

DELRAN TOWNSHIP ZONING BOARD

APPLICATION NO. ZZ2020-01

RESOLUTION NO. *ZZ2020-01*

**IN THE MATTER OF APPLICATION OF BEE DEE ASSOCIATES AND ESTATE OF
ROBERT W. GASKILL**

FOR SITE PLAN APPROVAL, USE VARIANCE AND BULK VARIANCES

BLOCK 120, LOTS 40, 42.01

APPLICATION NUMBER: ZZ2020-01

PROPERTY ADDRESS: 73 and 79 Hartford Road

NAME OF APPLICANT: Bee Dee Associates and Estate of Robert W. Gaskill

DATE OF HEARING: July 16, 2020

BOARD MEMBERS PRESENT
AND VOTING: Anderson
Chascsa
Jeney
Khinkis
Morrow
Parento
Smith

APPEARANCES: Joseph Pinto, Esquire, Attorney for Applicant
Samuel Renauro, III, PE- Professional Engineer
Edward F. D'Armiento, Board Engineer
Christopher Dochney, Board Planner
Kathy Phillips, Board Secretary
Jennifer Johnson, Board Solicitor

PROPERTY DESCRIPTION

ZONING DISTRICT:

Lot 40- A1 Zone
Lot 42.01-NC1 Zone

DEVELOPMENT PROPOSAL

The proposal is to expand the existing trucking service business along with a use variance to permit a landscaping business on the same lot as the trucking service use and the residence and to permit the leasing of outdoor storage space.

RELIEF/VARIANCE REQUESTED

§355-10: D-1 Use variance to permit a landscaping business in the A-1 district.

§355-28: D-1 Use variance to permit a parking/storage area for vehicles as a principal use in the NC-1 district.

§355-10: D-2 Expansion of non-conforming use to permit an existing non-conforming truck service business to expand.

§355-13: To permit 85% lot coverage where a maximum of 60% is permitted.

§355-13: To permit a 22.9 foot front yard setback on Lot 40 (residence) where 35 feet is required. (ENC)

§355-13: To permit a 9.1 foot front yard setback on Lot 40 (tower) where 35 feet is required (ENC)

§355-13: To permit a 6.1 foot side yard setback on Lot 40 (residence) where 20 feet is required. (ENC)

§355-13: To permit a 1.5 foot accessory structure side yard setback on Lot 40 (shed) where 15 feet is required.

Site plan approval

SUBMISSIONS

Application

Site Plan, Lot 40, 42.01m Block 120, Town of Delran, Burlington County, NJ,
prepared by SR3 Engineers, dated February 11, 2013, last revised May 21, 2019
Stormwater Management Report prepared by SR3 Engineers, dated June 4, 2019

A-1 Deed of Consent

A-2 Statutes for Recycling of Millings

A-3 Site plan with color added

A-4 1977 aerial photos

A-5 1995 aerial photos

A-6 Drainage Area Map

SUMMARY OF TESTIMONY AND EVIDENCE

The Applicant's counsel, Joseph Pinto gave a brief overview of the project and introduced his engineer, Samuel Renauro, and the applicant for a more detailed explanation. The Applicant previously received use variance and subdivision approval in 2004 (Resolution ZZ2004-3) to reconfigure the lots and permit a trucking facility, beauty salon and residence on the site. Amended approval was granted in 2014 (Resolution ZZ2012-3) to expand the trucking service business along with a use variance however, that approval was conditional. The conditions were not met and the approval was deemed null and void (Resolution ZZ 2019-07). The Applicant is now seeking amended use variance approval to permit the continued use and expansion of the use of the property as a trucking service, a landscaping business, a residence and storage of materials on the site. The Applicant is also seeking site plan approval for new parking spaces for trucks, additional landscaping, new vinyl fencing, a new driveway apron, a new shared dumpster and a 75-foot wide access easement from Lot 42.01 to Lot 40.

