

**DELRAN TOWNSHIP
ZONING BOARD
MUNICIPAL BUILDING
REGULAR MEETING
MARCH 21, 2019 – 7:00 PM**

OPEN PUBLIC MEETINGS ACT

I would like to call the Delran Township Zoning Board meeting to order. All meetings of this Board are held in compliance with the provisions of the Open Public Meetings Act in a resolutions adopted by the Board’s annual reorganization. Pursuant to the Board’s resolution, public notice of this meeting has been made in the following manner:

Written notice filed with the Secretary of the Board, the Clerk of Delran Township and on the official bulletin board of the Township. Written notice has also been mailed to the official newspapers 10 days before the scheduled hearing. Written notice has also been mailed to all persons requesting a hearing before this Board.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Mr. Jeney, Mr. Smith, Mrs. Parento, Mr. Hewko, Mr. Chascsa

Absent: Mr. Singer, Mr. Anderson, Mr. Khinkis

Professionals: Ed D’Armento, CME Engineer, Mika Apte, CME Planner & Jen Johnson,
Attorney

NEW APPLICATION

Bee Dee (Carried over from last meeting)

73 & 79 Hartford Road

Block 120, lot 40 & 42.01

ZZ2018-02

Minor site Plan

Mr. Pinto I know the way this usually goes but before you begin your presentation I was going to ask a few questions to get some clarity. I know there’s a long history with this application.

Mr. Pinto: Yea that’s when you said it was a new application I was wondering it if had to do with this.

Okay well I’ll begin by saying I think it’s a new application because I’m not clear, this prior approval that was given in 2014 does not exist at this point in my option. So I wanted to ask some questions to explain me why you think it does exist.

Ms. Johnson swore in Robert David Gaskill. I wanted to ask Mr. Pinto if he could give me a short summary on how we got to today.

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Mr. Pinto: I don't know if I remember...this was submitted back in August, this application was an application that submitted back in 2010 or 2011...this application is submitted....this was a new application when it was submitted last year to ask for basically additional relief from the old application that had been subject to the resolution in 2014 I think it was submitted....there were conditions in the other one suggest that we satisfy all those except for the placing of the rail fence in the back. He then wanted to add spaces in the area and push the split rail fence back and that's what precipitated this application so which when we filed it that was the reason it was filled.

Okay so then I guess I will ask you a number of questions I had regarding that resolution...that approval which I'm understanding that was also predicated on previous application is that true from 2004?

Well it wasn't predicated on....

Well one of things you're asking for is an expansion of an existing nonconforming use.

Mr. Pinto: Well the application way back in 2004 had to do with the subdivision...they subdivided off the lot in the front from the hair salon. That the principle on what it was. The application that was approved last in 2014 to expand the use because they had two separate lots...one was residential and one was agriculture if I'm not mistaken...neighbor commercial and agricultural and the trucking business that's located on one lot would be nonconforming and because the access to that trucking business has to come through the other lot and the lots are owned by two different amenities. Ones the Gaskill estate and the other one is Bee Dee Associates which was Mr. Gaskill...not Mr. Gaskill but his father that was his separate entity and the access is coming through. So we had to ask that then was in effect and expansion because the old access was through the driveway of the beauty parlor and there a minor access next to the house and the fire department didn't want that to be an access. That was just going to be a limited fire access and there was going to be a chain fence put up so that couldn't be used to get in there so the other entrance from the bigger piece into the trucking business that would be used that way. Then we had asked for permission to have a landscape business wanted to store his machines and some mulch and landscape type material so that was an expansion of the nonconforming use because your ordinance didn't permit two separate uses on the same lot. But the trucking business has been there in that business for so long so that was the last application that dealt with the landscaping and also dealt with parking and these trailers that were parked here for people come in and they store trailers here then they come and get them and take them on the road and we put a lot of things in here. We had to put in these improvements out front was a requirement that we do. We had to have these parking areas that we requested and these were all approved. And then this application is to add these spaces in the back and which of those spaces were added here...these three here and we

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changed this because they wanted access in the back enough room to get fire equipment through here. So that's the history of it.

Okay can I ask you some questions? Was the access driveway from Hartford Road...sorry we just talked about that....did you record a permanent access easement from lot 40 to lot 42.01?

Mr. Pinto: I don't remember if I did or didn't if I tell you the truth.

I couldn't find one so I'm guess the answer is no.

Mr. Pinto: Well I didn't submit it to the engineer for approval which I have to do.

Well it was supposed to be done by October 22, 2015.

Mr. Pinto: yea but we had so many delays I don't even know if...we had filed this application...now I'm trying to remember it's been so long.

Okay, was the split rail fence added by October 22, 2015?

Mr. Pinto: It was supposed to go across here.

So the answer is no?

Mr. Pinto: It was not done it was the only thing that was not done.

Is the outdoor storage for material for the landscape business limited to just lot 40?

Mr. Pinto: Yes right here.

Are there inoperable motor vehicles or mobile homes stored on the site?

Mr. Pinto: There's two vehicles...there's a van and one mobile home.

So the answer is yes?

Mr. Pinto: Yes and I'm trying to get them removed the one person who has the mobile home is recently divorced from her husband who left it there and he went away to Jamaica and she's here by herself.

Has the outdoor storage been contained to the area portrayed on the plan?

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Mr. Pinto: Yes.

Because from google images that does not appear that is correct.

Mr. Pinto: You'd have to show us what the google image shows we have a google image map here.

The three tempered spaces between the proposed vinyl privacy fence and Hartford Road, have any vehicles been there any longer than 24 hours?

Mr. Pinto: Yea they do once in a while I mean most of the time it's not Bill uses that as a storage area for people when he fixes their trailer or truck he uses that for them to come pick them up after hours.

Have you taken down the radio tower in the building?

