The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, January 16, 2008. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:00 P.M. Chairperson Arthur Korn presided.

Secretary Bowditch read NOTICE OF PUBLIC MEETING.

ROLL CALL:

Present: Arthur Korn, Sally Dankos, Roger Spiess, James Rodimer, Kevin Scollans, John Murphy, Mark Wilson, Nick Saccamano

Absent: Frank Passucci

Prof. Present: Larry Wiener, Esq., Nicholas Rosania, PE, PP, William Denzler, PP

MINUTES: October 17, 2007

Motion to adopt the above-mentioned minutes as submitted was made by Mbr. Scollans, seconded by Mbr. Rodimer and unanimously approved by all Members eligible to vote.

PURCHASING:

Motion to pay voucher submitted by Wiener & McMahon, dated January 16, 2008, subject to the availability of funds, was made by Mbr. Rodimer and seconded by Mbr. Scollans and unanimously approved by all Members present.

Motion to pay vouchers submitted by William Denzler & Associates, dated January 2, 2008, subject to the availability of funds, was made by Mbr. Spiess and seconded by Mbr. Saccamano and unanimously approved by all Members present.

PROFESSIONAL COMMENTS:

Mr. Wiener stated the Yuliano vs. Denville Board of Adjustment case is set to be heard on February 6, 2008.

RESOLUTIONS: None

PUBLIC HEARINGS:

BA 07-42: Robert & Dawn Klaar
Block 30803, Lot 3
12 Sleepy Hollow Road

Robert Klaar and Dawn Klaar (both of 12 Sleepy Hollow Road) were present and sworn in. They are proposing to reconstruct their deck. The existing deck is in violation of zoning code and in disrepair. They are also installing a pool and would ensure the proposed deck meets code. Mr. Rosania explained they are reconstructing their wood deck and are requesting a 40-foot setback to rear. He then confirmed the rear property is vacant Township land. Mr. Denzler explained a 50-foot rear setback is required in the zone and the property is a corner lot, per ordinance. He did not believe there would be an impact to the neighborhood. Mbr. Murphy confirmed the property is one lot and the Township owned property is open space. Mbr. Dankos liked the project, as did Mbr. Scollans, Mbr. Rodimer and Mbr. Spiess. Mbr. Wilson asked if there would be a fence around the pool, to which the answer was they would meet the requirements for an aboveground pool. Chr. Korn confirmed there were no plans to pave Druid Wood Road at this time. This application was opened to the public, seeing no one, was closed.

A motion to approve this application was made by Mbr. Spiess and seconded by Mbr. Murphy.

Roll Call: Ayes – Spiess, Murphy, Dankos, Korn, Rodimer, Scollans, Wilson

BA 07-40: Richard & Susan Cabatic
Block 60508, Lot 72
38 Summit Drive

Susan Cabatic and Richard Cabatic (both of 38 Summit Drive) were present and sworn in. David Sears (38 DeMarest Road) was present and sworn in. He is not a licensed architect, but had a letter of authorization from the principle of the company. Mr. Wiener did not believe that he would be able to provide testimony.

Mr. Cabatic explained they are proposing to construct an addition on their property, which is a corner lot. The addition would violate the front, rear and side yard setbacks of the zoning
ordinance. Mrs. Cabatic stated they would enclose the existing front porch and they are proposing to construct a new porch towards Barnes Pass.

Chr. Korn asked about Mr. Denzler's December 18, 2007 letter. Mrs. Cabatic is confused about the letter as they thought the original variance for the shed was to be located a certain number of feet from Barnes Pass, which is why the shed was placed at the end of the driveway. The shed was not proposed to change. Chr. Korn was not sure whether the application could continue until a proper survey and architectural drawings were provided. Mr. Wiener explained the purpose of the Board and asked Mr. Denzler to elaborate on his report.

Mr. Denzler stated there are four (4) items of concern to be addressed.

1- The shed location.
2- The porch on Summit Drive, which will be enclosed and a second story constructed above it.
3- The front elevation, which shows a third window?
4- A third entrance at the basement level is being added and confirmation is needed that the house would remain a single-family residence.

Mr. Denzler believed the issues could be clarified by testimony. He confirmed the two front yard variances are as shown on the plans.

Chr. Korn still believed more information was required, especially with regard to the shed issue. Ms. Cabatic stated she believed the shed was placed as discussed at the previous hearing.

Mr. Rosania believed this application should go forward and decide if the Board needed more information after that.

Mr. Wiener stated the shed issue could be set aside and discussed after the new variance issues. Mr. Denzler asked for the exact limits of the proposed addition, especially with regard to the enclosed porch and the second story. Mrs. Cabatic presented photos of the existing house, which were marked as exhibit A-1 and exhibit A-2. She used them to explain the entire existing front porch facing Summit Drive would be enclosed to allow for a dining area. This was shown on the first floor plan and the setbacks shown are correct.

