The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, October 16, 2013. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:00 P.M. Chairperson Murphy presided.

Secretary Probasco read NOTICE OF PUBLIC MEETING.

ROLL CALL: Present: John Murphy, Roger Spiess, Sally Dankos, Arthur Korn, James Rodimer, Frank Passucci, Susan Richter

Absent: Roger Spiess, Arthur Korn

Prof. Present: Larry Weiner, Esq., Jason Kasler, PP, Rob O'Brien, PE

MINUTES:
Motion to adopt the minutes dated July 17, 2013 as submitted, was made by Mbr. Korn, seconded by Mbr. Dankos and unanimously approved by all Members present and able to vote.

Motion to adopt the minutes dated September 4, 2013 as submitted, was made by Mbr. Passucci, seconded by Mbr. Dankos and unanimously approved by all Members present and able to vote.

PURCHASING:
Motion to pay vouchers submitted by Larry I. Weiner, (dated August 13, 2013 and August 21, 2013) subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Passucci and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Kasler Associates, PA (dated September 30, 2013) subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Passucci and unanimously approved by all Members present and able to vote.

RESOLUTIONS
BA 13-16: Russell & Laura Thomas
55 Cedar Lake Road
Block 60801, Lot 54

A motion was made to adopt the resolution by Mbr. Korn, seconded by Mbr. Passucci and unanimously approved by all members able to vote.

Roll Call: Ayes – Korn, Passucci, Dolan, Dankos, Spiess

PUBLIC HEARINGS
BA 13-10: Susan Richter
166 Franklin Road
Block 40513, Lot 42

The applicant, Susan Richter, RN (166 Franklin Road) was present and sworn under oath. Testified to having an existing nursing practice out of her residence. Stating that she performs services from detoxifying and nutrition and sees between one and five patients daily.

William Denzler, PP (6 Hickory Lane, Long Valley) was present, sworn under oath and accepted as a professional witness. Mr. Denzler provided an overview of the details of the application. Confirmed that business license was denied in May 2013 by the zoning department requiring board approval for professional use in a residential district. Referencing zoning ordinance 19-5.11 (g) as it relates to an office or studio of a professional use. Spoke to the technical aspects of the application, stating that the business is located in the lower level of a one story dwelling, one staff member being a receptionist. A total floor area of 47.7% of the 1,531 sq. ft. With four onsite parking spaces available and additional parking is available on the street if required. Meets the definition of the home based business in the zoning ordinance. Meets the ordinance as well as the goals and objectives of the Township’s Master Plan.

Acting Chr. Spiess opened to the board professionals.
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Jason Kasler, PP inquired about the number of patients. Ms. Richter confirmed that there were no signs advertising the business. That some patients come with someone or if running late, sometimes one patient waiting. Applicant confirmed that there will never be five patients waiting.

Mbr. Dolan and Mbr. Dankos had none.
Mbr. Korn made a few inquiries. The applicant confirmed that the receptionist works flexible hours totaling twenty per week.
Mbr. Passucci had none.

Acting Chr. Spiess had several questions. The applicant confirmed the business hours are primarily 9 to 5 with an occasional earlier appointment. All patients are seen by appointment only. Confirming only one employee outside the household. Deliveries made to rear door off Guterl Place.

Acting Chr. Spiess opened to members of the public.

Marianne Baggot (78 Franklin Road) was present. Stated she was a notified property owner and being an artist had wished she had her own business in her home. Voiced her concern for people coming and going.

Florence Riker (Magnolia Avenue) was present and a notified property owner of 155 Franklin Road. Inquired about the applicant has been working without a license for three years. Referenced the deliveries on Guterl Place. The applicant stated one delivery a week of supplements arrived by UPS. No proposed expansion.

Acting Chr. Spiess opened for comments.

Florence Riker (Magnolia Avenue) owns 155 Franklin Road and made some general inquiries about the applicant’s business. The applicant testified to not knowing a business license was required in Denville, as it was not in Morris Township. Further stating that the appointments are one and one half hours in duration.

Acting Chr. Spiess opened to other members of the public, seeing none, closed the public portion of the meeting.

Florence Riker was sworn under oath and continued with comments. Stating her dissatisfaction with the application and requested relief.

Acting Vice Chair Spiess asked for other members of the public and seeing none, closed the public portion of the meeting.

