: Mr. Smith

Mr. Lozuke stated that he will be stepping down as the Solicitor of the Zoning Board. Mr. Albert Olizi will be taking over for him. He will finalize the outstanding Resolutions and update him on this application that was just heard.

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ADJOURNMENT

Mr. Lyon made a motion to adjourn the meeting at 9:10 pm. Mr. Khinkis seconded it. The results are as follows:

Motion passed with a unanimous voice vote.

Respectfully submitted,

Kathy Phillips, Secretary
Planning & Zoning Board