The Board of Adjustment of the Township of Denville held its scheduled reorganization meeting on Wednesday, August 5, 2015. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:00 PM. Chr. Spiess presided.

Secretary Probasco read NOTICE OF PUBLIC MEETING.

ROLL CALL:
Present: Roger Spiess, Frank Passucci, Sally Dankos, Susan Richter, Arthur Korn, Tim Fisher, Brian Bergen, John Murphy
Absent: James Rodimer
Prof. Present: Larry Weiner, Esq., John Ruschke, PE, Jason Kasler, AICP, PP

MINUTES:
June 17, 2015
Motion to adopt the minutes as submitted was made by Mbr. Dankos, seconded by Mbr. Fisher and unanimously approved by all members able to vote.

July 1, 2015
Motion to adopt the minutes as submitted was made by Mbr. Dankos, seconded by Mbr. Passucci and unanimously approved by all members able to vote.

PURCHASING:
Motion to pay vouchers submitted by Kasler Associates, PA (dated July 27, 2015) subject to the availability of funds, was made by Mbr. Fisher, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Hatch Mott MacDonald, (dated June 23, 2015) subject to the availability of funds, was made by Mbr. Fisher, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Larry I. Wiener, Esq, (dated June 30, 2015 and July 7, 2015) subject to the availability of funds, was made by Mbr. Fisher, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

RESOLUTIONS
BA 14-17 Walter Jones & Bonnie French
8 Spruce Place
Block 50405, Lot 14
A motion to adopt the resolution of approval was made by Mbr. Passucci, seconded by Mbr. Dankos and unanimously approved by all members able to vote.
ROLL CALL: Ayes – Passucci, Dankos, Richter, Korn, Bergen

PUBLIC HEARINGS
BA 15-13 James & Wendy MacLean
23 Lake Road
Block 60508, Lot 45
Applicant is seeking to construct a deck requiring ‘C’ bulk variance relief for front, rear and side yard setbacks. At the prior hearing of June 3, 2015, the board retained jurisdiction over this application. In the event the applicant was unable to obtain a maintenance easement the public hearing was continued to August 5, 2015. The board secretary confirmed that the applicant did not provide legal notice. The board attorney advised the applicant that the public hearing would not be heard. Applicant was advised to provide legal notice for the September 3, 2015 meeting.
BA 15-16  Anthony Intile
35 North Shore Road
Block 41003, Lot 9
Applicant is seeking to construct a deck requiring ‘C’ bulk variance relief for rear yard setback. The board attorney advised the applicant that the public hearing for this application would be carried to September 3, 2015 for perfection of legal notice.

BA 15-15  Caroline Kennedy & Kevin Faulkner
19 Brookview Road
Block 61501, Lot 8
Applicant is seeking to construct an addition requiring ‘C’ bulk variance relief for front and side yard setbacks. The applicant's, Caroline Kennedy and Kevin Faulkner (19 Brookview Road) were present and sworn under oath. Caroline Kennedy testified to the wall being damaged due to carpenter ants. Stating the existing front door is situated at an odd angle and awkward access to the current driveway. Applicant intends to expand the living room 5’ to line up with the exterior wall of the kitchen along with adding a front porch. The proposed covered porch will be consistent with the existing line of the house. There is a 6’ 6” between house and existing property line before the proposed 4’ deck walkway.

Rob O'Brien, PE inquired about stormwater runoff. Ms. Kennedy advised about the gutter locations, and pavers in front of the covered porch.

Jason Kasler, PP inquired about pavers and the parking. Inquiring about the 12’ to the property line, the ROW. Ms. Kennedy stated there will be pavers to the new front door. There is an existing large concrete slab. The two vehicles will not come out any further than currently.

Mbr. Korn inquired about parking cars, commented on the need of repair and stated the proposed was good. The applicant stated there is no place for parking on the street.

