The Board of Adjustment of the Township of Denville held its regular meeting on Wednesday, April 20, 2016. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:15p.m. Acting Chairperson Sally Dankos.

Secretary Unrath read Notice of Public Meeting.

Roll Call: Present – Sally Dankos, Brian Bergen, Tim Fisher, Daniel Napolitano, Ed Moroney, Daniel Roman
          Absent – Adam Caravaglia, Susan Richter, James Rodimer
          Professionals present – Larry Weiner, Esq., John Ruschke, PE, Jason Kasler, PP

MINUTES
Motion to adopt the minutes from March 16, 2016 as submitted was made by Mbr. Fisher, seconded by Mbr. Roman and unanimously approved by all members able to vote.

PURCHASING
Motion to pay vouchers submitted by Hatch Mott MacDonald (subject to the availability of funds, was made by Mbr. Bergen, seconded by Mbr. Napolitano and unanimously approved by a majority of Members present and able to vote.

Motion to pay vouchers submitted by Kasler Associates subject to the availability of funds, was made by Mbr. Bergen, seconded by Mbr. Napolitano and unanimously approved by a majority of Members present and able to vote.

Motion to pay vouchers submitted by Larry I. Weiner subject to the availability of funds, was made by Mbr. Bergen, seconded by Mbr. Napolitano and unanimously approved by a majority of Members present and able to vote.

PUBLIC HEARINGS
Karoly & Ilona Tala
131 West Glen Road
Block 61501, 169
Applicant is seeking to construct a new dwelling requiring variance relief for lot area, lot depth, steep slopes and retaining wall height.

Allen Hantman, Esq. of the law firm Morris & Hantman (168 East Main Street)-Representing the applicants for 131 West Glen Road. Mr. Hantman briefly discusses a matter from the previous public hearing on March 16th, in regards to The Case of Nash - A person that owns a substantial lot is required to offer it to adjoining property owners at fair market value as part of the application. Reviewed the case and finds it does not apply to the property for this major reason. The case is required when there is a substantial deformity or deficiency in the size or area of the lot. This property is based on 14700 sf.in a 1500 lot with a minimum depth width of 150ft. This particular lot is the 3rd largest lot on the property. The other lots are smaller and developed. Based on the criteria and past Nash cases and the following cases of 105NJ 476 require that the offer will be made.

Larry Wiener, Esq.- States that the application will be at its own risk in regards to the Nash case.

Allen Hantman- Clarifies he understands that it’s at his own risk and based on the ordinance of the town most specifically 19.5.7 10. The size of the lot is no longer below the minimum. That particular qualification 105. NJ 476 is grandfather conforming because of its status.

Jason Kasler, PP & Larry Wiener- State that some lots were grandfather before ordinances were passed.

Alfred A. Stewart, PE - Principal of Stewart Surveying & Engineering, LLC (148 East Main Street, Rockaway) was present and previously sworn under oath. Clarifies any lot created before 1952 would be grandfather with no ordinances because of the old file map act.
Jason Kasler, PP - States that in section 19-15.710 on November 11, 1952 that this frontage area of the house was created and that this ordinance would be grandfather in. Further explains that the bend in the road is why it’s non-conforming. This is before the ordinance was drafted and it meets all the steep slope setbacks.

Scott C. Bella, AIA (65 Glen Avenue, Glen Rock) Sworn in as a professional architect. States he has submitted 3-4 different plans since he has started working with the Talas. The plans consist of a 3bdr, 2 ½ bathrooms for a 2-story single family dwelling. Mr. Bella states the house proposed is consistent with the surrounding houses in the neighborhood. To move the house was suggested from the town engineer to be compatible with the ordinances. Mr. Bella states this is the best plan for the proposed property.

John Ruschke, PE - Mentions bringing the house forward and shifting the garage to the lower level for a drive in garage in the basement. Stating this could minimize some of the steep slopes ordinances.

Jason Kasler, PP - States the dimensions of the garage are tight to fit a car and have storage space.

Open to the Board Members

Mbr. Napolitano - Inquired about having a detached garage or thought about eliminating the garage. Scott Bella states either of these have not been mentioned by the applicant.

