

**DELANCO TOWNSHIP  
JOINT LAND USE BOARD  
REGULAR MEETING  
SEPTEMBER 1, 2009**

Ms. vanGenderen called the meeting to order and led the flag salute.

**Sunshine Statement**

Please be advised that proper notice of this meeting has been given in compliance with the Sunshine Law in the following manner: written notice has been mailed to the Burlington County Times and Courier-Post newspapers and published in the January 3, 2009 editions. Written notice has been posted on the official bulletin board of the Township of Delanco at least 48 hours prior to the meeting.

**Present:** Mr. Taraschi, Ms. Lohr, Ms. Jass, Mr. Lord, Ms. Mader, Mr. Martin, Mr. Matulewicz, Ms. Moore, Ms. vanGenderen, Mr. Schmitt, Mr. Anastasi

**Absent:** none

**Board Professionals:** Denis Germano, Esq.; Lee Phillips, Engineer; Scott Taylor, Planner

**Resolutions**

**Resolution 2009-13**

**Antonio Santos**

**Declaring Application #2009-12 Complete & Granting Submission Waivers**

Motion by Ms. Moore, seconded by Mr. Matulewicz to adopt and memorialize Resolution 2009-09.

Those voting in favor: Mr. Taraschi, Ms. Lohr, Ms. Jass, Mr. Lord, Ms. Mader, Mr. Martin, Mr. Matulewicz, Ms. Moore, Ms. vanGenderen

Those voting against: none

Those abstaining/recusing: none

**Approval of Minutes**

The August 4, 2009 minutes were approved by those Board members eligible to approve them. The minutes were corrected to specify that the Board granted three waivers and one deferral when Mr. Santos' application was declared complete.

**New Applications**

**Cecilia Campolucci**

Block 2100, Lot 44

59 Pennington Court

PRD-AH Zone

Bulk Variances for deck

Mr. Taraschi recused himself from the hearing because he lives within 200 feet of the applicant. Ms. Jass recused herself from the hearing because she is a member of the Newton's Landing homeowners' association, and she felt it was inappropriate to participate in the hearing.

Mr. Phillips reported that no letter had been issued on this application. He noted that the drawing submitted by the applicant was not to scale and there was no sealed survey. He felt these were minor

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issues for this application and recommended that they be waived and that the Board declare the application complete.

Motion by Ms. Moore, seconded by Mr. Matulewicz to deem the application complete and to grant the waivers that were identified by Mr. Phillips. The voice vote by the Board was unanimous in favor.

Ms. Martin asked Mr. Germano if Mr. Anastasi would need to recuse himself if he was a member of the Newton's Landing homeowners' association. Mr. Germano explained that if Mr. Anastasi did not have a personal stake in the outcome of the application then he could vote on it. Mr. Anastasi stated that he did not have a feeling one way or the other regarding the application. Ms. Lohr stated that she had provided technical assistance to Ms. Campolucci in filling out her application. Ms. Lohr also did not have an opinion regarding the application, so she remained on the Board.

Ms. Cecilia Campolucci was sworn in as a witness. It was noted that proper notice of the hearing had been given. Ms. Campolucci explained that she wanted to construct a deck on the existing patio pad behind her house. She provided details regarding why she wanted to construct the deck and about the deck design. The concrete slab would remain under the deck. Ms. Campolucci has not experienced any water problems with the patio. There was discussion as to why Ms. Campolucci needed the variance to build the deck. One corner of the deck will encroach into the rear yard setback.

Mr. Carl Taraschi, 55 Pennington Court, was sworn in as a witness. Mr. Taraschi referenced Joint Land Use Board resolution #2000-10 which was passed on June 28, 2000. He read the second paragraph on page 4 which stated that:

“The Board found that the house sizes generally will range from 1295 sq. ft. to 1820 sq. ft. with the largest footprint at 2375 sq. ft. This results in an increase in the building and lot coverage which exceeds the building and lot coverages permitted. The Board considered permitting an additional 330 sq. ft. of lot coverage to be built by the homeowner for a deck or porch. This increase in coverage is not to be used by the builder to build a larger house.”

Mr. Taraschi read from paragraph G. on page 5:

“The Board's approval for up to an additional 330 sq. ft. of lot coverage is limited to the individual homeowner to build a porch or deck type structure without the requirement of obtaining an additional variance...”.

