

**GLOUCESTER TOWNSHIP ZONING BOARD OF ADJUSTMENT
WEDNESDAY, MAY 13, 2015**

Chairman McMullin called the meeting to order. Mr. Lechner read the commencement statement.

Roll Call:

Vice Chairman Simiriglia	Present
Mr. Bucceroni	Present
Mr. Scarduzio	Present
Mrs. Chiumento	Absent
Mr. Rosati	Present
Mr. Acevedo	Absent
Mr. Treger	Present
Ms. Scully	Present
Chairman McMullin	Present

Chairman McMullin had the professionals sworn in:

Also Present: Mr. Anthony Costa, Zoning Board Solicitor

Mr. James Mellett, P.E., Churchill Engineering

Mr. Ken Lechner, Township Planner

Mr. Treger will sit for Mrs. Chiumento and Ms. Scully will sit for Mr. Acevedo.

MINUTES FOR ADOPTION

Zoning Board Minutes for Wednesday April 22, 2015.

A motion to approve the above-mentioned minutes was made by Mr. Scarduzio and seconded by Mr. Bucceroni.

Roll Call:

Vice Chairman Simiriglia	Yes
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Minutes Approved.

RESOLUTIONS FOR MEMORIALIZATION

#152005DCM

1743 Farmhouse, LLC

Bulk C & Use "D" Variance/Minor subdivision

Block: 3306 Lot: 11 & 12

A motion to approve the above mentioned resolution was made by Vice Chairman Simiriglia seconded by Mr. Bucceroni.

Roll Call:

Vice Chairman Simiriglia	Yes
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Resolution Approved.

#142001DSPW
Timbercreek Liquors
Use "D" Variance/Site Plan Waiver
Block: 101 Lot: 12

#112042DaCDPC
Ryland Homes
Bulk C Variance; Prelim Major Subdivision
Block: 17499 Lot: 1

#152019C
Shawn Chando
Bulk C Variance
Block: 10401 Lot: 3

A motion to approve the above mentioned resolution was made by Mr. Bucceroni seconded by Mr. Scarduzio.

Roll Call:

Vice Chairman Simiriglia	Yes
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Ms. Scully	Yes
Chairman McMullin	Yes (abstains from #142001DSPW)

Resolutions Approved.

APPLICATIONS FOR REVIEW

#152022C
Joseph Pertruzzi
Zoned: R3
Bulk C Variance
Block: 18307 Lot: 4
Location: 6 Crystal Ct., Sicklerville
12' x 18' shed - 2' from easement, 9.5' from property line; 14' x 20' stone bed - 0' from easement & 7.5' from property line.

Mr. Costa swear in Mr. Pertruzzi.

Mr. Pertruzzi states the shed will be large enough to store snow blowers, wheel barrels, lawnmowers etc.. He explains he has a large diamond shaped yard.

Mr. Lechner explains how Mr. Pertruzzi actually has 3 frontages on his lot.

Mr. Bucceroni questions other sheds.

Open to Professionals:

No Additional Comments.

Open to the Public:

No Comments.

A motion to approve the above mentioned application was made by Mr. Scarduzio and seconded by Vice Chairman Simiriglia.

Roll Call:

Vice Chairman Simiriglia	Yes
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

#15200Ca

James J. Gordon

Zoned: R3

Bulk C Variance

Block: 6201 Lot: 3

Location: 995 Cummings Ave., Blackwood

11' x 32' lean-to to Pole Barn (amended application-resolution #152007C memorialized 4/8/2015).

Mr. Costa swears in Mr. Gordon.

Mr. Gordon explains this is a amendment to his previous application because he is adding a lean-to, there are no setback changes.

Mr. Lechner states this was approved as a pole barn but the roof makes it a structure.

Vice Chairman Simiriglia suggests Council should issue a design standard. A metal building with a lean-to looks like a farm building.

Mr. Mellett states there are all 1 acre lots on his side.

Vice Chairman Simiriglia states: it just doesn't look residential.

Open to Professionals:

No Additional Comments.

Open to the Public:

No Comments.

A motion to approve the above mentioned application was made by Mr. Bucceroni and seconded by Chairman McMullin.

Roll Call:

Vice Chairman Simiriglia	No
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

#152003DPMFM

Old Country, LLC

Zoned: R1

Prelim/Final Subdivision

Block: 19702 Lot: 6.14

Location: Kearsley Rd, Sicklerville

4 lots.

Mr. Costa swears in: Mr. Guido Barbaro (Esq.), Mr. Addison Bradley (Planner), Mr. Joseph Raday (PE).