Mr. Pinto: Yes the radio tower has been taken down the building has not.

The building is still up?

Mr. Pinto: Yea the building is being used as a small storage area for the guy who has trucks and needs a generator.

And I think I already know the answer to this, except for the allowed gravel areas shown, in the shown areas for equipment storage and circular driveway to remain all areas that were graveled shall be planted with a ground cover approved by the board including the addition of appropriated soil amendments to create conditions suitable for plant growth. Has that been done?

Mr. Pinto: Yes.

Was the ground cover approved by the board?

Mr. Pinto: I don't know how you get it approved by the board. The engineers were supposed to talk to each other and I don't know if that ever happened.

What engineers?

Mr. Pinto: The engineers that reviewed this the last time. Who were not here, they were supposed to, our engineer...

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Your engineer...the applicant had the responsibility.

Mr. Pinto: They were supposed to talk to the engineer.

Let me be clear about...are you familiar with the resolution from 2014.

Mr. Pinto: Yes.

That specifically states there's a number of things this is in December of 2014 so I don't know the significates of this state, but you had until all variances and waivers granted from this amended and new application shall be further conditioned upon the applicant completing all required site improvement before October 22, 2015. So I don't know why...where that date came from but you had 10 months to do all this and now 10 months plus 3 and a half years.

Mr. Pinto: Yes because I wanted to go in for a new application to extend the parking.

Okay you didn't have that option you were supposed to do this by October 22. If something changed before October 22 then it was on you to come back and say I know I got approval for this I want to change something. I know my deadline blooming October 22 but can we amend the application I now want to move the fence 10 feet back or what have you. Let me continue. Has a tree line been depicted on the new plan?

Mr. Pinto: No and it wasn't required back then either. It was not required back then.

Let me move on, it has not I just went through all the things that supposed to be done by October 22, 2013.

Mr. Pinto: That wasn't required.

Now I'm moving on to the engineer's letter on things that were supposed to be done by tonight.
Mr. Pinto: Well our waivers on the lot and stuff.

I know and the things you asked for waivers of I'm not asking about. I'm asking about things the engineers said that waivers are not a good idea as they told your engineer.

Mr. Pinto: We only got the engineer's report a short time ago.

Time isn't a really good defense in this one this is a very old application. Excuse me Mr. Pinto right now I just want to ask some questions and then I'll allow you to talk but I just have some questions. I just don't understand coming onto the board just now in 2019. I don't understand

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how this was allowed to drag on for so long it's not fair to the board, it's not fair to you, and it's not fair to Delran who's paying for this.

Mr. Pinto: I'm not saying anything about that it is what it is it dragged on I you know...

I don't want tonight to drag on just let me finish my questions. Was the trash container relocated?

Mr. Pinto: Trash container relocated? It's located on the plan.

A proposed trash container on lot 40 was recommended to be relocated as it may interfere with the proposed parking isle. The trash container shown in the same location.

Mr. Pinto: Are you referring to the amendment on March 6th?

Yes. That was I said I moved on to the engineer's letter of things that...

Mr. Pinto: We haven't don't anything with this engineer's letter yet because we only got it on March 6th.

Mr. Pinto I'm just asking yes or no questions I'm trying to get a handle on how this became such a mess. Your answer is no the trash is....

Mr. Pinto: Yea it has its located on the plan.

Has it been moved per the engineer's suggestion?

Mr. Pinto: I don't know where he wants it.

If I may, we have memo dated March 6, 2019 is that a continuation of the previous engineer's at the times letter and that was dated November 2018 and in that one of the items that was asked was to move the trash container because apparently that terminal for problems with circulation that was one of the items that was there since 2018.

Mr. Pinto: I disagree with that because it's here right next to the building and I don't know where he was talking about.

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Here I'm seeing the earlier engineer's letter from 2018 memo in that according to A1 identifies that trash container on your property the engineer difficulty for parking and that the trash container must be moved. The revised plans...

Mr. Pinto: I don't know where...when you say you talking about the revised plan?

This was the November 7th.

Mr. Pinto: So this plan was submitted to them so they're reviewing the plan is what they're saying. Well I disagree with that statement.

October 20...this plan that has been filed and submitted received a review then dates from the previous problems and that just used to be the same location.

Mr. Pinto: It is and it's not in the way of anything.

Okay well that's irrelevant the answer is no it hasn't been moved. Have you gotten any fire marshal approval?

Mr. Pinto: We've gotten no letters from the fire marshal.

Burlington County Planning Board Approval?

Mr. Pinto: No we don't need that. We didn't have it last time.

You checked off that it's required.

Mr. Pinto: If it's required because it's on a county road they usually ask for it after the approval here.

So the answers no?

Mr. Pinto: Yes

You haven't gotten it? I'm trying to make a record here that's all I'm doing I was not here for all of this and I'm not understanding...what was the last time you were before the board?

Mr. Pinto: Three months ago? It was more than that.

The last application I saw you were here was June.

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Mr. Pinto: That's probably correct.

And you were given...you were told to come back in three months.

Mr. Pinto: No we weren't told to come back in three months. There was things that were bared to be done but it wasn't that we were supposed to come back here. Nobody ever told us to come back and nobody ever scheduled us a meeting to come back. I didn't interpret the request that these things be done by a certain date as a request we come back.

Okay now I feel like I'm jumping around, you were supposed to get done all those other things by October 2015 that's a separate issue, now I'm moving forward to June of 2018 and what I see from the resolution...

Mr. Pinto: You talking about the postponement because it's to give me more time to get things done.

Okay that's what I'm asking you that's not clear by the record why it's now March of 2019.

Mr. Pinto: Well because there was times we asked we were told there wasn't going to be a meeting or you know we request a continuance every month.

Mr. Gaskill: Like January you switched everything around you changed engineers you changed solicitors so we couldn't come in January.

