

Law Office of Anthony H. Ogozalek, Jr.

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ANTHONY H. OGOZALEK, JR.
Email: aogozalek@ogozaleklaw.com

November 22, 2019

Ted Reimel
Property Maintenance and Zoning Official
Delran Township
900 Chester Ave.
Delran, NJ 08075

Jason Harris
Construction Official
Delran Township
900 Chester Ave.
Delran, NJ 08075

Walter Bauer
Fire Official
Delran Township
900 Chester Ave.
Delran, NJ 08075

Salvatore Siciliano, Esquire
Siciliano & Associates
16 Haddon Ave.
PO Box 25
Haddonfield, NJ 08033

RE: Zoning Permit/Site Plan for 4101 Bridgeboro Road

Messrs. Reimel, Harris, Bauer and Siciliano:

As you may be aware, I represent James Dunphy and 4101 Bridgeboro Road LLC with regards to the above matter. I am sending this correspondence in response to Mr. Reimel's email where he advised that my client would need a site plan after we already received Zoning Permit 20190293.00.

By way of background, I will lay out the facts, so far. During September 2019, I spoke with Mr. Reimel concerning the zoning process for the above-mentioned property. On October 30, 2019, my client purchased the above property and I submitted an application for a Zoning Permit on the same day. (See attached as Exhibit 1). On November 1, 2019, Mr. Reimel granted our Zoning Permit. (See attached as Exhibit 2).

Shortly after that date, my client was preparing the existing driveway and area around the existing barn/accessory building for the placing of clean $\frac{3}{4}$ inch stone so that he could park his vehicles that will be used for his farming/agriculture and landscaping business. The stone is permeable. Further, my client repaired an existing concrete pad, which was on the survey provided, which previously held an above ground fuel storage tank for refueling of previous farm owner's vehicles, so that it complied with NJDEP regulations for fuel storage, when he eventually placed the tanks a top the existing concrete pad.

During this period, Mr. Harris spoke with my client and his employees that were on the property. I was contacted by my client and I eventually spoke with a member of CME Associates regarding the Zoning Permit and the type of stone being used on site as well as the Zoning permit. I attempted to set up a meeting via email with Mr. Reimel and Mr. Harris. It was at this point that Mr. Reimel communicated to me that we needed to do a site plan.

Pursuant to NJSA 40:55D-1 et seq (Municipal Land Use Law), NJSA 4:1C-1 et seq (Right to Farm Act, Delran Municipal Code and the attached Zoning Permit, it is my opinion that my client does not need to incur the added expense of approximately \$10,000.00 for a site plan on this property based upon what my client is using the property for and the fact that there are at least two other properties located on the same road within 2000 feet of this property and designated as an A-1 zone, which have not gone through the site plan process as we are being asked.

The first property is located at 3003 Bridgeboro Road, Delran, NJ. The property is owned by Al Stuffo and leased by Jay's Landscaping services. This landscaping company has made numerous improvements including a macadam road, installed multiple "Sea Boxes" and installed storage bins, all without a site plan review. Further, the current tenant is not farming the property as is required under the elements of Agriculture (A-1).

The second property is located at 4200 Bridgeboro Road, Delran, NJ. This location is owned by Flagg Properties and is leased by McHugh's Landscaping and Flagg's Landscaping. This property is being used by both tenants as a Landscape Company Storage facility with bins for material storage and office space.

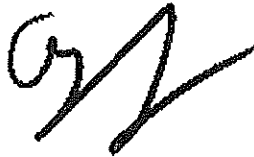
My client is very enthusiastic, and proud to abide by the rules and regulations of the Township. He has done so through the Zoning Permit Application process. The only modifications/plans for the property are as follows (the below was described in general for the Zoning Permit application):

- PSEG is going to install three poles and two light in accordance with regulations and permitting process.
- Seven side by side moveable concrete block containment areas for storage of agricultures and horticulture supplies to be used on the property as part of the farming side of the business and for offsite jobs done by the landscaping side. (i.e.: mulch, topsoil etc.). The total space used by the containment areas will be 130 feet x 24 feet.
- Two above ground fuel storage tanks to be placed on the existing concrete pad (Previously used by prior owner as a fuel storage area. This containment area will comply with NJDEP regulations as well as Delran Fire Marshall regulations.
- Less than 40,000 square feet of clean ¾ inch stone to be spread for parking/storing of vehicles and equipment used for the farming and landscaping services offered by Dunphy's Landscaping.

- Finally, in the very near future Mr. Dunphy will apply for a permit to allow three storage boxes (Sea Boxes) to be placed next to the existing accessory building/barn. This will be used to store farming and horticulture equipment.