Mr. Bradley explains the application with the addition of the 4 lots: previous approval in 2007.

- 14 lots approved

- applicant has returned for the approval of 4 more lots because they are afraid if Remington and Vernick come out to the site they'll change it back to the original plan.

Mr. Bucceroni mentions a problem with the ramps.

Mr. Mellett states there are 8 different handicap ramps and they just need to specify which one they want to use.

Mr. Bradley brings up the issue of making the cart way 30' instead of 28'.

Mr. Lechner states making the cart way 30' allows parking on both sides of the street.

Mr. Mellett states the applicant must demonstrate they have enough parking.

Mr. Bradley state they have enough parking with the 28' cart way and would ask council to approve no parking on one side of the street.

Mr. Bradley explains to The Board how much difference a 30' cart way would make in the plans, parking and handicap ramps.

Mr. Lechner and Mr. Bradley discuss lot depth.

Mr. Raday reviews the Mr. Mellett's engineers' letter.

- layout access and parking,

- cart way width and parking,

- fire dept. approval and access to site,

- cul de sac,

- adequate parking (3 per lot),

- curb ramp.

Mr. Lechner states the parking detail must be on the plan!

- ASH to site

- drainage- no porous pavement,

Mr. Mellett: elevation 164 - soil test pits - looking for unsuitable soils and water table. Have a 2' separation need 2 1/2 ft. along with a basin discussion 164' vs. 168'.

Mr. Lechner states: redo the soil test because of all the work that has been done on the site.

Mr. Costa asks Mr. Raday asks if the basin will handle 4 more homes.

Mr. Raday states the porous driveways would fix the drainage: followed by much discussion about drainage, 14 vs. 18 homes, soil absorption, basin, drainage, swales and easement.

Mr. Mellett wants the drainage easement moved to the back, 3 to 1 slope vs. 4 to 1 needed (waiver needed).

- submit a maintenance plan.

Mr. Lechner discusses:

- lighting and landscaping,

- re locate basin,

- must be in writing if the buyer (new owner) doesn't want a tree,

- dark slates/picket aluminum fence/vinyl,

- defer fence to professionals.

Mr. Raday questions the environmental impact statements.

Mr. Lechner states they are needed because of the history of the site and its historic pesticide problems.

Mr. Mellett states the design is based on the survey from 2003.

Mr. Raday explains: except where the demolished home was located.

Mr. Lecher explains that neighbors may have made improvements to their properties (fences, sheds) and the 2003 survey may not be valid any longer.

Mr. Mellett states a new survey is needed or additional note on plan.

Mr. Raday states an additional note will be added to the plan.

Mr. Lechner states the swale is still an issue.

Mr. Mellett questions if all the contours are going towards Kearsley - going towards an inlet.

Mr. Raday states the clearing will have to go to the property line for the swale, 50' of trees will be removed.

Mr. Lechner asks Mr. Raday: who would want a swale in the middle of your yard?

Mr. Raday states they will clear the trees then.

Mr. Mellett states: leave the decision about the cart way 28' vs. 30' up to the board.

Vice Chairman Simiriglia suggests the home owners wouldn't want other cars in front of their homes and he is worried about the fire dept. apparatus getting in to the street safely and being able to maneuver.

Mr. Mellett and Mr. Raday have a lengthy discussion about DCA standards (28' vs. 30').

Mr. Mellett states there is enough parking with 28' as it was approved by the planning board, thus he removes his recommendation.

Mr. Lechner clarifies: 28' cart way w/no parking on one side of the street.

Mr. Mellett states: "yes"

Mr. Lechner states it will require an ordinance and when will that be obtained (time limit).

Mr. Barbore agrees to getting the ordinance within 30 days of filing the map.

Open to Professionals:

No Additional Comments.

Open to the Public:

No Comments.

A motion to approve the above mentioned application w/the following: agrees w/engineer letter recommendation, 28' cart way, ordinance obtained w/in 30 days, board defers fence to professionals, add test pit, swale in back of lot, was made by Vice Chairman Simiriglia and seconded by Mr. Scarduzio.

Roll Call:

Vice Chairman Simiriglia	No
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

#152002BD

Puff & Pipes, LLC

Zoned: R1

Interpretation / Use "D" Variance

Block: 14402 Lot: 8.01

Location: 2001 College Dr., Unit 8A, Laurel Springs

Seeking permits to construct & operate a cigar lounge within its existing tobacco retail establishment.