Mbr. Fisher - Agrees with Mr. Ruschke comments regarding shifting the garage.

Alfred A. Stewart, PE - Responded to shifting the home as it relates to the grades and the driveway. Spoke about having a detached garage and by doing this it would not save any disturbance on the property. Having a garage under helped make up the grade and transition. It was suggested to put the garage under the house to extend the driveway. Again, states this is the best plan for the property.

John Ruschke, PE - Spoke to the balance of a front yard setback along with the steep slopes variance, getting closer to the 570 contour.

Mr. Hantman questions Mr. Ruschke if the two houses next to the proposed property have the same setback distance. Mr. Ruschke states that the other houses are set closer.

Mbr. Moroney - States there are no ordinances requiring garages. Inquired if the house can be built without a garage. Mr. Stewart states that eliminating the garage would limit access to get into the property and firetrucks would not fit up this driveway.

Larry Wiener, Esq - Inquired about off street parking and states that it is unknown what variance would be needed if the house was brought forward.

Allen Hantman, Esq - Responded to the original application and mentioned the house was further to the rear, and the initial application required a rear yard setback variance and less disturbance, redesigned was to remove that variance and provide a variance free dimension application. All variances setbacks were considered.

Short Break at 8:05

Hantman, Stewart, Weiner – break to determine the prior plan if there was anything issued.

01/26/15, Exhibit A-1 received March 18, 2016 Mr. Stewart testified to the prior plan and the home being moved more out of the slope than currently purposed. Different categories, some less, some more, most of the home was located outside of the steep slopes and disturbance of the driveway, plan abandoned for current application. Several reasons why, planner suggested to move back into the setback requirements. Approx. same amount of disturbance, old design stretched the driveway versus the serpentine driveway. 3.5% more in some of the categories in the new plan than the old plan. This design is less disturbance to the entire property overall limit of disturbance, which assists with the state regulations and the stream, etc.

John Ruschke, PE - States the alternate plan and the rear yard is not a significant reduction in steep slope, were some increases and decreases, negative aspects to pushing it back increased the impervious coverage– being mitigated with drainage. Inquired about moving the house forward into the front yard and impacting the steep slope disturbance.

Alfred Stewart, PE - Spoke about the negative impact of moving the home & tunnel effect of the driveway and not a great decrease in disturbance by moving the house forward 10-12’ due to the steep slope in the front yard.

John Ruschke, PE - Stated he’d rather see a plan and a reasonable effort to show the alternate plan.

Mbr. Bergen - Spoke about the percentages of property disturbance versus percentage of steep slope disturbance. Mr. Stewart states that steep slope disturbance will be primarily in the front yard and no matter what plan is proposed steep slope will be disturbed. Inquired about the drainage run off and Mr.
Stewart clarifies the appropriate precautions have been made. Clarified with Mr. Bella that he has worked on houses with steep slopes similar to this property.

Mbr. Roman- No questions.

Chr. Dankos- Expresses concern for the driveway layout.

Open to the public

Caroline Kennedy (19 Brookview Road)– Inquired about the different house heights of the surrounding properties. Mr. Bella states the calculations are done on aesthetics. Ms. Kennedy questions the definition of a tree. Mr. Stewart responds to the definition of a tree. Ms. Kennedy inquired about the construction time of jackhammering. The engineer and lawyer both state that the construction time is an estimated 7 months, but cannot estimate the time of jackhammering. Inquired about the height of the home if someone were to be standing on the road looking up to the properties rooftop. The engineer states he will have to do those calculations.

Robert Carolan (133 West Glen Road) - Inquired about the number of variances that would be requested from the 2 proposed plans. Mr. Stewart states the old plan had a number of 10 -11 variances with the planner’s report. The new plan had a total of 10 variances.

Joanne Denneau (85 East Glen Rd)- Inquired about the drainage of the right of way on East Glen Rd and who is responsible for taking care of this. Mr. Stewart states Denville is responsible for all drainage on the right of way. Received clarification about the silt fence and that the Morris County Soil Conservation Department is responsible for this and if there are any deviations.

Mildred Rathie (15 Brookview Road) Made two statements and Mr. Wiener stated this was time for questions only on the testimonies. All statements should be saved for the end.

