TOWNSHIP OF DENVILLE
BOARD OF ADJUSTMENT
MEETING MINUTES

September 2, 2015

The Board of Adjustment of the Township of Denville held its scheduled reorganization meeting on Wednesday, September 2, 2015. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:02 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, James Rodimer
Absent: None
Prof. Present: Larry Weiner, Esq.

MINUTES:
August 5, 2015
Motion to adopt the minutes as submitted was made by Mbr. Murphy, seconded by Mbr. Passucci and unanimously approved by all members able to vote.

PURCHASING:
Motion to pay vouchers submitted by Kasler Associated, PA (dated August 25, 2015) subject to the availability of funds, was made by Mbr Fisher, seconded by Mbr. Murphy and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Hatch Mott MacDonald (dated June 29, 2015) subject to the availability of funds, was made by Mbr. Fisher, seconded by Mbr. Murphy and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Larry I. Weiner, Esq (dated August 4 and August 11, 2015) subject to the availability of funds, was made by Mbr. Fisher, seconded by Mbr. Murphy and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by The Buzak Law Group (dated August 12, 2015) subject to the availability of funds, was made by Mbr. Fisher, seconded by Mbr. Murphy and unanimously approved by all Members present and able to vote.

RESOLUTIONS
BA 15-15 Caroline Kennedy & Kevin Faulkner
19 Brookview Road
Block 61501, Lot 8
Motion to adopt the resolution of approval, was made by Mbr. Murphy, seconded by Mbr. Dankos and unanimously approved by all Members present and able to vote.
Roll Call: Ayes – Murphy, Dankos, Richter, Passucci, Korn, Fisher, Spiess
Nays - None

BA 14-27 30 Mountain Road, LLC
30 Mountain Road
Block 40604, Lot 9
Motion to adopt the resolution of approval, was made by Mbr. Passucci, seconded by Mbr. Korn and approved by a majority of Members present and able to vote.
Roll Call: Ayes – Passucci, Korn, Fisher, Spiess
Nays – Dankos, Richter, Murphy

BA/PSP/FSPV 15-09 Animal Clinic of Morris Plains
3009 Route 10
Block 11203, Lot 6
Motion to adopt the resolution of approval, was made by Mbr. Murphy, seconded by Mbr. Dankos and approved by a majority of Members present and able to vote.
Roll Call: Ayes – Murphy, Dankos, Richter, Passucci, Korn, Fisher, Spiess
Nays – None
PUBLIC HEARINGS

Chr. Spiess announced to members of the public that the public hearing for the MacLean application would not be heard. Further stating that the agenda would be re-sequenced with the public hearing for the Hussa application last.

**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. Applicant unable to provide legal notice.

**BA 15-16**  
Anthony Intile  
35 North Shore Road  
Block 41003, Lot 9

The applicant, Anthony Intile (35 North Shore Road) was present and sworn under oath. Applicant is seeking to construct a 36’ x 10’ deck requiring ‘C’ bulk variance relief from the 35’ rear yard setback requirement. Mr. Intile stated that a deck would be consistent with the other homes in the neighborhood. Only residential lighting is proposed.

Mbr. Murphy referenced the inconsistency in setback dimensions from the application, denial letter and survey. The application and denial letter states an 18’ rear yard setback is requested. Mr. Intile confirmed that it is 16.5’ to the stairs on the left side of the deck and 15’ to the right corner of the deck, thus amending the application for a 15’ rear yard setback as indicated on the drawing.

Chr. Spiess opened to the board members.

Mbr. Murphy had no questions or issues.  
Mbr. Bergen had no questions and commented it looked great.  
Mbr. Passucci inquired about an open stairwell on the right hand side and pouring concrete. Mr. Intile stated that was an old staircase and they were going right over it.  
Mbr. Korn had no questions.  
Mbrs. Fisher and Rodimer had no questions.  
Chr. Spiess stated he had no questions.

Chr. Spiess opened the public hearing to members of the public, seeing none, closed the public portion of this hearing.