You were supposed to be back in September and then there was an issue with the escrow shortage. You didn't have the funds to do that so you can't pay you can't appear so we tabled that...postponed that we made sure we noted it on the boards and everything so it kind of just kept getting postponed and postponed it was not completed. If we had something scheduled I can't remember we may have canceled it.

Mr. Pinto: I can't remember.

Yea I can't most of our zoning meetings we've had...

If it was canceled then we had no business.

Right and meanwhile Dave's engineer was supposed to meet with Pennoni who that was our engineer at the time remember that they were supposed to discuss it and be back by September.

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Mr. Pinto: I don't know what happened then we had the plans drawn up plus the trip to plan we had to get the engineer to draw the plan so it made it to October 2018.

So that's why it kind of got delayed.

Mr. Pinto: Yea we had \$17,000 held in escrow being held over since 2004.

Okay I feel like this application cannot go on tonight if it is predicated from the prior application because the prior application evaporated into thin air on October 22, 2015 when the conditions were not met. It was a conditional approval and when the conditions were not met the approval goes away. So, I can't vote but it is my recommendation to the board to make a motion to rescind that approval.

Mr. Pinto: How can you rescind an approval that your saying doesn't exist?

Well because I don't know what the word is I can't say, I am giving the legal opinion that it doesn't exist anymore.

Mr. Pinto: Well if it doesn't exist then it can't be rescinded.

Okay well I am telling my board...

Mr. Pinto: You want a new application filed?

I want a new application filed. Another question for you, has code enforcement been out at all citing you?

Mr. Pinto: There was one code enforcement came out because the split rail fence and that's been hanging around because we've had this application pending.

Since October 22, 2015?

Mr. Pinto: It was after that it was after October I forget when exactly.

Do you understand that the fence was supposed to be up on October 22, 2015?

Mr. Pinto: Yea I understand that.

So how many months of citations you should have gotten?

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Mr. Pinto: Well I got one the only issue was...

I know I just wanted to ask.

Mr. Pinto: It's just the one citation and it's been carried because of the fact that this has been pending so it's never been heard.

Well that's the problem, do you see that being carried and this is being carried. Something has to give here so.

Mr. Pinto: I understand your saying from a technical legal standpoint.

That's what live by Mr. Pinto.

Mr. Pinto: So what I understand is that I have to file a whole new application. You could very easily make a motion to resurrect the thing.

No that is dead I'm not making a motion I'm not a member.

Mr. Pinto: Well you're giving them advice to say that you can't proceed with this application because it doesn't exist and I'm saying to you, you could make a motion that resurrects that resolution and proceed with the application as it is otherwise were going to have to go back and file a new application, go through the whole procedure again, if that's your preference then fine.

Let me finish I don't think you need to come back. I think the board...my second recommendation to the board is that they hear this application as it is tonight and deny it for lack of completeness so you wouldn't come back to hear that application. I think...

Mr. Pinto: If your denying for lack of completeness then what your saying is we have to go back and do something to make it complete.

No I don't think is about application is my option I'm not drafting a motion.

Mr. Pinto: On what basis is it found?

Because it's predicated on an approval that was never gotten.

Mr. Pinto: No. It's a valid application because were asking for the same things that were in the old application just we want to continue those and add the parking.

You can continue something that was never given.

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Mr. Pinto: No even if you're saying the old resolution doesn't exist we still want what we have.

Okay then...

Mr. Pinto: What you're saying is in order for me an application you came here for that reason and it needs to be amended so it becomes complete.

No I'm not saying that either.

Mr. Pinto: Well I don't understand what you're saying from a legal standpoint.

From a legal standpoint I want to use the word rescind I've never had to revoke an approval I guess that's the word. I think the board should revoke the approval from 2014 and then hear your application tonight and deny it because the conditions haven't been met and the conditions of the current application haven't been met therefore you haven't carried your burden.

Mr. Pinto: You see now were going to end up in court if that your opinion and that's what happens here. I've been through this for almost 40 years and that is absolutely not correct so if that's what you want to do and try to say that we can't come back here and ask for application and they ask for the same relief then were going to have problems. Is that what you're saying?

Yes that's what I'm saying.

Mr. Pinto: I'm just telling you that I totally disagree and if that's your opinion and you're going to vote on this and say we can't come back here and were going to have to dismantle the whole site were going to have a big court battle because that's not correct.

Please don't threaten me Mr. Pinto I'm giving my legal opinion the board is allowed to do what they want.

Mr. Pinto: I'm not threatening you believe me.

I want you to go ahead with your application.

Mr. Pinto: I'm not going through my application on those circumstances. We'll withdraw and refile.

Okay but you understand were going to make a motion tonight on the prior approval.

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Mr. Pinto: What do you mean we, you're just a legal opinion.

I recommend to the board to make a motion regarding the previous approval.

On the 2014 one?

Correct.

Mr. Pinto: Look you can do anything you want I understand that. We're going to file a new application after this and withdrawal this application we have pending. We'll file a new application and if you then rule then we're going to end up in court about it. The application is going to be withdrawn if your opinion is that you're going to hear this tonight and deny it.

Okay that's not my opinion. Don't withdrawal the application that's not my opinion. Proceed with your application.

Mr. Pinto: No I'm going to withdrawal the application.

Okay not because that's my opinion I am not stating that it's...

Mr. Pinto: Okay you know what...the application is being withdrawn we'll refile it.

Okay that's fine I'm going to recommend that code enforcement gets out there and cites you for...

Mr. Pinto: You already cited this.

For the fence, I have seven to ten notes here you haven't done.