Mr. Denzler asked about the third window shown above the new entrance and where it would correspond on the floor plan. Mrs. Cabatic stated that area is at the back wall of the entryway to the basement. Mr. Cabatic stated the window is part of the new proposed addition. Mrs. Cabatic explained the entrance would have a two-story vaulted ceiling and the window would correspond to empty space on the floor plan. She confirmed the new wall and porch would face Barnes Pass, but the entrance would face the rear yard.

Mr. Denzler asked if the house would remain a single-family residence. Mrs. Cabatic stated yes and confirmed there would be only one kitchen and the family room would remain.

Chr. Korn still wanted to see more information. Mr. Rosania believed the two items have been addressed. Chr. Korn polled the Board.

Mbr. Spiess believed enough testimony had been provided to adequately address his concerns. He asked Mr. Denzler if the shed was placed in the setback. Mr. Denzler confirmed it is on their property. Mbr. Spiess stated he did not have an issue with the placement of the shed where it was.

Mbr. Wilson believed there was adequate information and testimony. He was comfortable with voting on this application as long as the applicant could provide final drawings to the approved by the Township professionals.

Mbr. Saccamano agreed.

Mbr. Murphy was concerned with the exact placement of the shed. He believed the shed and the macadam were not on their property. Mr. Rosania asked if the shed could be moved to remedy the situation. Mbr. Murphy was reluctant to approve the application based what had been submitted. He believed the lot lines were shown incorrectly on the plot plan or survey. He understood her confusion based on the previous resolution. He stated based on the drawings provided, the shed was not on their property, which called into question the variances being requested. He stated he was favorable to what they were proposing, but wanted to make sure of the numbers. Mrs. Cabatic explained where the shed used to be and why it was moved.

Mr. Rosania believed the shed could be dealt with separately. Mbr. Murphy was still unsure as to how much relief should be granted.

Mbr. Dankos stated at the last meeting, the Board agreed to draft a resolution of approval based on revised plans that would be submitted. She stated this application has only one kitchen, unlike an application approved last year. She liked the application and agreed the shed issue could be addressed separately.

Mbr. Scollans agreed there were too many questions raised by the submitted plot plan and believed a survey and plot plan should be submitted with the correct dimensions.

Mbr. Rodimer asked what the setback would be from Barnes Pass, to which the answer was it would be reduced from 30-feet to 23-feet. Mr. Denzler stated that the existing Summit Drive
setback would remain. It was confirmed the hatched area on the plot plan represents what is proposed. Mbr. Rodimer visited the property and believed the Board should address each application separately. He did not have an issue with the placement of the shed.

Mr. Wiener explained what was unknown was how the shed was located on the plot plan that was submitted with the application. He was given a copy of the applicant’s 2000 survey. He did not believe the shed issue had to be addressed at this time, as it was not an immediate threat or problem. He suggested the Board deal with the setback issues at this time.

Mbr. Rodimer believed the proposed addition would fit with the neighborhood. He confirmed the applicant was comfortable with the setbacks requested.

Chr. Korn stated more Board Members wanted to proceed than didn’t.

Mr. Rosania did not have any further comments or questions.

Mbr. Wilson asked for an explanation of the new entry way and the window off the porch, to which Mrs. Cabatic reviewed.

Mbr. Murphy saw the 2000 survey also and had no issues with the variances being requested. Chr. Korn asked the shed placement be addressed before the issuance of the building permit. He believed the addition would fit with the neighborhood and would be a nice addition.

This application was opened to the public, seeing no one, was closed.

Mbr. Murphy believed the original resolution was confusing.

Mr. Wiener stated the original resolution was approved. He believed they could either relocate the shed, per the resolution, or they could come back to the Board for an amendment of the resolution if they wanted to have it in a different place on their property.

A motion to approve this application, with the conditions stated, was made by Mbr. Spiess and seconded by Mbr. Dankos.

Roll Call: Ayes – Spiess, Dankos, Korn, Rodimer, Murphy, Wilson
Nays – Scollans

BA/SP 07-10: RAIA Self Storage
Block 62101, Lot 4
Morris Avenue & Enterprise Road

Mbr. Wilson recused himself, as he did not listen to the previous hearing.

Thomas DiBiasi, Esq. (345 Centre Street, Nutley) represented the applicant. He stated the applicant submitted revised plans based on the previous hearing. They have removed one story and worked with the Township professionals to make the proposed plan work.

Mr. Denzler reviewed his report on the revisions and stated an additional variance is required. He believed the proposed 38 parking spaces were adequate. He then explained this was a bifurcated application and the Board would be approving the Use (“D”) variance and the associated Bulk “C” variances also.

Mr. Rosania stated the applicant had reduced the height and the Floor Area Ratio (FAR) and added parking spaces. He stated there was a minor change to the front yard setback variance required. Mr. Rosania asked the applicant to discuss the possible future Township use of a portion of the site.