Motion to approve this application as amended, was made by Mbr. Rodimer, seconded by Mbr. Murphy and approved by a majority of Members present and able to vote.  
*Roll Call:*  
Ayes – Rodimer, Murphy, Dankos, Richter, Passucci, Korn, Spiess

**BA 15-19**  
Alan & Janet Porto  
3 Dorchester Drive  
Block 10204, Lot 18

The applicant, Alan Porto (3 Dorchester Drive) was present and sworn under oath. Applicant desires to construct a 10’ x 6’ shed requiring 15’ rear and side yard setbacks. Stating there are shrubs and trees to provide adequate screening. Aesthetically more pleasing location to be tucked in the corner. Stating the rear yard setback would be reduced from 15’ to 9’ and a reduction of 15’ to 6’ for the side yard setback.

Mbr. Rodimer had no problem with the proposed. Commenting the 6’ would be adequate to maintain the shed.  
Mbr. Fisher had no problem.  
Mbr. Korn inquired about the base. Applicant stated it would be a gravel base and the shed has a pre-constructed wood base.  
Mbr. Passucci commented on visiting the property earlier today and that the shed would be used for storage.  
Mbr. Bergen had no questions and commented it looked great.  
Mbr. Murphy stated that there were large rocks making the location desirable.  
Mbr. Dankos, Richter and Spiess had none.

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

Motion to approve this application, was made by Mbr. Murphy, seconded by Mbr. Dankos and approved by a majority of Members present and able to vote.  
*Roll Call:*  
Ayes – Murphy, Dankos, Richter, Passucci, Korn, Rodimer, Spiess
The applicants, Frank and Pamela Luciano (24 Seneca Trail) were present and sworn under oath. Applicant is seeking to construct a shed requiring ‘C’ bulk variance relief for locating an accessory structure in a front yard. Mr. Luciano stated the shed would be used to store the snow blower, lawn mower and power washer. Mr. Luciano stated there is no viable location on their narrow lot to place the 6’ x 8’ shed kit.

Mbr. Richter inquired about electric. Mr. Luciano stated no and it’s a vinyl shed kit. Mbr. Dankos commented that the neighbors shed backs up to it and had no questions.

Mbr. Murphy commented on the location and the possible need to service the shed requiring the neighbor’s assistance for maintenance. The applicant stated the shed could be unbolted if maintenance requires the shed be moved. Mbr. Murphy commented on the hardship of the tree, in the front and had no questions. Suggesting the applicant address this with the neighbors.

Mbr. Bergen stated that based upon the circumstances of the property there is no other viable location for the shed and had no further questions or comments. Mbr. Passucci inquired about the property line. Commenting on not being in favor of using a front yard but stating it’s the best location for this property. Mr. Luciano stated that the shed is on their own property line.

Mbr. Korn had no questions.

Mbr. Fisher commented the proposed looked good.

Mbr. Rodimer had no questions or comments.

Mbr. Passucci inquired about the property line. Commenting on not being in favor of using a front yard but stating it’s the best location for this property. Mr. Luciano stated that the shed is on their own property line.

Chr. Spiess commented that any approval by the board, the board does not sanction the applicant's shed being on the neighbor's property.

Chr. Spiess concurred with Mbr. Bergen and had no questions.

Mbr. Passucci inquired about the permit. Commenting on not being in favor of using a front yard but stating it’s the best location for this property. Mr. Luciano stated that the shed is on their own property line.

Mbr. Korn had no questions.

Mbr. Fisher commented the proposed looked good.

Mbr. Rodimer had no questions or comments.

Chr. Spiess commented that any approval by the board, the board does not sanction the applicant's shed being on the neighbor's property.

Chr. Spiess opened to members of the public.

Chr. Spiess asked for other members of the public, seeing none, closed the public portion of the hearing.

Conditions of approval include subject to the dimensions of the shed and that the location be entirely on the applicant’s property.

Motion to approve this application with conditions, was made by Mbr. Murphy, seconded by Mbr. Dankos and approved by a majority of Members present and able to vote.

