The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, December 4, 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, James Rodimer, Arthur Korn, Frank Passucci, Tom Dolan, Tim Fisher
Absent: Susan Richter
Prof. Present: Larry Weiner, Esq., Jason Kasler, AICP, PP, Robert O’Brien, PE

MINUTES:
Motion to adopt the minutes dated November 6, 2013 as submitted, was made by Mbr. Korn, seconded by Mbr. Spiess and unanimously approved by all Members present and able to vote.

PURCHASING:
Motion to pay vouchers submitted by Larry I. Weiner, (dated November 20, 2013) subject to the availability of funds, was made by Mbr. Dankos, seconded by Mbr. Korn and unanimously approved by all Members present and able to vote.

RESOLUTIONS

BA/PSP/FSPV 12-22: Morris Habitat for Humanity
7 Lake Lenore Road
Block 31109, Lot 13.01
A motion was made to adopt the resolution of Denial by Mbr. Dankos, seconded by Mbr. Passucci and unanimously approved by all members able to vote.
Roll Call: Ayes – Dankos, Korn, Passucci, Spiess, Murphy

BA 12-37: Amarfo, Inc.
45 East Main Street
Block 50307, Lot 1
A motion was made to adopt the resolution of Approval by Mbr. Dankos, seconded by Mbr. Korn and approved by the majority of members.
Roll Call: Ayes – Dankos, Korn, Passucci, Spiess
Recused - Murphy

BA 13-07: St. Mary’s Prep School
100 Route 46
Block 50402, Lot 15
A motion was made to adopt the resolution of Approval by Mbr. Dankos, seconded by Mbr. Passucci and unanimously approved by all members able to vote.
Roll Call: Ayes – Dankos, Passucci, Korn, Spiess, Murphy

BA 13-11: Mary & Philip Pascarella
73 River Road
Block 50806, Lot 1
A motion was made to adopt the resolution of Approval by Mbr. Dankos, seconded by Mbr. Passucci and unanimously approved by all members able to vote.
Roll Call: Ayes – Dankos, Passucci, Korn, Spiess, Murphy

BA 13:20 Eleanor May
18 Ridgewood Parkway
Block 50904, Lot 10
December 4, 2013

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

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

PUBLIC HEARINGS

BA 13-21

Robert Mariani
29 Hillcrest Drive
Block 61101, Lot 7

Chr. Murphy announced to members of the public that the applicant had requested adjournment. The public hearing would not be heard tonight and has been rescheduled without further notice for January 22, 2013.

BA 13-24

Karen Wright
5 Cedar Lake West
Block 60902, Lot 16.01

The applicant, Karen Wright (70 Cedar Lake East) was present and sworn under oath. Applicant is seeking to construct a garage addition on the existing dwelling requiring bulk variance relief. The existing garage would be converted to a living area. It will be the parents who will reside in the home. The proposed garage would be a dimension of 15’ x 24.8’, aligned to pick up the existing gable from the existing roof line of the dwelling.

Kevin P. Spink, AIA for Canzani Architects Associates (80 East Ridgewood Avenue, Paramus) was present, sworn under oath and accepted as an expert in the field of architecture. Mr. Spink provided an overview of (Exhibits A1–A3) three pages of plans prepared by Thomas R. Canzani, dated October 11, 2013 with a revision date of October 22, 2013.

Chr. Murphy opened to the professionals.

Jason Kasler, PP inquired about relocating the garage to the other side of the dwelling. Mr. Spink indicated that moving the garage to the other side of the home would not be level with the dwelling, would still require a variance and would not be aesthetically pleasing. It would also require a new driveway and relocation of the telephone pole. There would no longer be a reduction of 1.8% of impervious coverage.

Rob O’Brien, PE inquired about the duck pond as it relates to environmental issues and possible encroachment. Mr. Spink indicated that the addition is beyond 50’ at approximately 75’. The final rear yard setback is 5.75’. Mr. O’Brien had no further questions.

Chr. Murphy inquired about the setback from the setback or from the garage. Pointing out an amendment is necessary. Mr. Spink agreed that the measurement was from the garage and not from the overhang. The required relief would be for 4.25’ setback.

Chr. Murphy opened to the board members.

Mbrs. Dolan, Fisher and Dankos had none.

Mbr. Korn had several questions and was concerned about the location of the garage as it related to the neighboring dwelling and shared property line. The home was built in 2005. The existing bushes would be removed to allow for walking around the side of the home.

Mbr. Passucci commented on the garage being graded up. Mr. Spink explained that it would require a basement beneath, retaining wall and would then have an entrance through the existing bedrooms or through the basement.

Mbr. Spiess shared the concern of the fellow board members and inquired about the impervious coverage reduction and drainage to the rear of the property. The applicant’s architect responded that there would be a 1.8% reduction from the decrease in the paved driveway area. Making the total proposed 26.6%. A leader line from the front of the house to the rear was suggested. Mr. O’Brien concurred with the proposed stormwater management. Mbr. Spiess suggested this be a condition of approval. Further stating that the side yard setback was not out of character with lake communities.

Mbr. Passucci obtained confirmation that this would be a one car garage with small storage on end.

Chr. Murphy stated that fellow board members had asked all questions and confirmed from the applicant that the light fixture would be shielded.

Jason Kasler, PP inquired about the visibility both ways from the driveway. Mr. Spink indicated that the only bushes were on the neighboring property and they were approximately 10’ in.

Further stating that the 15’ driveway leading into an 8’ garage.

Larry Wiener, Esq. received confirmation of the proposed dimensions of 24’8” x 15’ totaling 360 sq. ft.