Mr. Pinto: We want the fence to be moved back. Why put the fence up if I'm going to move it back. We're not trying to get something over on the board we want to make this place conform to what you want within reason and some of the things the engineers ask for like we have to do a storm order rapid plan and so many other things are beyond whatever we've been requested to do. I don't have problems with these little things that are being asked by the engineers were just changing the lines on a plan. We want to make this a place of business that can be profitable so were not in the monetary problem that we've had. Now you can believe that or not but you're looking at me I'm...

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I'm looking at you because I've been sitting on the board and you've been here how many times and for the same thing and you're not doing what we're asking you to do.

Mr. Pinto: We're 99% the stuff I've done.

No and you said the future tense on we want to make this better but you've been given the opportunity for five years and you have not improved it.

Mr. Pinto: We have improved it if you didn't just scold us because we haven't done the things were supposed to do without a chance to sit down and come in....

You don't feel like you've had an opportunity to sit down and discuss this with anyone?

Mr. Pinto: I'm not saying that. I didn't come in with a harsh attitude but you've been lecturing me since I got here.

I apologize if you've taken it as a lecture I'm just trying to get clarity on how this has been going on for so many years.

Mr. Pinto: The entire time that we've been doing this we've never sat here and had anybody act like I was the school kid and you were the teacher.

I didn't mean to imply that all you were just not answering my questions so I was just trying to get you to answer my questions.

Mr. Pinto: We're withdrawing the application because there's no sense in going through with it just to have it denied which is the feeling I'm getting from what you're saying. So, were going to withdraw, I'm not getting into an argument with you and having to go to court with you with something you shouldn't need to go to court about.

I'm fine to do that.

Mr. Pinto: You're saying we can't bring this application again and I'm not going to be put in that position.

That's fine.

Mr. Pinto: Okay. The board shouldn't be able to hear the application.

I'm begging you please...

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Mr. Pinto: No...you're telling me the application is incomplete. If it's incomplete you can't hear it.

Okay I used the wrong word when I said incomplete I don't mean it in a land use sense. I can say that I meant that it is predicated on a prior application that now in my opinion does not exist anymore. Please put in your application and explain to use why it does exist...why it should go forward I mean.

Mr. Pinto: It's been substantial in court you can't withdraw an approval based on some minor conditions that haven't been done in the specific period of time. Putting up this split rail fence is no reason to void an entire approval. I don't think any court is going to hold that it is and I don't want to go to court I want the board to hear the application and work on this and get it done. I don't want to be here for the next ten years like I've been here for the last five.

Mr. Jeney stated that there's two issues that are a particular concern. One is that you've extended the parking lot which is obvious and you put millings down when it's against the law.

Mr. Pinto: I didn't know it was against the law.

We would be and the township would be at fault for and have some liability if we were to approve an application knowing that's the case.

Mr. Gaskill: As soon as I saw it that in the report we...if it's not permitted we'll take it all out.

And the other was them talking about the storm water troll that again is a state controlled situation.

Mr. Pinto: I don't know if that's true we've had it waived before and nobody's ever brought up...

Well I think the frustration is that is the letters were presented and it's like you come back and nothings been done...I shouldn't say nothing but....

Mr. Pinto: I spend \$30,000 just on improvements in front and all the other stuff \$30,000 I had to get out a loan.

For example the unregistered vehicles, the landscaping materials, when I was on the site not only in section 40 they were all over on the other side. So I think the frustration is and what we want to do is come to a conclusion and that it's favorable for you, that's great, but we have to get cooperation on this and we just don't feel like we're getting it. You met with the engineers, there are a number of...I have 4 pages of items here and if half of them are accurate then how would we possibly approve it.

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Mr. Pinto: I don't see how...I went through the whole thing and every...you know there's a statement here on the first page that says completeness site plan the tree diameter trees clearing limits. There's no trees going to be removed on the property. They're saying the trees interfere and it doesn't interfere with the wet lands things like that are written in the letter do not happen.

You know were trying to answer things on the letter we got after March 6th.

Mr. Pinto: I don't want it to go to the board under these circumstances that's why I wanted to withdraw it and resubmit it with all the information that is now being requested which is something that I think is fair.

Ms. Apte: Excuse me sir if I may I don't think some of these items are new information, they have been there from the previous engineer's report. The tree line was there in previous engineer's report and we have just haven't carried it forward that this still hasn't been separated.

Mr. Pinto: That wasn't in the original approval in 2014.

I know I was talking about this application and the previous Pennoni's engineer report.

Mr. Pinto: Yea that might have been in his report but that wasn't part of approval we didn't necessarily agree that would become part of the...of what we agreed to on an approval unless the board required it and the board has not required it because no one voted on it.

No I'm not talking about the previous improvements I'm talking in reference to this application. The previous engineer's memo did site that a tree line plan will be required because of the proposed expansion does appear to require some of the trees to be removed and that's what we carried on in this all of these completed items were listed in the previous engineer and planners report.

Mr. Pinto: That's why I need to take a testimony.

Okay let's go.

Mr. Pinto: No were not doing it tonight you only have five people here and if one of them vote then it fails because we need either use variance or expansion non conform of use and I'm not going to just let the board vote on it and if we four on it, it would lose.

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You understand for us today should not look at here for the letter reference from March 6th, I'm looking to hear from April 30th of last year. There's a lot of the same things on here so you haven't done what we've requested and it's very frustrating to come back here and us have to go through this time after time after time after you still haven't addressed the same issues again. You have not addressed...

Mr. Pinto: Yea we have addressed them.

Well sir these two letters, a year apart are the same thing. It's like the moving the parking of the 15 spaces, now its 19 spaces, now it's this, now it's that.

Mr. Pinto: That's not true. We're withdrawing the application Mr. Chairman and we'll resubmit it and we'll address these issues and maybe we'll have a less hostile atmosphere.

As the board I think we're just frustrated that's the main reason that were having this kind of discussion.