Mbr. Richter inquired about the lighting. Ms. Kennedy commented on creating a proper entrance with a new driveway eventually and standard residential lighting. The light in the middle of the driveway will be removed.

Mbr. Murphy inquired about dimensions and stated the required and proposed setbacks to ensure accuracy. Inconsistent with the application which was based upon the denial letter but inconsistent with the plan. Referenced the deck extension and the reduction of 2’6” off the side property line. Commenting he had no problems with the proposed. The applicant confirmed that the deck would be open and uncovered.

Mbr. Bergen had no questions and commented that the proposed was great.

Mbr. Passucci commented on the architectural plan. Ms. Kennedy had revised plans for the board that include the deck, which was not included on the original plot plan but was on the elevation drawings.

Mbr. Dankos had no problem with the application.

Mbr. Fisher stated all his questions had been answered.

Fred Roughgarden, Esq. (350 Lafayette Avenue, Hawthorne) represented the applicant, 30 Mountain Road, LLC. This application was carried from July 1, 2015. With prior public hearings held on February 18, 2015 and May 20, 2015. Applicant is seeking to construct a new dwelling requiring ‘C’ bulk variance relief for steep slopes. Mr. Roughgarden provided a brief summary. Stating the third revision and most recent dated July 6, 2015. The revisions are based upon the combined testimony of the board members and members of the public.

Frank Mariconda was present and recognized he remained under oath. Mr. Mariconda spoke to the elevations that were submitted to the board. Stating the dormers and the staircase were eliminated. Reducing the ridge which has lowered from all grades averaging 34’ maximum. Three car garage has been reduced to a 2 car garage but the ‘L’ configuration remains. True walk-out basement will be finished. Windows have been added in the finished living space without bedrooms. Single deck on the rear of the home. Rear neighbors will have a smaller home and lesser appearance standard with other homes. Stating all living area will be first floor front and basement. Making the style a ranch with a finished basement. Area beneath the
garage will be compacted fill. Stating the size of the home is consistent with several other homes in the neighborhood.

Chr. Spiess opened to the board professionals.

Rob O’Brien, PE had questions about the retaining wall that were deferred for the applicant’s engineer.

Jason Kasler, PP inquired about the closet. Frank Mariconda confirmed the window dormers were just for aesthetics and that the house would have typical residential lighting.

Chr. Spiess opened to the board members.

Mbr. Fisher commented positively on the applicant’s changes to reduce the home. The first floor is 3,012 SF.

Mbr. Dankos inquired about the overall size of the home and the attic storage. Mr. Mariconda stated that the overall footprint of the home reduced because of a three car garage. There will be a set of pull down stairs to the attic.

Mbr. Passucci confirmed the two car garage and doors.

Mbr. Bergen was pleased with the overall appearance of the rear of the home being reduced.

Mbr. Passucci confirmed the two car garage and doors.

Mbr. Richter had none at this time.

Mbr. Korn commented on the finished basement being a vast improvement over the attic space.

Chr. Spiess also commented on being pleased.

Chr. Spiess opened to members of the public.

Jeff Vittorio (40 Warren Trail) was present and spoke about the height of the rear foundation ground to the roof peak. Mr. Mariconda only had an average from grade being 34’. Mr. Vittorio had no other questions. No height variance being requested.

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

Kent Rigg, PE (24 Godwin Avenue, Midland Park) was present, previously sworn and remained under oath. Mr. Rigg testified to the biggest changes being the architectural plans, not much in the engineering. Testified that there was no increase of any stormwater calculations or detention from the last plans. Minimal changes made, the addition of a step in the rear of the home and some driveway changes. The board attorney stated that any approval would be contingent upon the calculations being verified.

Chr. Spiess opened to the board professionals.

Rob O’Brien, PE spoke to the shifting the retaining wall. Mr. Rigg agreed it could be shifted some. Mr. Rigg spoke to separate calculations and the 8,393 being oversized significantly. Chr. Spiess inquired about slope of property as it relates to tree removal. Rob O’Brien stated the applicant needs to verify there is no adverse impact. Mr. Rigggs stated that the calculations would be submitted to Hatch Mott MacDonald for verification.