Larry Weiner, Esq. stated that the board makes a finding that the proposed use is akin to the list. Despite the analysis being interpretation, the relief is considered a variance and that the applicant would be bound by the limitations in the ordinance such as the size, number of employees, hours of operation of nine to five.

A motion to approve this application was made by Mbr. Dankos, seconded by Mbr. Korn, and unanimously approved by a majority of members eligible to vote.

Roll Call: Ayes – Dankos, Korn, Dolan, Passucci, Spiess

After a short break was announced at 7:45 the meeting resumed at 7:45.

BA 12-37: Amarfo, Inc.
42 East Main Street
Block 50307, Lot 1

Michael Rowland, Esq. represented the applicant, Amarfo, Inc. Mr. Rowland referenced the four witnesses that would be called. Mr. Aref Assaf (11 Richwood Parkway West), Mr. Steve Kayabis (110B Meadowlands Parkway), Mr. Gerald Kelly (9 Iroquois Trail) and Mr. Robert Skapinac (708 Cascade Road, Pittsburgh) were simultaneously sworn under oath.

Prior to the testimony, Mbr. Korn raised the question of the plans being prepared by a licensed engineer and not having a site plan or landscape plan. Both the board and applicant’s attorney’s stated that the issue was covered by Administrative Code as it relates to the professional engineer and architect. There was some discussion and the public hearing proceeded.

Gerald Kelly, AIA (9 Iroquois Trail) was present, sworn under oath and accepted as a professional witness. Stated that there was a proposed pile-on sign, visible from two directions would be within a new garden block planter.

Plans dated March 17, 2013 with revisions of May 10th and 30th were referenced. (Exhibit A-1) These plans were submitted to the board with the application. (Exhibit A-2) The proposed sign is 20’ tall, 10’ off the ground, 5’ x 4” wide with a total height of 10’. Colorized drawing of the sign
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was submitted with the application. The sign is consistent with the zoning ordinance. Some changes were referenced. Existing canopy

Michael Rowland referenced the exacerbation of an existing non-conforming use and provided a summary of the required variances. The four additional variances are:

- Sign setback of 4" from the property line instead of 10'
- Building setback from the property line 38' instead of 75'
- Sign construction and illumination trans-illuminated internally. LED no flashing, consistent with 20' and 10' off the ground, logo identification associated with it, price indicators are safer for changing internally than externally in performing to today’s standards. Static LED. Not flashing. Handled electronically inside the building, for frequent price changes. Price indicators are above 10' from the bottom of the sign and extend to the width of the total height of the signage 5'4" wide x 14' 4" in height, would be required to use a pole extension or ladder to change the pricing manually.
- Prohibition of outdoor storage. Applicant is proposing propane tanks along with 2 bollards.

Photographs of existing gas station signage, (Exhibit A-3) Mr. Kelly provided an overview of the various signs. Stated that the proposed sign would be similar to the BP shown but some differences. Mr. Kelly referenced the existing planter to be removed and a garden wall of 18-20" in height would be installed, with three bollards proposed on each end of the planter on the interior from the gas pumps. Fourteen compacted 2 gallon size junipers to be located on the applicant’s property and not to interfere with visibility or the public right of way. Increasing the sidewalk size by approximately 3’. No interference with pedestrians.

Robert Skapinac (708 Cascade Road, Pittsburgh) Was present and previously sworn under oath. Mr. Skapinac is the Mid-Atlantic Regional Manager with Jet Gas, Inc., Mighty Flame Propane Company, headquartered in New York. Wanting to put an exchange propane cabinet at the proposed location. Federally licensed propane tanks, recertified as a new tank each time it comes out. Differentiating them from their competitors. (Exhibit A-4) Cages 44" wide x 39” deep and 64” in height with two bollards in front for protection. The bollards will be on the sidewalk.

Acting Chr. Spiess opened to the board professionals.

Jason Kasler, PP confirmed the size of the cage. Mr. Skapinac confirmed that the cage was nine tall and three deep for the tanks.

Rob O’Brien, PE had no questions.

Acting Chr. Spiess opened to the board members.

Mbr. Korn inquired about safety concerns being on premises with gasoline. Mr. Kasler wasn’t aware of any.

Mbr. Richter had none.

Mbr. Passucci had none.

Mbr. Dolan had none.