Mr. Gaskill stated that we are frustrated too okay I have spent a lot of money and a lot time doing this. My father has owned the property since 1949 now I'm trying to make it nice and I have made it nice and there's 25 acres behind me Stuffs owned go to them and tell them to do the same thing I'm doing they haven't done anything it's crazy. I only have 7 ½ acres and I'm only using half of it.

Ms. Johnson asked, can you please tell me why you didn't fulfill all of the conditions of the prior approval?

Mr. Gaskill said that he didn't want to put the fence in and then have to take it up and put it back here.

Ms. Johnson asked why you agreed on an approval that was based on a condition that you would put in a fence by October.

Mr. Gaskill stated that he originally thought that I didn't need any more parking spaces but I have people coming to me every day asking for parking.

Ms. Johnson: So did you come back to the board and ask for an amendment?

Mr. Gaskill stated no I didn't, I waited...I didn't, I waited.

Ms. Johnson said for four and a half years?

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Mr. Gaskill said I did all the improvements and I waited.

Ms. Johnson said, so that's why there is frustration, I'm not taking anyone to task

Mr. Gaskill said he is trying to do the right thing.

Ms. Johnson disagreed. I think the right thing would have been in the 10 months you had to have asked...

Mr. Gaskill: I was relaxed and I didn't do what I was supposed but we're not getting anywhere now.

Mr. Hewko stated that you're not giving us accurate testimony either. He said he removed a bunch of this stuff. I saw boats laying on the ground, I saw all other kinds of stuff back there it. It hasn't been removed.

Mr. Gaskill said he had a person come in and dump pull off, hook a rope to a tree and pull the boat off of the trailer and lay it on the ground at my property.

Ms. Johnson stated, what does that mean? That can't be if someone left that on my front lawn that wouldn't still be here.

Mr. Gaskill said well what am I supposed to do? I have to get rid of it somehow right? I can't take it to a landfill they won't take it as it is you have to cut it up. It's an 18 foot fiberglass boat I'm trying to get the person who left it there to get rid of it for me.

Ms. Johnson stated, do you see the position you're putting the board it?

Mrs. Parento stated that she is just curious about something you're saying someone left there and you try to get ahold of them...is there something called abandonment?

Mr. Pinto: Yea and it takes a year.

Mrs. Parento said no it doesn't not take a year.

Mr. Pinto: I've contacted the state about it.

Mrs. Parento said it takes roughly 3 months at the most for abandonment of something like that.

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Mr. Gaskill replied... Sorry I disagree.

Mr. Jeney stated that he thinks the point right now is the board based on our professionals reports I don't see how we can come to a conclusion that everything is complete.

Mr. Pinto: And I agree that's why we're withdrawing the application and we'll submit it when we can satisfy the board when this stuff has been done. Now if you want to send the code enforcement on me that's your choice.

Well let's look at it this way. We send someone out, I'd rather have them go out and meet with you and walk the property and identify each specific item and then we would be able to take care of it and then there wouldn't be any issues next time we meet. I don't want go to have someone come out and start writing up penalties and stuff like that, it's not the intent. The intent is to come to an agreement where we can accept what you're giving us and you're going to do what you say you do.

Mr. Pinto: I wholeheartedly agree

And I'm afraid that we just don't see it that you've done everything you said you're...

Mr. Pinto: And that's why I want to withdraw the application so we don't...hopefully satisfy and hopefully put this to rest. And I'll take it back I'm not going to say the board was hostile the hostile environment wasn't created by the board members involved here...it was created by your solicitor.

Mr. Hewko stated that it doesn't matter you've been in town a long time we really are trying to work with you but to keep revisiting this over and over the same thing it gets old.

Mr. Pinto: I agree

Ms. Johnson asked if the board would like to make a motion on the previous application from 2014.

Mr. Jeney said what Jen is asking would be if we want to make a motion to revoke the 2014 approval?

Mrs. Parento asked what the ramifications is if we revoke that. What does that mean?

Mr. Pinto: You can't parking anything there and I kick everyone out?

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Ms. Johnson said right that everything that they had approved do is...

Mr. Pinto: If you do that you leave me no choice on what to do because we're not going to be able to get everything out of there that was already approved. How would we do it...rip up all the part in the front where we put parking spaces...

Ms. Johnson stated to Mr. Pinto that were not trying to make it hard for you but what positions...think about the position you're putting the board in. You want an approval with conditions but you want to ignore the conditions.

Mr. Gaskill stated that they aren't ignoring it. Mr. Pinto said that Ms. Johnson is creating a problem that doesn't exist.

Ms. Johnson stated that is not true.

Mr. Pinto: If you do that if you...first of all you said it doesn't exist so I don't know how you can revoke it...but if you're going to revoke it and then there's consequences to the ramifications where someone's going to come out and start citing me for all this stuff.

Ms. Johnson stated that is going to be her recommendation.

Mr. Pinto: Well then you're going to be in for a judicial intervention here because you're leaving me no choice and there's no reason for it. We're not harming anybody by what's going on right now.

Ms. Johnson said...that's not the standard. The standards are if you're harming someone?

Mr. Pinto: Nobody's involved in this. You're resting on some legal motion...

Ms. Johnson said...from four and a half years ago.

Mr. Pinto: and ignoring the practicalities. You want me to go up and tear up everything that was approved is that what you want?

Ms. Johnson...No.

Mr. Pinto: Because this is a violation all this macadam and driveways put in and everything else is going to be a violation that's what you're saying.

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Ms. Johnson said...I want this to be a successful thriving business in Delran.

Mr. Pinto: How is doing what you're suggesting going to make it a successful thriving business?

Ms. Johnson stated it's not what I'm saying it's what you agreed to do. I wasn't even here for this I had nothing to do with this approval.

Mr. Pinto: I'm not arguing with you. You can do what you want and I'll do what I have to do that's all. I just think it's unnecessary to create this situation when we just withdrew our application and were going to come back with a new application.