As of this time and the foreseeable future, no additional work (except for what is shown above) or new buildings are planned. When and if that time comes, Mr. Dunphy will apply through the construction/code office as he has done for the present application.

Sincerely,

A handwritten signature in black ink, appearing to be 'A. H. Ogozalek, Jr.', written in a cursive style.

Anthony H. Ogozalek, Jr.

cc: 4101 Bridgeboro Road, LLC



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Stone Harbor, NJ 0824

January 10, 2020

Via Electronic Mail (aogozalek@ogozaleklaw.com)

Anthony H. Ogozalek, Esquire
Law Office of Anthony H. Ogozalek, Jr.
1100 Taylors Lane, Unit 9
Cinnaminson, NJ 08077

RE: Use Variance and Site Plan Approval for 4101 Bridgeboro Road, Delran, NJ

Dear Anthony,

We are in receipt of your correspondence from November 22, 2019 regarding 4101 Bridgeboro Road (the "Property"). We understand from your correspondence and its attached zoning permit application that the owner of the Property is 4101 Bridgeboro Road, LLC and that the owner leases the Property to Jim Dunphy Landscaping. I also spoke with you personally regarding this Property on January 8, 2020. The purpose of your letter and phone call was to confirm the requirement of site plan approval for the Property.

The Property is located in the A-1 zone. According to §355-10A of the Township of Delran Zoning Code, the purpose and intent of the A-1 Agricultural District is, among other things, to provide for agricultural uses. Agricultural uses include breeding, raising, maintaining or producing for sale, lease or personal use of livestock or the growing of agricultural products, including soil preparation, crop and horticultural services.

SICILIANO & ASSOCIATES
LLC

January 10, 2020

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According to our examination, the current use of the Property is solely the operation of a landscaping business. This is not a permitted use in this zone and therefore must be discontinued immediately. A landscaping business may not be run on this Property unless and until a use variance is obtained from the Delran Township Zoning Board. The applicant will also be required to obtain site plan approval pursuant to §290-3 of the Code. This can be done simultaneously with the use variance application or in a bifurcated process. Regardless, no landscaping business can operate on the Property until both approvals are obtained.

The Sea Boxes located on the Property are also not permitted and must be removed immediately.

If you need guidance through the zoning application process, please do not hesitate to reach out to me.

Very truly yours,

SICILIANO & ASSOCIATES, LLC.

BY: *Jennifer Johnson*
Jennifer Johnson

cc: Jeffrey Hatcher, Administrator
Kathy Phillips, Board Secretary
Ted Reimel, Code Enforcement Officer
Jason Harris, Construction Official

*Township of Delran, NJ
Tuesday, December 5, 2017*

Chapter 37. Land Use Procedures

Article IV. Administration and Enforcement

§ 37-39. Enforcement.

[Amended by Ord. No. 2000-18]

- A. Grant of authority; responsibility. The Zoning Officer is hereby authorized to and shall administer and enforce the provisions of this chapter.
- B. Issuance of permits and certificates. In no case shall a zoning permit or certificate of conformance be issued by the Zoning Officer for any construction, erection, alteration or use of any building, other structure, lot or area of land that would be in violation of any provision of this chapter.
- C. Inspection of premises. The Zoning Officer, or his or her duly authorized agent, shall have the right to enter and inspect any building, other structure, lot or area of land at all reasonable times, subject to due process of law, whether already constructed, erected, altered or put into use, or during the course of construction, erection, alteration or putting into use, for the purpose of determining whether or not the provisions of Chapter **355**, Zoning, are being complied with.
- D. Records and reports.
 - (1) The Zoning Officer shall keep a record of all applications for zoning permits and certificates of conformance and a record of all permits issued, together with all notations of all special conditions involved. The Zoning Officer shall file and safely keep copies of all applications submitted, and the same shall form a part of the records of his or her office, and shall be available for the use of the Township Council, the Zoning Board of Adjustment, the Planning Board and other officials of the Township.
 - (2) The Zoning Officer shall prepare a monthly report for the Township Council summarizing for the period since his or her last previous report all permits issued and all complaints of violations and the action taken by him or her consequent thereon. A copy of each such report shall be filed with the Township Tax Assessor at the same time it is filed with the Township Council.
- E. Cases of doubt. Should the Zoning Officer be in doubt as to the meaning or intent of any provision of Chapter **355**, Zoning, as to the location of a district boundary line on the Zoning Map, or as to the propriety of issuing any permit in a particular case, he or she shall present the matter to the Zoning Board of Adjustment for interpretation and decision. Any proposed use which is not clearly identified in Chapter **355**, Zoning, as being a permitted use in a district shall be prohibited, subject to clarification by the Zoning Board of Adjustment, and no permit shall be issued by the Zoning Officer authorizing the proposed use.