Mbr. Dankos had none.

Vice Chr. Spiess also had none.

Steve Kayabis, District Manager for NJ and NY of CPD Energy. CPD is an approved BP supplier, no direct BP Gas stations in this area. Maintaining a corporate standard image. The proposed location changed from Getty to CPD but is still missing the BP sign. (Exhibit A-5) Memo from Michael Rowland to CPD Energy regarding the signage compliance. Stating the signage is consistent with all BP stations. Pile-on signs with single or double poles. Mr. Kayabis stated that this location is failing inspections for non-compliance with the BP image. Further stating the flags on the canopy poles need to be removed as they are not BP colors and do not meet BP standards.

Acting Chr. Spiess opened to professionals.

Jason Kasler, PP had none.

Rob O’Brien, PE had none.

Acting Chr. Spiess opened to the board members.

Mbr. Dolan had none.

Mbr. Dankos inquired about investigating the sign at the time of the BP deal.

Mbr. Passucci inquired about the station being refurbished.

Mbr. Richter’s question was deferred for the architect.

Mbr. Korn inquired about the logo and the number of signs the applicant was permitted.

Acting Chr. Spiess inquired about the standard inspections and stored items behind the building. A 30 point checklist. Steve Kayabis stated, proper supplies, pricing, customer relations, unnecessary items in the windows. Stating that they cannot interfere with the private business operations.
Acting Chr. Spiess opened to the public and seeing none, closed the public portion.

**Aref Assaf (11 Richwood Parkway West)** spoke to promotional signage for two months. Conditions in the rear of the building. Snowplow blade. Will be removed from the site permanently. Two commercial product storage containers (Dasani and Coca Cola cabinets) containing leftover salt. Applicant agreed to remove snowplow if it's a concern of the board. Fine imposed on each failure of the BP inspections. Removal of the leftover red signs on the canopy station poles. All other BP improvements have taken place. Mr. Rowland referenced the plantings onsite and that a CO was issued. Stating no violations from the Township were issued. Notification was provided for signage.

Applicant will be required to provide updated plans to include landscaping details, bollard details, ice machine location and detail of rear storage to be maintained.

Mbr. Korn had none and requested the applicant to provide a detailed site plan to include landscaping prior to voting on the application. Mr. O'Brien stated that the plan shows both the existing conditions and proposed qualifying as a site plan and the landscaping is a separate issue. Mr. Assaf agreed to removing the requested items and clearing the shrub so the signage could be seen clearly.

Mbr. Richter had none.

Mbr. Passucci referenced the landscaping. Mr. Rowland responded to the resolution and the certificate of occupancy.

Mbr. Dolan had none.

Mbr. Dankos had none.

Mbr. Spiess had none and commented that if approved, the site will look better than it does currently. Stating if storage is required for two additional cabinets outside it should be included in the requested relief.

Mr. Kasler referenced the vacuum/air pump and ice machine. Mr. Kelly confirmed it's the same thing.

Mbr. Spiess commented on the vacuum/air and the potted plants to be included in the plan.

Acting Chr. Spiess asked for other members of the public and seeing none, closed the public portion of the meeting. Stating that when the applicant appears again before the board, it will be to review the site plan for the board's vote.

**Opened to questions of Mr. Kelly.**

Jason Kasler, PP inquired about the number of price locations and pay phone. Applicant responded cash and credit pricing.

Rob O'Brien requested Protection Bollard detail for both radius and single bollard types.

Mr. Rowland reviewed the updates to include landscape details for planter along Bloomfield Avenue, garden wall planter detail, location of ice machine, detail of any rear storage to be maintained.

Mbr. Korn had no questions of Mr. Kelly

Mbr. Richter had none.

Mbr. Passucci had one.

Mbr. Dolan had none.

Mbr. Dankos had none.

Acting Chr. Spiess had no questions but referenced adding potted plants near the vacuum. Mr. Rowland confirmed it would be added to the plan.

Jason Kasler, PP confirmed that the ordinance allows for a total of three signs and one seasonal. Requesting more detail on the LED height in the revised plan. Stating the size of the LED can change while still fitting in the same area.

Acting Chr. Spiess announced that the public hearing for this application would be carried to the November 6, 2013 meeting without further notice.

**Motion to Adjourn.**

Denean Probasco, Board Secretary Date Approved