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

Gerald Kelly, Esq. represented the applicants the Hussa and the Steven and Donna Ferlenza.

The applicant is seeking ex post facto approval for the construction of a pool house, gazebo, hot tub and shed requiring ‘C’ bulk variance relief for excess of two accessory structures along with rear and side yard setbacks.

Mr. Hussa (20 Roscoe Avenue, Madison) was present and sworn under oath. Stating he and his wife formerly owned the home at Birch Run. Permits were obtained to construct the pool. The pool house was added approximately fifteen years ago to store the pool heaters, filters, pumps and equipment. The pool house does not contain air conditioning. The gazebo was erected on the property approximately twenty-five years ago. A hot tub was added ten years ago on the decking area. A shed below the hot tub was added to store tools. Mr. Hussa testified to another shed at the bottom of the driveway being removed, along with a concrete pad at the township’s request. Did not obtain a permit for the pool house, just added it to the existing concrete pad that the pool equipment was located on. None of the neighbors has ever commented on the property.

Chr. Spiess opened to board members.

Mbr. Rodimer had no questions and reserved comment until hearing any members of the public. Mbr. Fisher echoed Mbr. Rodimer.

Mbr. Korn inquired if the applicant was aware only two accessory structures were allowed. Mr. Hussa stated he regretfully was not aware. In addition to the pool equipment, there is a TV and small refrigerator. The pool house was not used for changing.

Mbr. Passucci inquired about the permit. Mr. Hussa stated that there was an existing pad and he didn’t realize a permit was required.
Chr. Spiess commented on the beautiful and well kept property. Stating that he hopes Estling Lake Corporation provides an easement for the applicant.

Mbr. Bergen commented on the pool house being right up to the property line along with the driveway encroaching on the neighboring property. Mr. Kelly stated it’s a tenth of a foot and the small portion of the driveway could be removed as a condition of approval.

Mbr. Murphy inquired about the pool and fence being inspected by the township. Mr. Hussa confirmed. What is considered to the air conditioning, is actually an electric and gas pool heaters, not air conditioning. Footings may be required to be inspected by township. Applicant understood. The pool was built in 1981. The gazebo was erected from a kit twenty-five years ago and has no footings. The gazebo would also be subject to inspections along with hot tub and shed. Reference to fence easement on the survey was made. Attorney for the applicant was unable to confirm such easement. The board attorney confirmed that permits and inspections by the township would be a condition of any approval.

Mbr. Dankos withheld comment until hearing from public.

Mbr. Richter inquired about public space and reserved comment.

David Robins, President of Estling Lake Corporation was present and sworn under oath. Mr. Robins confirmed that the 200 acre property was contiguous to the subject property. Stated he was unfamiliar with any fence easement. The distance from nearest structure and the number of acres between the property and Estling Lake activities was unknown to Mr. Robins. Commenting he did know it was some distance away and not visible from any of the properties. Mr. Robins had no knowledge of the fence being property of the Estling Lake Corporation. Mr. Robins recommended that the board uphold the setback requirements and not grant the requested variance of the applicant.

Mbr. Rodimer inquired about a 5’ wide easement. The board attorney stated that the applicant may voluntarily make any accommodations that they wish to agree upon with the applicant. Any discussion to establish a mutually beneficial arrangement can be deferred until the next meeting.

Secretary Probasco offered the October 21st meeting. Mr. Robins asked that the public hearing be carried to the October 7th meeting. Mr. Kelly confirmed that they will meet and move forward as quickly as possible.

Larry L. Weiner, Esq. stated that if no agreement can be made the board can vote upon the requested variance.

The public hearing for this application was carried without further notice to October 7, 2015. The applicant’s attorney confirmed any stipulations for time would be granted by extension.

OLD BUSINESS
None.

NEW BUSINESS
Secretary Probasco asked for a show of hands regarding attendance for the September 16th meeting. Chr. Spiess and Mbr. Passucci were not going to be in attendance.

ADJOURNMENT
Motion to Adjourn at 8:12 PM.

Denean Probasco, Board Secretary Date Approved: September 16, 2015