Mr. Taraschi also read from Zoning Section 110-18 C. regarding decks, patios and swimming pools and Section 110-33 C. regarding accessory uses. Mr. Taraschi stated that as a neighbor he had no problem with the deck and because Ms. Campolucci's lot backs up to open space there is no neighbor behind her who would feel cramped by the structure. Mr. Germano marked resolution #2000-10 as Exhibit A-1. Mr. Germano and Mr. Taylor further discussed what was permitted in Zone PRD-AH.

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The hearing was then opened to the public.

Mr. Martin Goldberg, 75 Pennington Court, was sworn in. Mr. Goldberg is the president of the Newton's Landing homeowners' association. He stated that the Board of Directors has no objection to Ms. Campolucci's petition. The only problem is that decks are not permitted by their Declaration of Covenants. Therefore they are in the process of having their Declaration of Covenants changed and they are reviewing all of the provisions. Mr. Goldberg testified that it is the Board of Directors' intent, if decks are permitted and the Declaration of Covenants changes are approved, to set specifications as to what will be permitted for a deck in Newton's Landing.

Mr. Taylor suggested that it may make sense to modify the accessory use section of the ordinance so it corresponds with the changes to the homeowners' association covenants. There was discussion regarding addressing the whole issue of decks in the Newton's Landing development or just addressing this application. There was further discussion regarding the rear lot line of Ms. Campolucci's property.

Jack Hoefle, 44 Pennington Court, was sworn in. Mr. Hoefle discussed the sizes of patios throughout Newton's Landing. He did not feel that Ms. Campolucci should be allowed to build a deck over her existing patio until the homeowners' association documents are changed and there are specifications regarding what is permitted. Mr. Hoefle did not feel that the June 15, 2009 letter from the Newton's Landing homeowners' association approving Ms. Campolucci's deck was valid because the Declaration of Covenants indicates that aggrieved parties have a 45 day right of appeal to any changes made by the architectural committee. He was not aware of the approval from the homeowners' association for Ms. Campolucci's deck until he received notification of the hearing because he was on the 200 foot list. None of the homeowners have had an opportunity to discuss the changes with the Board of Directors.

Mr. Germano stated that it was not the Joint Land Use Board's function to question the action of the Newton's Landing homeowners' association Board of Directors. A letter was provided to Ms. Campolucci from the homeowners' association stating that her request for a new deck was approved which is all the Joint Land Use Board requires.

Mr. Goldberg clarified that there has been no change in any architectural standards for Newton's Landing. He reviewed the process that must be followed in order to revise the Declaration of Covenants. Mr. Goldberg stated that Ms. Campolucci cannot construct her deck until the Declaration of Covenants is revised and approved by the residents of Newton's Landing, however, the Joint Land Use Board could still make a decision on her application.

Ms. Marlene Jass, 4 McCay Way, was sworn in. Ms. Jass asked how much time Ms. Campolucci would have to build her deck if her application is approved and the permit is issued. Mr. Germano stated that Ms. Campolucci would have until December 31, 2010 to begin construction of the deck.

Since there were no further comments Ms. vanGenderen closed the hearing to the public.

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Mr. Martin asked for clarification regarding the June 15, 2009 letter from the Newton's Landing homeowners' association. Mr. Goldberg stated that the letter should have said Ms. Campolucci's request for a new deck has been approved pending changes to the Declaration of Covenants.

Mr. Germano advised the Board that he thought the application should be treated as a variance from the 25 foot setback requirement.

Motion by Ms. Moore, seconded by Mr. Matulewicz to approve the variance.

Those voting in favor: Ms. Lohr, Mr. Lord,

Ms. Mader thought the variance was due to the lot shape and it was probably one of the original variances in the site plan,

Mr. Martin stated the applicant had the right to apply and the Township allows decks,

Mr. Matulewicz felt Ms. Campolucci's physical infirmity was a hardship,

Ms. Moore, Ms. vanGenderen, Mr. Schmitt, Mr. Anastasi

Those voting against: none

Those abstaining/recusing: none

**Continued Applications**

**Antonio Santos**

Block 2000, Lot 3.01

210 Creek Road

I-2 Zone

Bulk and Use Variances for new garage

Mr. Germano advised the Board that the Santos application was for a "d" variance so both Mr. Taraschi and Ms. Jass were disqualified from hearing the application. Mr. Germano discussed a recent Appellate Division decision regarding Zoning Boards. The seven regular Board members were in attendance, so the two alternate Board members will not vote on this application. Mr. Germano also discussed the notification of utilities. Proper notice of the hearing had been given.