Mr. Jeney stated...Alright let me offer the board this...putting aside the frustration and if you would agree, could we take what we have and all the issues that we'll bring up tonight I would want you to sit down with our engineers and I want either the next time we meet you would either complete what was asked to be done or not. This is going to give you another opportunity, no citation issues, we want to get compliance. Its required by us to follow the master plan, to follow the laws that Delran has set up for zoning and that's what were here to do and were working hard to try to make it work for you.

Mr. Hewko stated that it's not just the township either I mean if you look and sewer and water management that's a serious issue with the state and the DEP.

Mr. Gaskill: The land back there is totally flat there's hardly any storm water management.

Mr. Smith stated I don't know what the law is on that but...

Mr. Pinto: We'd be happy to do that...

Mr. Jeney stated that he wants a commitment that the next time we meet that were going to have a resolution and when we ask the questions that were going to have an agreement. If you can discuss with our engineers certain specifics and they would support that I'm okay with that.

Mr. Pinto: I'll call the engineer tomorrow morning and I will set up an appointment when they have sufficient time to sit down and I'll go to their office...I don't even know where it is...but I'll go there with Mr. Gaskill and we'll go over line by line.

Mr. Jeney asked if this would work for the Board.

Mr. Parento wanted to know what time frame are you...?

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Mr. Jeney stated that they are going to need to have a time frame to get this done...can we do this in 60 days?

Mr. Pinto: I don't see why not you said...well first we got to meet and come to an agreement on what has to happen and then we'll get it done. If you want to give us 60 days, well then we'll have 60 days.

Mr. Jeney stated that he thinks 60 days is more than reasonable. I want to show you that were being cooperative as we can. But, we've got to get resolution and if we come back the next time and we have similar type of discussion, I can't imagine the boards going to rule in your favor.

Mr. Pinto: I understand.

Mr. Jeney said okay, I have to get the boards agreement on this. This is just my babbling here. Mr. Smith asked Chairman just for clarity the letter you're referencing is the C&E Associates from March 6, 2019.

Mr. Jeney asked is any comments.

Mr. Hewko stated, I think you also have to look back on what was also done on the correspondence in April 2018. There's items on there that have to be addressed as well.

Mr. Jeney said, well things that aren't completed that were agreed to then there will be citations down the road. That's the way the system works and as Jen suggested we've been a little bit lax on our enforcement but that's across the board I don't think it's been particularly...it's just across the board. Any other comments or questions?

Mr. Hewko stated, I just don't want to keep going through the applications I just want to get it done.

Mr. Jeney...I agree...I agree but I think well it's up to the board you make the suggestions I not telling you want to do. Any questions or comments?

Mr. D 'Armento stated that the applicant needs to start having the millings removed as soon as possible. Because that's regardless of the application that's a violation and needs to be addressed. From my understanding the majority of the storage/parking area, it needs to be addressed.

Mr. Gaskill: Yes most of the parking area in the front that was approved before I'd say probably %75 of it was original to the property back when my dad he owned a construction company. The

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new millings were added in the back mostly behind here and some of them you know in the front over here.

Board Engineer stated, but millings are not permitted and need to be removed so it's not really our call.

Mr. Gaskill stated that...Or we can seal it.

Mr. D'Armento said that opens a whole another can of worms so I think it is. He has to remove them rather than...

Mr. Jeney stated that when meeting with the engineers talk to them about ground impact on the surface recovery.

Mr. Gaskill: Yea is crushed concrete approved?

Mr. D'Armento... I would have to review it but...

Mr. Gaskill: I think it is.

Mr. D'Armento...That's the thing it could create potential storm water issues on the property which is...

Mr. Gaskill... Fresh concrete?

Mr. D'Armento...No on the surface you're going to have to cap it so you're going to have to raising it.

Mr. Gaskill... No I'm saying take out the millings and put in fresh concrete.

Mr. D'Armento...that's something we would have to review.

Mr. Gaskill... Because I looked it up on the computer and the DEP.

Mr. Jeney...I don't want to see you guys do something wrong either.

Mr. Pinto... No we don't want to do something wrong?

Ms. Johnson...So what are we doing is the application withdrawn?

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Mr. Smith...Well let's wait a minute here...I just want to make sure that when the applicant meets with our engineers were going to review both the CME letter from March 6, 2019 and also the Pamone letter from April of 2018. There's actually a Pennoni letter that was in it on November 7th but I did not make a copy of it.

Mr. Jeney...Okay the November 7th draft and the March 6th.

Applicant and the board discuss getting copies of the November 7th draft.

Mr. Jeney...To the board...do you think that's a reasonable solution at this point in the fold with? Have them withdraw tonight and give them 60 days to do resolve the issues.

A brand new application is what you're saying?

Mr. Jeney said, No we stay with this let's try to nail this down. Gentlemen...ladies?

Mr. Hewko asked if this is going to remain in place it's not going to be withdrawn it's just going to be amended.

Mr. Jeney...Well the original from 2014 will remain in place and the new application is withdrawn and they are going to have to refile that.

Mr. Hewko...This is an entirely new application?

Mr. Jeney...Right, are we okay with that? Everybody? Mika do you have anything about that?

No.

Ms. Johnson...Did Mr. Pinto hear that?

Mr. Pinto: Yes were going to submit a new application.

Mrs. Parento...Can I ask a question? When's his 60 day period starting?

Mr. Jeney...Tonight.

Ms. Phillips....So they have to have the new application to us in a reasonable time for our engineers to and meet with them and have them do the letter before we can schedule this.

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Mr. Pinto: You said they're not going to be there tomorrow so I'll make the arrangements next week.

Ms. Johnson...I'm just not clear on what the parameters on how are they...why do they have to do this?