Mr. Costa swears in Mr. Kevin Shah (owner), Mr. Jack Smith (architect) Ms. Tiffany CuvIELLO(Planner)

Mr. Charles Rotkah

Mr. Shah explains the business: He purchased the business in 2013; there is a big demand for smoking inside the shop; he's trying to add to the local business and add jobs.

Mr. Bucceroni discusses Mr. Shah's clientele.

Mr. Costa and Mr. Shah discuss the business:

- 1000 sq. ft/

- 24 people

-TV, coffee, music will be provided;

-time for customers to smoke the whole cigar;

-w/in the existing building;

-w/in the building next door.

Vice Chairman Simiriglia and Mr. Shah discuss the air handling system: Mr. Shah states his experts will know more about the air system.

Mr. Costa and Mr. Rotkah discuss his discussion with the County Council about the smoke room w/the health dept.

- the county health dept. states the smoke room is permissible as long as there is an existing business selling tobacco.
- they have a letter from the county stating the above statement.
- the county is satisfied with the air handling system;
- satisfy C.O. regulations for the town;
- Mr. Shah only sells cigars;
- CC Bd. of Health exception because Mr. Shah's gross sales for tobacco is greater than 51%;
- tobacco retail establishment and the clean air act are discussed.

Ms. Tiffany Cuiello (planner):

- interpretation of zoning ordinance;
- permitted accessory use;
- if the board doesn't agree a Use variance is requested'
- state policy does accept the smoke room as an accessory use;
- there is much discussion about the definition of retail sales and services establishment in relation to a cigar lounge; along with accessory uses and principle uses.
- there will be 2 sections a. 1000 sq. ft. cigar lounge and 1000 sq. ft. cigar store;
- 24 people will fit in the lounge;
- a good meeting place for people.

Chairman McMullin asks if any alcohol will be involved.

Mr. Rotkah states no alcohol.

Mr. Lechner inquires if you will need a membership "like a club".

Mr. Rotkah states you must enter the Puff and Pipe store to enter the lounge.

Mr. Lechner inquires again about a membership, because private clubs aren't allowed in a highway/commercial zone. In his opinion that would be 2 principle uses on one property.

Vice Chairman Simiriglia discusses club membership principle use vs. accessory use.

This is followed by much discussion about club/principle use/accessory use/membership fee.

**alcohol can not be sold or brought on premises ..this would be a condition.

Mr. Rosati inquires about the Laurel Hill dance school, fish business, sandwich shop.

Mr. Ratkah states they will get more business if Puff and Pipes customers are allowed to stay longer.

Vice Chairman Simiriglia inquires if the parking is sufficient.

Mr. Ratkah states the old Tuscan Tavern had parking they don't utilize now and he has plenty as he has less people than they do.

Mr. Bucceroni does mention that the parking lot is never full.

Mr. Treger asks if a customer buys a cigar at The Puff and Pipes can use the lounge without a membership.

Mr. Ratkah states "no membership is needed".

Mr. Bucceroni corrects the applicant that he is in Gloucester Township not Clementon.

PUBLIC PORTION:

Mr. John Kearney (Esq.):

- in his opinion this is mostly a variance issue;
- state law - no smoke law accessory;
- state of NJ is trying to stop people from smoking;
- sounds like a club in his opinion'
- zoning ordinance doesn't permit this Use then it's not a permitted Use.

Mr. Greg Kowkowsky: (health food store)

- 25% vacancy in the strip mall;
- he is there to show support for the business;
- struggling to get people into the plaza/
- sidewalk covered with facade;
- no complaints from people smoking outside on the sidewalk.

Ms. Cathy King: owner of the Dance Studio:

- already lost business because of the things being sold in the cigar store and on display in the front window.
- 400 to 500 people in her door every week;
- a concern for asthmatic customers and employees;
- 24 people cigars at the same time is a lot of smoke'
- this business will be a problem for her.

Mr. Scarduzio states there will be ventilation for those 24 people.

Mr. Costa clarifies:

If accessory use it goes to the planning board.

Not accessory use = use variance vote.

Mr. Lechner states all highway/commercial zones in township will be allowed to have smoking rooms. It will be permitted everywhere.

There is no motion to approve.

A motion to deny the above mentioned application as a "permitted accessory use" was made Mr. Bucceroni and seconded by Mr. Rosati.

Roll Call:

Vice Chairman Simiriglia	Yes to deny
Mr. Bucceroni	Yes to deny
Mr. Scarduzio	Yes to deny
Mr. Rosati	Yes to deny
Mr. Treger	Yes to deny
Ms. Scully	Yes to deny
Chairman McMullin	Yes to deny

Application as a permitted accessory use is denied.