Jason Kasler, PP inquired about a tree to be saved by moving the silt fence. Kent Rigg stated the tree is on the border line of 15’ desired distance to the foundation. Commenting that they would take a look at the condition of the tree.

Chr. Spiess opened to the board members.

Mr. Rigg entered Exhibits. Exhibit A-3 – Page 1, Colorized Survey Plan and Exhibit A-4 – Page 2, Colorized Steep Slopes Chart.

Mbr. Korn inquired about the storm type that the property could withstand. Mr. Rigg stated a 2 year storm equates to a 50% reduction on the site and a 10 year storm equates to a 25% reduction of runoff on the site. Mbr. Korn inquired about changes to walkways, patios or driveways. Only the stairs were changed from the rear of the house and has been offset from the driveway.

Mbr. Richter inquired about the crawl space and the soil type. Mr. Rigg stated it is active fill under concrete and no space. No soil tests have taken place.

Mbr. Murphy commented on the storm criteria, stating the calculation of a 50%/2 year storm and 25%/10 year storm reduction was derived and then doubled.

Mbr. Bergen inquired about the highest height being 40’ in the rear and if Mr. Mariconda would agree to this number. Mr. Kasler stated he scaled it to 39’. Mr. Mariconda stated finished grade can be manipulated slightly and 40’ shouldn’t be a problem. With an average of 34’ for all grades. Mbr. Passucci inquired about the seeage pits. Mr. Rigg confirmed each was 1,000 gallons totaling 4,000 gallons for seeage pits for the roof drains and driveway. Stating they are solid and not perforated.

Mbr. Dankos had no questions.

Mbr. Fisher also had no questions at this time.
August 5, 2015

Chr. Spiess had no questions.

Chr. Spiess opened to members of the public for questions.

**Jeff Vittorio (40 Warren Trail)** inquired about the seepage pit and operation. Mr. Rigg stated in a large storm the water would go into the seepage pit first before infiltrating the ground. Mr. Rigg provided a summary of the seepage and the slope areas.

Chr. Spiess asked for other members of the public for Mr. Rigg and seeing none, closed the public portion.

Chr. Spiess opened to members of the public for comments.

**Jeff Vittorio (40 Warren Trail)** was present, sworn under oath and stated his concerns for the proposed development. Some of which included tree removal, stormwater runoff, height and privacy.

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

Fred Roughgarden, Esq. provided a summary. Stating only a steep slope variance has been requested by the applicant. Applicant has addressed concerns of the public and board members from prior hearings and overall impact has been reduced. No negative impact to surrounding area. Despite the slope of the property, efforts have been made to minimize the impact to the neighbor in the rear. In closing, requested the board to vote in favor of the application.

Chr. Spiess stated he would require a confirmation of the storm water calculations in order to vote in favor of the application. The board attorney stated that it was previously stated, that calculations would be a condition of approval. Further reminding the board members of the law, and cautioned that any denial of the application would effectively condemn the property. As the only way the lot can be developed would require a violation of the steep slopes on the property.

A motion to approve this application with conditions, was made by Mbr. Korn, seconded by Mbr. Passucci and unanimously approved by all members able to vote.

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

Chr. Spiess announced a brief break at 8:46 pm. The public meeting resumed at 9:00 pm.

**BA/PSP/FSPV 15-09 Animal Clinic of Morris Plains, LLC**
3009 Route 10
Block 11203, Lot 6

Michael J. Rowland, Esq. (4 Second Avenue, Suite 202) represented the applicant, Animal Clinic of Morris Plains. Applicant is seeking to construct an addition requiring ‘D’ variance relief expansion of existing non-conforming use. Counsel for the applicant would be having the architect and engineer provide testimony but asked that the owner and administrator be sworn in as well. Paul L. Sedlacek, DVM, owner for Animal Clinic of Morris Plains, LLC. And Norm Rappaport, Administrator for Animal Clinic of Morris Plains were present and sworn under oath along with the applicant’s engineer and architect. The purpose of the application is to provide storage for prescription pet food and supplies for resale.