Mr. Jeney...Okay because right now it's a very convoluted situation because I think the time has passed for a...we don't have agreement on what our engineers are saying versus what the application is saying. So I'd rather have them sit down with our engineer's, item for items agree on how this needs to be completed, right?

Ms. Johnson...Okay I'm saying but if they don't ever come back? So what happens in 60 days?

Then our zoning officer will see...

Well then they're going be in violation.

In violation in which?

Of all these items of which...

From 2014?

If in fact they're open and not complete.

Ms. Parento...I have a question to ask? Last time they were in front of us did we not say then these were open items from 2014?

Yes we did.

And you have x amount of time to get this cleared up?

Yes we did.

So now were now giving them an additional extension?

Correct. I think and the reason I'm saying that we have new engineers, we have a new attorney, I'd like to just play slight and you know put a stop...an emergency stop and start moving forward in some kind of logical way. If in 60 days if we don't have a response that were expecting then all bets are off.

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That's a poor thing to say...the response were expecting....

Well were expecting, we told them right here.

To perform from 2014...

No that's what we're implying

So is that all were dealing with right now is 2014 because they withdrew their current application.

Correct.

So all were dealing with is open items from 2014. We're giving them 60 days to clear up items from 2014.

Lynn, how do you handle the fence? They're not going to put a fence in which is one of the conditions.

Well, because he's saying he doesn't want to put it in then take it out and move it back. He said they're not moving the trash because it's not in the way.

Mr. Pinto: Well that was not part of the 2014 that was part of the engineer's letter.

Okay, correct.

Well there's items...

So then we can go by the engineer's letters from 2018 and so forth...

Mr. Pinto: That's why I'm meeting here to try to come to a resolution.

That's what I'm trying to say what are we supposed to be letting them do in 60 days...it would just be the 2014...?

I expect if they came back tonight and they wanted an approval. We're going to be voting on an approval. If it's been completed to our satisfaction...

But this is items from 2014 and items from....

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We can also look to do what Jen is suggesting and revoke the other one but I think that opens up such a hornet's nest right now because that has been suggested now everything is in violation.

Correct.

How is that going to help us?

It's only going to help us, yes because I think it's going to spur action. I'm not looking to win I want action here.

We want action.

Which is why last time they were here we said, clean up these items from 2014 and these items that we're telling you right now at this meeting need to be done.

Mr. Pinto: Well how about we just file an amended application then to this application? We'll file an amended application and we'll sit down and we'll incorporate those into an amended application, change the plan and present that to the board.

Well also it doesn't clear up 2014, what remedies available for noncompliance from 2014?

Violations.

When you're saying an amended application to which one? The prior one or this one you're doing right now?

Mr. Pinto: The one that's pending now.

Because that was pending upon...

Mr. Pinto: But we'll ask that as to the fence because Mr. Gaskill believes that's the only item that has been burned why is the fence being removed amended 2014 resolution and...

So you're doing two amendments your amending 2014 and amending...?

Mr. Pinto: Well yea it will be an amendment to the previous resolution and which would be part of the amended application.

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Ms. Johnson...I'm not clear on the law on that. I've never had a resolution four years old that the condition hasn't been approved...I don't know if you can amend conditional approval to which the condition wasn't met.

Mr. Pinto: Well we can try it and see how it...

My opinion I don't...

Mr. Pinto: You don't think it kosher then...?

Well were trying...

Mr. Pinto: The other alternative we can just put in a new application it's going to be exactly the same thing were going to be incorporating what we sit down and agree to and ask for the fence to be pushed back so the new application the only thing it's going to do is were going to have to pay additional fees and additional escrows on the new application. I'd rather not do that....

Ms. Johnson...I would agree...if you're going to go that route I don't want it to be a new application because then we have no...there's nothing they can just go away and we can never see them again. If we have a tabled application then we can decide on it. I think we have a tabled application we can decide on right now personally. But, I sympathize with you and I understand that you're trying to work with them and I appreciate that. Because I'm not hostile I'm a very nice person but, this has been going on and on and this seems like a conversation that should have happened last April and last June.

Well we've had some more conversations. That's were our frustration is believe me...if you come back and we go through the same thing all bets are off guys.

Mr. Gaskill: and I just want to interject something here too. I had this plan revised and submitted to the Pennoni's Associates two weeks before they, November meeting, they didn't review it didn't give us a letter till a day before the December meeting. Six weeks went by and Pennoni didn't act on it.

You're talking about weeks when we're talking about years.

Mr. Gaskill: I know I'm just saying it's not all my fault that it got postponed so many months.

Mr. Jeney...Well I think were extending ourselves.

Mr. Pinto: We appreciate that Mr. Chairman.

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What is the proper action do we table this for 60 days?

Is that the right thing to do?

If the board wants to do that, that's how you do it.

Mr. Jeney...Hey listen I'm not telling you if you guys don't believe in this please let me know I'm just trying to find a solution.

Mr. Hewko...I'm willing to do that I just don't want to keep doing this for ten more years. Let's get it right the next time and let's just forget it.

That's what I said to them next time around all bets are off.

Mr. Hewko...There's some serious issues...very serious issues environmentally.

Mr. Jeney...And don't be afraid to contact our offices with questions if you're going to do some work out there you think might require permits or might not be...

Ms. Johnson...Not to be afraid it is your responsibility to reach out. Don't say nobody didn't reach out to you, the engineer didn't get back. This is your application you're looking for the board to give you approval. So, you have to be proactive on getting this done you can't sit back.

Mr. Pinto: I can't tell you how many trips Mr. Gaskill has made to the boards office. Your board secretary met him quite a few times.

Yes all in a matters of a money situation.

Mr. D'Armento...Just real quick for the meeting you're going to schedule I requested your engineer to be present for that meeting so all the comments we have can be addressed.