Mr. Daniel Baker, Esq. represented Antonio Santos. Mr. Santos is seeking approval for the construction of a third garage which would be an extension from a current two car garage. Several variances are requested as set forth in the application.

Mr. Antonio Santos was sworn in as a witness. Mr. Santos stated that the purpose of the third garage would be to house a truck that he drives to work every day. He would also like a classic car, but he can't get one because he doesn't want to keep it outside in the weather. In his opinion adding the third garage would make the property more attractive to the Township and to his neighbors.

Mr. Baker asked what zone the house was in. Mr. Santos responded that at the time he bought the property it was considered commercial, but the Board approved the construction of his house and his brother's house. The

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property was subdivided at that time. Testimony was given regarding where the garage would be located and why the variance is needed, that the garage would be for Mr. Santos' personal use, that there had been no objections from neighbors, and that the garage would not interfere with any utilities.

Ms. vanGenderen asked Mr. Taylor to review his letter of July 22, 2009. Ms. vanGenderen referred to the Comments section on page 2 and asked if the Board had received an updated survey. Mr. Martin pointed out that Resolution 2009-13 deferred the survey until the Board could determine if one should be required. Ms. vanGenderen asked Mr. Santos to provide testimony with respect to item C. under the Comments section regarding lot coverages. Mr. Baker asked Mr. Santos if there had been any changes on the property from the time the survey was completed (survey dated 6/13/92). Mr. Santos responded that the only change that had been made was the pool in the back. He had all the permits at home. Ms. vanGenderen asked about item B. which referenced a patio, a gazebo, a cabana, and a side yard shed. Mr. Santos said that the survey he had provided for the pool showed the back shed and the gazebo. Ms. vanGenderen asked if that was the survey that had been submitted with his current application. Mr. Santos said no, and he did not have that survey with him.

There was further discussion regarding the additional shed for the pool supplies, the roof that connected the two sheds, and the gazebo. Mr. Santos did not have permits for the gazebo or for the second shed. There was no cabana. Mr. Germano said that coverage may be an issue. Mr. Santos stated that he does not keep any business trucks on the property. Mr. Taylor and Mr. Santos discussed how a car would pull in and out of the garage and whether there was enough space for this. Mr. Santos discussed how he was planning to construct the garage and the measurements he had used.

Mr. Phillips asked about drainage. Mr. Santos described the drains that are under his house. The garage addition will have downspouts that tie into the drain. Mr. Phillips asked about the width of the existing garage. Mr. Santos responded that the existing garage is 26 feet deep and he thought it was 22 feet wide. Mr. Phillips discussed the ordinance which says a three car garage can be no more than 840 square feet. He suggested to the Board that if they grant Mr. Santos' variance they also allow him to go over the square footage by a small amount.

Ms. vanGenderen asked Mr. Taylor if he had concerns. Mr. Taylor asked Mr. Santos if he was seeking to amend his application to include the gazebo which was not permitted. Mr. Santos replied that whatever is there now it would be better to get everything put into one paper so there are no problems in the future. The following issues were discussed: structures may need to be removed if they don't comply with UCC standards, the Construction Official should inspect the structures regardless of what happens with the application, penalties Mr. Santos may have to pay, what variances would be required since the accessory structures are an expansion of a pre-existing non-conforming use, and what bulk variances may or may not be required. Mr. Santos discussed the history of what had happened when the lot was purchased and subdivided.

Mr. Germano explained to the Board why Mr. Santos still needs a "d" variance. The garage requires a variance. There has to be some positive zoning purpose by adding this garage and the positive purpose has to outweigh the negatives. Mr. Lord asked for a restatement of the positives. Mr. Baker responded that the garage would add value to the property but it would also increase and help the overall look of the community. It would permit Mr. Santos as a property owner to extend the basic uses of household ownership including ownership of a classic car. The garage would increase the appearance of the neighborhood, it is consistent with the neighborhood, and it

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provides extra value to the neighborhood. Mr. Lord asked if there were any negatives. Mr. Baker could not see any. Yes the garage is being expanded, but it is covering an area that is already impervious. No neighbors came to the hearing to object to the garage.