William Byrne, AIA of Byrne Design Associates, Inc. (10 Main Street, Chester) was accepted as an expert in the field of architecture. Mr. Byrne provided an overview and description of the plans, using Exhibit A-1 - Elevations, floor plan and colorized rendering of the proposed addition. The proposed addition will be 261 SF, with two interior doors, one exterior door and would have free standing storage.

Chr. Spiess opened to the board members for questions before going to the engineer.

Mbr. Murphy had no questions.
Mbr. Richter had no questions.
Mbr. Korn inquired about the number of the years as an animal hospital. Applicant replied sixty.
Mbr. Dankos had no questions.
Mbr. Fisher inquired if retail. Applicant stated only the staff would be using the storage room.

Michael Simone, Jr. PE, PP, President of Crew Engineers, Inc. (1250 Route 23 North, Butler) was present and accepted by the board as an expert in engineering. Mr. Simone spoke to the changes being primarily parking changes and a small addition using the plan that was submitted to the board with the application. The engineer referenced the engineering report from Hatch Mott MacDonald dated June 17, 2015.

Chr. Spiess opened to the board engineer.

Rob O’Brien, PE had no questions, stated that the paving repair detail should remain on the plans and commenting that he was satisfied with all other responses.
Chr. Spiess opened to members of the public for questions of Mr. Byrne, seeing none, closed the public portion of the meeting.

**Michael Simone, Jr. PE, PP, President of Crew Engineers, Inc.** (1250 Route 23 North, Butler) Mr. Simone referenced the planning report from Kasler Associates, PA dated June 15, 2015, providing responses and requesting waivers. Mr. Simone stated there are no septic tanks, they were removed from the plans and on the original plan in error.

Chr. Spiess opened to the board planner.

Jason Kasler, PP stated the testimony addressed all his concerns. Mr. Kasler inquired if there would be additional garbage created. The applicant responded that there would not be additional cartons and that the majority of the packaging would be carried offsite by the consumer.

Chr. Spiess opened to board members for questions of the engineer.

Mbr. Fisher was in favor and had no questions.
Mbr. Dankos voiced also being in favor of the application.
Mbr. Passucci inquired about the bumpers or bollards. Mr. Simone responded bumpers can be removed for maintenance and would be preferred as bollards are permanent once installed.
Mbr. Korn inquired about the current trash disposal being sufficient for the applicant’s needs. The hospital administrator stated that they have no current issues or concerns.
Mbr. Richter commented on liking the plan and had no questions.
Mbr. Murphy voiced on it being de minimis application. Inquired about the compact parking space. Mr. Simone responded that the space being 9’ width but the same length. Inquired about number of employees and the applicant responded the average about 25 employees at one time.
Mbr. Murphy referenced the health officer’s comment regarding a retail license. While the applicant wasn’t sure that a retail license would be required for prescription products, they agreed to obtain a license if required. Mbr. Murphy suggested some safety items near the designated dog areas and the handicapped parking areas.
Mbr. Bergen stated he didn’t have a vote tonight but if he did, he would vote yes.
Chr. Spiess commented on the condition of approval for the safety guard/fence for the railroad tie area. Stating that a utility easement will not be a condition of approval. However, the board did not condone any encroachment on the neighboring property.

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

A motion to approve this application with conditions, was made by Mbr. Fisher, seconded by Mbr. Dankos and unanimously approved by all members able to vote.

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

**OLD & NEW BUSINESS**

Secretary Probasco referenced the League of Municipalities Convention, hotel rates and booking hotel rooms.

**ADJOURNMENT**

Motion to Adjourn at 9:39 PM.

Denean Probasco, Board Secretary

Date Approved: September 2, 2015