Chr. Murphy asked for members of the public wishing to speak, and seeing none closed the public portion.
Exhibit A-1 – Floor Plan with the garage dimensions was made a matter of record.

A motion to approve this application with conditions and amended setback, was made by Mbr. Dankos, seconded by Mbr. Spiess, and unanimously approved by remaining board members eligible to vote.

Roll Call: Ayes – Dankos, Spiess, Korn, Passucci, Fisher, Murphy

BA/PSP/FSPV 13-22 Lustig Enterprises, LLC (Acura)
3109 Route 10 East
Block 20701, Lot 23 & 24

Seth Dobbs, Esq. of Margolis Dobbs, LLC (354 Eisenhower Parkway, Livingston) represented the applicant, Lustig Enterprises, LLC (Acura of Denville). The Applicant is requesting preliminary/final site plan approval to construct an enclosed showroom space from the existing overhang requiring variance approval for an existing non-conforming use. The 975 sq. ft. modification would provide a new entrance, expanded showroom and three new offices in the space currently utilized by the canopy.

John Manilio, PE of Redcom Design and Construction, LLC, (PO Box 160, Westfield) was present, sworn under oath and accepted as an expert witness. Mr. Manilio provided an overview of the existing conditions using Exhibit A1 – Aerial photograph showing the subject property with property line highlighted in yellow. The property is in a B2 zone which is not zoned for car dealerships. Requiring variance relief for expansion of an existing non-conforming use. The parking to the east of the building is required to be 10’ from the building and will remain unchanged.

Chr. Murphy opened to the board professionals.

Rob O’Brien, PE had no questions. Stating that there were no issues regarding stormwater, traffic or circulation on the site.

Jason Kasler, PP had no questions and deferred comments until after the planning testimony of the applicant.

Mbrs. Korn, Passucci, Spiess, Dolan, Fisher and Dankos had no questions.

Chr. Murphy commented on the prior application as it relates to a catch basin requiring remediation. John Manilio confirmed that this would be addressed.

Chr. Murphy opened to public and seeing none, closed the public portion.

Chr. Murphy acknowledged Mbr. Rodimer. The board attorney stated that due to Mbr. Rodimer’s missing the prior testimony he would be unable to vote on this application.

Paul Ricci, PP (10 Georgian Drive, Clark) was present, sworn under oath and accepted as an expert in planning. Mr. Ricci spoke to Exhibit’s A-1 Aerial, Exhibit’s 2, 3 and 4 photographs. Stating the proposed changes were de minimis in nature. Stated two variances were being requested. The first was for a D2 expansion of the pre-existing use and the second for a bulk variance for the pre-existing condition of the parking lots proximity to the road. Stating that the parking variance is not being further exacerbated by this application.

Chr. Murphy opened to the board professionals.

Rob O’Brien, PE had none.

Jason Kasler, PP inquired if the proposed would create further intensification of the use. Mr. Ricci said only slightly by the offices created but not by cars.

Chr. Murphy opened to the board members.

Mbr. Dolan had no questions.

Mbr. Rodimer commented on it being good to see business thriving in Denville.

Mbr. Fisher had none.

Mbr. Dankos referenced the Tax Assessor’s comment regarding the merging of Lots 23 & 23 to become Lot 24.01. The applicant confirmed that this would be done.

Mbr. Korn inquired about the delay of this merger. Mr. Manilio responded that the applicant was waiting for approval from NJDEP before proceeding with the lot merger. Chr. Murphy interjected. Referenced the planning report and waste containers not being provided. Mr. Kasler stated that this comment was from the first report and these items were added to the drawings.

Mbr. Passucci inquired about the interior construction being similar to the cubicles. John Manilio responded to the glass walls being similar in style to what exists currently. There will also be some improvements such as new tiles and ceilings.

Mbr. Spiess had no questions.

Chr. Murphy inquired about handicapped parking spaces. Mr. Manilio responded and referred to Sheet One. Larry Weiner, Esq. stated it would be reiterated as a condition of any approval.

Chr. Murphy opened to members of the public, and seeing none, closed the public portion of the meeting.
Seth Dobbs, Esq. provided a summation that included there would be no detriment and that the Lustig family will continue to be a good neighbor.

A motion to approve this application, with conditions, was made by Mbr. Spiess, seconded by Mbr. Dankos, and unanimously approved by remaining board members eligible to vote.

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

**NEWBUSINESS**

Chr. Murphy referenced approvals not having expirations. Jason Kasler stated that this should be done through ordinance instead of resolutions and deferred to legal counsel for the board and township. Larry Wiener referenced the Permit by Extension Act making it difficult to determine the time limits. Jason Kasler, PP stated that a list of pros and cons can be presented to the governing body. Chr. Murphy stated that the board members should weigh in on it.

Mbr. Fisher agreed. Stating the applicant can always come back.

Mbr. Korn agreed. Stating things change in five years.

Mbr. Spiess agreed that some type of time limit can be set.

Chr. Murphy suggested boiler plate language with a time limit of three years and asked for a show of hands. The board members were unanimous in this suggestion.

Larry Wiener, Esq. stated boards can do it and stated that draft language would be prepared for the next meeting.

A member of public, T.J. Carlyon commented on the timing from a contractor’s perspective. Stating that a project could require more time and suggested any time limit 3 to 5 years. Larry Weiner, Esq. stated that NJDEP approval would be an automatic extension. Chr. Murphy agreed that three years is a good start. The intention is not be onerous on the applicant and not to penalize a builder or homeowner.

Chr. Murphy commented that this was his last meeting as Chairperson and thanked the board members and board secretary.

**Motion to Adjourn at 8:24 pm.**

Denean Probasco, Board Secretary Date Approved: January 8, 2014