Mr. Germano advised the Board that they were not required to act tonight. Mr. Matulewicz said he had reservations about the application. He felt the sideyard setback was too small for the new character of the zone and surrounding residences and this seemed like a rather intense use of a residential lot. Mr. Lord agreed with Mr. Matulewicz. A 5 foot sideyard setback was rather a thin margin. Mr. Lord had reservations just because he didn't have all the information in front of him about setbacks. Mr. Baker said he understood that and they did appreciate that further detail was going to be needed. Mr. Santos said that he had measured out with pins and string where the garage would be on his property and there would be almost 22 feet from the side of the new garage wall to the side of his neighbor's house. There was discussion regarding how he would safely put a ladder up to the roof, access to the property by emergency vehicles, the change in the viewshed for the neighbors, the lack of permits for some of the accessory structures, and the percentage of impervious and building coverages on the property.

Mr. Santos was concerned about spending money on a survey and then having his application denied. Mr. Taylor told Mr. Santos that he could choose to amend the application, and that is entirely up to him and his attorney. If he doesn't want to amend the application to include the gazebo it is entirely up to him. However, if the Board approves the garage, when the permit is pulled and the Zoning Officer and/or Construction Official finds out that there is an unlawfully existing structure Mr. Santos will be cited for a violation.

At 9:21 PM Mr. Baker asked for and was granted a five minute recess to discuss the issue with Mr. Santos.

The hearing resumed at 9:29 PM. During the recess Ms. Martin was able to find the 1989 file on the matter. As Mr. Santos had stated a use variance had been granted "so as to utilize the property for residential purposes as provided in the Residential 1A Zone of the Township...". Mr. Germano read further from page 4, item 3 of the resolution "a variance from the 20 foot side yard requirement to a fifteen foot side yard as requested is granted...". Mr. Germano summarized that the front of the proposed new garage would be five feet from the property line and the back corner would be 12 feet. Mr. Santos said the garage would be 10 feet high. There was further discussion regarding permitted accessory structures, a possible different location for the proposed new garage, and the distance from the proposed new garage to the neighbor's house. Mr. Germano summarized that Mr. Santos wanted an indication of whether or not the Board will approve the garage, but he doesn't want to spend a lot of money doing a survey for a variance the Board is going to deny. Several Board members expressed their feelings about the application and there was discussion about setbacks in other zones. Mr. Germano asked Mr. Baker if he understood that the Board needed a survey and the documentation on the pool. Mr. Baker responded yes. He said the Board would get that information if the applicant intended to proceed.

Motion by Ms. Mader, seconded by Ms. Moore to continue the hearing. The voice vote by the Board was unanimous in favor.

**Open Meeting to the Public**

Ms. vanGenderen opened the meeting to the public and since there were no public comments the meeting was closed to the public.

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**Comments from the Board**

Mr. Taylor clarified his comment regarding Mr. Santos' gazebo for Mr. Martin.

Mr. Lord summarized what was discussed during the subcommittee meeting regarding the Newton's Landing commercial property. The subcommittee would like the Taylor Design Group to do a study of potential uses of that property. The subcommittee has tentatively scheduled their next meeting for 6 PM on October 6, before the next Joint Land Use Board meeting. There was discussion regarding the funding for the study. Scott Taylor was asked to provide an estimate on what he thinks the study will cost so the Board can compare that figure with available funds. The subcommittee felt that with the Creek Road bypass coming in this would be an opportunity to look at the entire area. Mr. Lord will find out what funds are available for the study.

Ms. vanGenderen advised the Board that some homeowners at River's Edge had been clearing trees in the buffer areas. Photos were distributed to the Board for their review. The Environmental Advisory Board has been aware of this issue and brought it to the attention to the New Jersey Department of Environmental Protection. Ms. vanGenderen stated that this is an enforcement issue so she didn't think the Board needed to get involved, she just wanted to make everyone aware of it. There was a lot of deliberation about how this was going to be handled and enforced when the Board heard the River's Edge application and the conditions that had been put into the resolution were not adequate. Ms. vanGenderen was concerned with future developments. There was further discussion on this topic.

Mr. Germano informed the Board that the owners of the Distributec property on Burlington Avenue want to divide the buildings and rent them to different users. Mr. Germano summarized his conversation with the owner.

**Adjournment**

A motion to adjourn the meeting was made by Mr. Matulewicz and seconded by Mr. Lord. The voice vote by the Board was unanimous in favor.

Katherine Martin  
Board Secretary

Approved: October 6, 2009