Debbie Hopkins (141 West Glen Road) Inquired about the NJDEP approval and if they ever visited the proposed property. Mr. Stewart responds by saying he does not know if they came to the site, but they did send a letter of approval with the application.

Paul Marasco (127 West Glen Road) Inquired about jackhammering and blasting for this proposed property. Larry Weiner states that all blasting is regulated by the state. Mr. Marasco also inquired about any damages that could occur at his property and who would he sue in this occurred. Mr. Hantman explains proof of liability coverage has to be provided along with their insurance company. Mr. Marasco also inquired about the time frame of this project. Mr. Stewart states that an average project with these similar conditions does take approximately 7 months.

Seán Dugan (121 West Glen) Inquired about the number or decibels for jackhammer, number of pets in the neighborhood and the number of rocks destroyed. Mr. Stewart states he cannot answer those questions. Mr. Bella further explains the cut and fill calculations.

Andrea Clarke (115 West Glen Road) – Inquired about the NJDEP approval and if this is still applicable for all applications submitted. Mr. Stewart states the NJDEP is approved for all applications submitted. Mr. Wiener states that any resolutions pending approval will need NJ department approvals. Ms. Clarke inquired about the steep slope disturbance on both plan A & B. Mr. Stewarts states it is about 3.5% on each application.

Kevin Shally (23 Brookview Road)- Inquired about the safety of the steep slopes and the construction on the streets. Larry Wiener states that if this application is approved there is a pre-construction meeting.

Kevin Faulkner (19 Brookview Road)- Inquired about the steep slope percentages with variances. Mr. Stewart states that all variances are for steep slopes. Inquired about having someone on the construction side of the project to come testify, Mr. Hantman states it is not in the boards jurisdiction to have someone from construction come testify. Mr. Wiener also clarifies the board does not have jurisdiction over the construction aspect of this application.

Robert Carolan (133 West Glen Road) Inquired if the application considered not having a driveway and to put stairs there instead. Also if this would decrease the number disturbances. Mr. Stewart states this would have less disturbance, but is not preferred by the applicant.

Short break till 9:32

David Karlebach, PP, President of David Karlebach, PP, PC (38 E. Ridgewood Avenue, Ridgewood) was present, sworn under oath and accepted as an expert witness. States that this application no longer requires variance for min. lot area and min. lot depth. All other variances relate to steep slopes of this lot. Mr. Karlebach states that the home is not being unreasonable, a detached garage is not practical with today’s home. The exceptional topographical conditions being the ideal with the C-1 criteria. The benefits of this proposed property are with Municipal Land Use Law, promotion of environmental protection. This is done by furthering the riparian buffer to preserve the environmentally sensitive area. The detriments can be granted without substantial impairment of the zoning ordinance. All siltation, water pollution and vegetation have all been addressed regarding this property. The driveway slope presents a better
planning/zoning and only the first 20' of the driveway and is functionally safe. The cut line is reduced and recused the overall site disturbance. All ancillary variances related to the steep slopes are de-minimis. This is application is tastefully designed and there are no long-term impacts.

Open to the board professionals

John Ruschke, PE - No questions

Jason Kasler, PP - Inquired about the lot depth and it not being changed for this application. Mr. Karlebach disagrees with the calculations of lot depth. Mr. Kasler inquired about privacy by having the home further back than the other homes, Mr. Karlebach spoke to landscaping screening.

Open to the board members

Mbr. Napolitano - Inquired about the dynamic on the driveway to the neighborhood. Mr. Karlebach states this is a neighborhood with different types of homes, not having a distinct pattern in this area and it would not be disrupted. The proposed house is not radically different and consistent with the zone.

Mbr. Fisher - States that a plan C would be beneficial for this application.

Mbr. Moroney - Also states that a plan C without a garage would be beneficial.

Mbr. Roman - Inquired about the lot percentile with the rest of the neighborhood. Mr. Karlebach states this was not part of the variance and was not calculated.

Mbr. Bergen - No questions

Chr. Dankos – Confirmed with Mr. Karlebach that he has surveyed the area himself.

The meeting will be carried till May 4th.

OLD BUSINESS

None

NEW BUSINESS

None

Adjournment 10:05 PM