FINDING OF FACT AND CONCLUSIONS

1. The properties are in the A-1 zone and the NC1 zone.
2. The Board has Jurisdiction over the subject matter requiring a decision.
3. The Board Planner had identified as complete all necessary items to apply to the Board for variance approval but for the items mentioned below. Completion of these items will be conditions of approval.
4. To obtain a (c)2 variance, the Applicant has a burden to show that an application relating to a specific property would advance the purposes of the zoning ordinance by a deviation from the ordinance requirements and that the benefits of

the deviation would substantially outweigh any detriment. In other words, the Applicant has to show that (1) the variance pertains to the specific property; (2) that a variance would advance the purposes of the MLUL and the ordinance; (3) the variance does not cause “substantial detriment to the public good”; (4) its benefits substantially outweigh any detriments from the deviation; and (5) the variance does “not substantially impair the intent and purpose of” the Zoning Plan and Zoning Ordinance.

5. To obtain a D variance, the burden is on the Applicant to establish both the “positive” and “negative” criteria. The Applicant offered both lay and expert testimony in support of the application.
6. A critical element of a use variance is whether the use is particularly suited to the location in which it is proposed.
7. The Applicant has provided testimony as to the existing/proposed use of land and proposed location of use in the buildings.
8. The Applicant provided testimony regarding general operation of the use, number of employees, the time and number of services, day to day operations, proposed layout of the property, proposed parking and other such information to determine compliance.
9. The Applicant provided sufficient testimony as to why the use is particularly suited to the location in which it is proposed.
10. The Applicant has provided testimony as to the existing/proposed uses of the buildings.
11. The granting of the variances does not represent any detriment to the zone plan or ordinance.
12. The granting of waivers for wetlands delineation, traffic study and environmental impact statement do not represent any detriment to the zone plan or ordinance.
13. The relief requested can be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan.
14. Due notice has been given in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq.) and the rules of the Board of Adjustment.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Delran Zoning Board, that subject to the conditions noted below, that the application for site plan approval pursuant to N.J.S.A. 40:55D-46.1, subject to the revisions by the Applicant's engineer, and for variances be and is hereby granted, pursuant to N.J.S.A. 40:55D-70(c) and (d).

CONDITIONS OF APPROVAL

1. Installation of trees behind the split rail fence on the Property.
2. An easement must be created and recorded granting a 30.2 foot wide access from Lot 42.01 to Lot 40.
3. Proper buffering along the easterly property line of Lot 42.01. Applicant must show a landscaped buffer of 50 feet in width along Lots 45, 46 and 47 that begin with the new rear parking areas (the ones closest to these lots labeled "3", the center 3 parking areas also labeled as "3" adjacent to the above lots, and the front spaces labeled "existing vehicle parking area") and generally enhanced buffer plantings along the entirety of the eastern side of the property wherever vegetation is sparse.
4. No lighting may be installed that is directed toward the neighboring parcel Lot 46.
5. No noxious fumes may be created on the Property.
6. A landscaping plan to show compliance with the buffer plantings and tree plantings behind the split rail fence must be submitted.
7. The existing footprint of the landscaping business may not be expanded without further Planning Board approval.
8. There shall be no further expansion of the uses on the site with Board approval.
9. A Soil Erosion and Sediment Control Plan must be submitted to the Township office as well as the Burlington County Soil Conservation District.
10. Applicant must demonstrate compliance with ADA parking requirements.
11. Applicant must comply with all other applicable ordinances and codes including but not limited to building codes, fire codes and all water management requirements.

12. All conditions that require action must be completed within six months from the date of the adoption of this Resolution.

AND, BE IT FURTHER RESOLVED that a copy of this Resolution be mailed within ten (10) days of the date of its adoption to the Applicant's Counsel and that a copy of this Resolution be maintained on file by the Administrative Office of Delran Township and that a brief notice of this decision shall be public in the official newspaper of Delran Township.

Motion by: Morrow; seconded by Anderson

Board members voting to grant the requested variance:

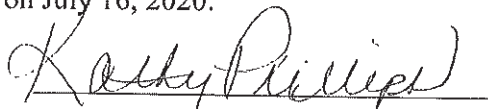
Anderson
Chasca
Jeney
Khinkis
Morrow
Parento
Smith

Board members voting to deny the requested variances: None

CERTIFICATION

I hereby certify that the foregoing is a true, accurate and complete copy of the resolution of memorialization adopted by the Delran Township Zoning Board at its regular monthly meeting on January 21, 2021 memorializing action taken by the Zoning Board on July 16, 2020.

Dated: 1/21/21


KATHY PHILLIPS, Secretary