Mr. DiBiasi agreed with the summary given by Mr. Rosania and Mr. Denzler.

John Lignos, architect (SNS Architects, 1 Paragon Drive, Montvale) was present and reminded he remained under oath. He explained the changes:

Footprint: Previous: 215 ft x 140 ft Revised: 225 ft x 160 ft
29,800 sf & 4 stories 35,200 sf & 3 stories
Total Area Previous: 120,000 sf Revised: 105,600 sf

He stated this is a reduction of approximately 15,000 sf by reducing the number of stories. Mr. Wiener explained the bifurcated application process.

Mr. Rosania did not believe the additional width and length on the footprint would not be noticed, but the reduction of the height would be noticed. He stated the FAR is now closer to conformance than previously. He liked the modified plan.

Mr. Denzler had no other comments.

Mbr. Spiess confirmed the previous conditions of approval to which the applicant agreed would still be applicable. These included that there is no permanent parking on the site, passive recreation easements would be granted through the property, and the use would be specified by deed. He like the revised plans, but was concerned that should this use no longer be needed, that the building not be left vacant. Mr. Wiener stated that by granting the use variance, the property could be considered use specific and anyone changing that use would have to come before the Board. He did not think there would be an issue nor did Mr. Rosania. Mr. Denzler agreed this is a use that would not go away anytime soon.
Mr. DiBiasi believed the applicant has done their due diligence with regard to whether there was a demand for this type of use in the area.

Mr. Denzler stated there is no COAH obligation until the site plan is approved.

Mbr. Saccamano liked the revisions and believed it was a good use for the property.

Mbr. Murphy does not have an issue with the use and believed the proposed parking was adequate.

Mbr. Dankos and Mbr. Scollans liked the revisions.

Mbr. Rodimer asked what the hours of operation would be.

Lawrence Raia (500 North Franklin Tpk., Ramsey NJ) was present and reminded he remained under oath. He reviewed the proposed hours of operation (7 am to 7 pm, Monday to Friday and 8 am to 5 pm, Saturday and Sunday) and stated a PIN code would be given to access the gate.

Mbr. Rodimer had no issue with the use variance, but was concerned about the proposed sign.

Mr. DiBiasi stated that the applicant would comply with size, color and illumination of the sign, but they would be requesting a variance for the placement of it at the site plan application.

Mr. Raia stated there would be 2 or 3 rental trucks, typical U-Haul type trucks, parked at the rear of the property, which was addressed at the last meeting. He confirmed parking spaces would not be rented out for permanent storage of RV’s, yachts or campers.

Mbr. Spiess did not want to have many rental trucks on the premises. Mr. DiBiasi confirmed they could cap the number of rental trucks at five.

Mbr. Rosania stated the remainder of the area is unusable and asked if the applicant would consider dedicating an easement to the Township to allow for passive recreation.

Mayor Hussa was present and spoke to the applicant. He did not believe this would have a bearing on this application, but explained the Denville Sports Council had told him there are not enough fields to accommodate all the activities. He stated the existing fields have a lot of wear and tear with no down time available. The new administration will be actively seeking area for fields, especially those places that could be used for practice fields, with no permanent structures needed.

Mr. DiBiasi stated the applicant would be willing to meet with Mayor and see if anything could get done. He stated this would be purely voluntary on Mr. Raia’s part.

Chr. Korn would like to have a resolution on this issue at the time site plan approval is requested. He asked that the applicant agree to have the Township’s name on the sign if a town name is used, to which the applicant agreed.

This application was opened to the public, seeing no one, was closed.

Mbr. Murphy asked if the rental trucks should be considered as part of the use. It was discussed that the number of trucks should not be decided at this time.

A motion to approve this application with the conditions stated for the record was made by Mbr. Spiess and seconded by Mbr. Murphy.

Mr. Denzler confirmed the two bulk variances, for the front yard setback and off street parking, as well as the Use variances for height and FAR would be part of the motion.

Mbr. Murphy was concerned about that. Mr. Denzler stated the front yard setback and the off street parking are assumed to be part of the Use variances. The height and the FAR are the Use variances that would be approved. He referenced this was explained in his January 11, 2008 report.

Mbr. Murphy commented that the FAR would have been closer to the allowable 25%, if the original dimensions were used. He was not in favor of the changes to the dimensions, requiring the change in the front yard setback variance, in order to reduce the FAR to 31%. He pulled back his second of the motion. Mbr. Rodimer seconded the motion.

Roll Call: Ayes – Spiess, Rodimer, Dankos, Korn, Scollans, WIlson

Nays – Murphy

Mr. DiBiasi asked that if the site plan application could be scheduled for one of the April meetings at this time. It was explained that the site plan application has to be submitted prior to scheduling.

OLD BUSINESS / NEW BUSINESS:

The new proposed application was discussed. The Board liked the application and would vote on accepting it or not at the February 6, 2008 meeting.

ADJOURNMENT: Motion to adjourn.