Mr. Jeney: Yes absolutely.

Ms. Johnson...Can that happen?

Mr. D'Armento...I mean in order you're going to have to have a plan done...I'm just telling him.

Ms. Johnson...What's the issue?

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Mr. Gaskill: Money. I just paid \$3,500 to Kathy for money that's owed for escrow.

We're doing what we can. We'll leave it in your hands John.

Mr. Pinto: It's all money.

We'll make every attempt to give him.

If we table it, are we tabling it no restriction or we just tabling it you need to be back in 60 days and were not defining what they need to do in 60 days?

We just said no, we just said the April...

Mr. Hewko...We table it for 60 days and 60 days elapses and nothing changed then we probably to do that as it stands.

Ms. Parento...Well I'm asking you because you're now saying table this and I'm asking are we still putting in those conditions.

Mr. Jeney...Yes.

That these items have to be taken care of and addressed...

Mr. Jeney...Yes. You know we're instead of voting on it tonight we only have 5 members and it may not be favorable...maybe...we should just give them a 60 day option on this and that's the end of the line.

Ms. Johnson...And for the record what if in 60 days they come and there's five members and they withdraw their application again.

Well that's our fault for not having 7 people.

You can hear an application with 5 people.

Does the applicant have a choice?

They usually, we usually always give them a choice but now when you've had it drag out.

Jen this is not your standard and were just trying to find some solution.

And yes I know. Does a motion have to be made?

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Yea there's a motion and I'm going to make a motion and we're going to vote on it to table the application.

Mrs. Parento...Okay I'm going to make a motion to table the current application for 60 days while there's a review being done with our professionals, their engineers that will be meeting, and the items addressed will be the current application and the items that are still open from 2014. Within that 60 days we meet again if they meet within that 60 day point if they do not appear or all the items are not taken care of and there's no explanation as to why, then we will inform the code official.

Mr. Jeney...Yea that's fair.

Mr. Hewko...Do we vote on the application at that time?

Well we can vote on it at that time absolutely.

If they present the application, yes.

You can or you will?

The 23rd I think is our May meeting?

May 16th.

Um Jen I do have a question. Are they going to have to be noticed?

Ms. Johnson...Not if it's a tabling, no.

So we don't? Okay.

Mr. Jeney...Okay were talking May 20th is the 60 day period that gives you time to complete that. If you get it done we have a meeting on the 16th and April we have a meeting on the 18th.

I'm sorry Mary that was a long motion can you? If at that point if the conditions are not met?

Mrs. Parento...If the conditions are not met and there's no reasonable explanation as to why they're not met or they do not come back within those 60 days we will inform the code official.

Okay does that sound reasonable?

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Then what if it comes of if we notify the code official what becomes of this application. Is there a vote or...does it get voted on or...?

Yea well we probably vote on it yea the official will be here so we vote on it.

I think you should make that we will review and vote on this application as presented if nothing else is presented at that 60 day mark.

Is that fair Mr. Pinto you won't withdraw the application within 60 days?

Mr. Pinto: No were going to try to amend this application like I said I'm going to meet with them and file the application so it conforms to what we have agreed to.

Can you promise that you won't withdraw the application at that meeting?

Mr. Pinto: I'm not going to withdraw the application, the new application filed, not the new application I'm going to have an amended application filed.

Ms. Johnson...I'm just saying it's kind of a loop hole of land use law you can withdraw the application.

Well if the 60 days is up you go to the code enforcement.

Mr. Pinto: Why would I withdraw because if I withdrew it then nothing changes I mean were back to square one where we were before we filed this we obviously want to permit these extra parking spaces and enhance the probability of property.

Is the property for sale?

No.

I saw something that it was

Mr. Gaskill: Yea it's been for sale I've had it for sale for 10 years.

But it's not right now?

Mr. Gaskill: I have a sign.

Mr. Pinto: No one has ever come forward and said they would buy it.

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Mr. Gaskill: Well I've had several people talk about it but no one come up with the money.

Mr. Jeney...Well do we have a second? John? Do we vote?

Mr. Hewko...Just one more thing before we go. Is 60 days enough time? I don't want to come back in 60 day and hear oh we didn't get it done. Is 90 days better to get it done to address it?

Mr. Pinto: My understanding is we going to meet with the engineers, were going to come to an arrangement and were going to present a plan that has all of this on it and ask that the board for approval. Now, if you mean can we have everything done that is in the plan in 60 days I would said the answer is probably no. If you decide to approve it based on a new plan, then we'll get it done as soon as the board...

We can set a date on the plan.

Ms. Johnson...So all he's promising to do is to meet within the 60 days.

Mrs. Parento...And then this is why I said that the items are not complete and there needs to be a reasonable explanation as to why they're not complete.

Well they can give an explanation but were going to be voting at that point so it's not going to be in your best interest not to have it complete so it's in your hands Joe.

Mr. Pinto: We're not going to come in here with halfhearted attempt it's all enough were all happy here.

Thank you appreciate it.

The board called a vote to table this matter for 60 days. Results are as follows

AYE: Mr. Jenny, Mr. Smith, Mrs. Parento, Mr. Hugo, Mr. Chaska

NAY: None

MINUTE APPROVAL

Minutes from regular meeting dated September 20, 2018.

Minutes from regular meeting dated October 18, 2018.

Minutes from regular meeting dated December 20, 2018.

Minutes from Re-Organization meeting dated January 17, 2019.

Minutes were not able to be approved at this time.

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OPEN/CLOSE TO PUBLIC

No members of the public were present.

ADJOURNMENT

Mrs. Parento made a motion to adjourn at 8:30, seconded by Mr. Hewko. Results are as follows:

Vote was carried with a unanimous voice vote.

Respectfully submitted,

Kathy Phillips, Secretary,
Planning & Zoning