Mr. Costa discussed rescheduling the remaining applications:

#152020DSPW Budman will be heard June 10, 2015

#152025DMS Jersey/Outdoor will be heard June 24, 2015.

USE VARIANCE: PUFF AND PIPES:

Mr. Jack Smith (architect):

- smoke permeating unit and how it will be discarded.
- Due diligence report / accordance with board of health;
- 1600 CFM's and limit air intake; air in negative pressure to ensure all smoke goes intake ventilation system.

- blast air approximately 10' into the air above the building;
- wall is 8" block and will have 2 coats permeated paint and drywall as additional barriers;
- private area for the smokers.

Vice Chairman Simiriglia inquires if this system will be independent of the heating and A/C systems; is it a separate exhaust?

Mr. Smith states "yes" it will be separate, that area will be separate from the other areas and through a separate exhaust. HVAC system will come on, as all the blowers will have to come on for the system to work.

Vice Chairman Simiriglia asks for clarification on the separate system.

Mr. Smith states the shop and lounge will be separate systems.

- smoking lounge separate;
- 9 ton unit.

Mr. Rosati inquires if blowing the air 10' in the air will eliminate odor to the dance studio.
Mr. Smith explains an "up blast air system" will blow just the exhaust 10' in the air.
Mr. Bucceroni suggests keeping the exhaust away from the dance studios intake.
Mr. Smith state he will make sure everything is caulked tightly along with the smoke retardant paint;
this will provide a place to smoke out of sight to the public.
Mr. Treger asks if it is allowed to smoke outside.
Mr. Shah states he is trying to stop the outside smoking.
Vice Chairman Simiriglia believes when the exhaust leaves the exhaust system and it's cool outside
the air will drop.
Mr. Shah states the engineer can work on a solution.
Vice Chairman Simiriglia states air conditioned air will sink.
Mr. Smith repeats the concrete wall will be treated with smoke retardant paint.
Mr. Scarduzio states you get pin holes over the years.
Mr. Smith states with the negative pressure system there will be a constant draw on the wall.
Mr. Lechner discusses the exhaust not being by the intake by any other unit in the complex.
Mr. Smith discusses no make up air on the units and the smoke shop's will be coming from the top.
Mr. Lechner questions any stand alone kitchens in the lounge.
Mr. Smith states there will be cold beverages and coffee.
Mr. Lechner questions a fire place and discusses negative pressure air and fail rate with Mr. Smith.
Mr. Smith states the fire place will be LED electric.
Chairman McMullin asks if the board of health inspects the premises.
Mr. Shah states "yes".
Mr. Bucceroni discusses the system running similar to a big funnel.

Ms. Cuiello: (planner)

- advances general welfare of state policy;
- where you can smoke tobacco;
- promotes state policy under smoke free act;
- site and use suited for each other;
- retail type use;
- extensive mitigation measures;
- exhaust not near any intake (a condition that would be accepted);
- parking sufficient;
- 25% shopping center vacancy;
- enhanced burden of use;
- not specifically prohibited;
- highway/commercial zone fits in the master plan for community shopping;
- does not exist in the municipality

Mr. Bucceroni: no seating outside because it would make it inhospitable.
Mr. Shah states there will be 3 doors to get to the lounge.
Mr. Bucceroni requests the front window displays change, so it doesn't look like a "head shop".
Mr. Shah states he will dress the window up and change it.
Mr. Rosati questions alcohol.
Mr. Shah states he agrees to NO alcohol.

Mr. Lechner discusses hours of operation for the lounge and membership.
Mr. Shah states the HOO will be: 10 am to 9 pm Monday thru Saturday; Sunday 11 am to 7pm.
Mr. Lechner states Mr. Shah will not be able to exceed 7pm or 9pm and there is NO membership.
Mr. Shah states there is NO membership but the customer must buy the cigar from Mr. Shah to use
the lounge.

Mr. Mellett states are no true engineer issues.

PUBLIC PORTION:

Mr. Kearney (Esq.)
- worried because we haven't seen the ventilation system;

- one professional should sign off on the ventilation system;
- CC of health has signed off on the existing retail not the lounge;
- report the statute up to 10' not above;
- NJ legislature and government states smoking is the leading cause of a preventable disease;
- negative criteria and is inherently evil;
- extremely limited;
- guarantee of no sign of tobacco smoke in other businesses or the dance studio will go out of business.

Mr. Bucceroni states he has witnessed smokers standing outside the dance studio door smoking.
- there will be no smoke from the cigar shop in her dance studio;
-Board of Health has to approve it;
-Mr. Shah won't get a permit w/o proper measures.

Mr. Lechner asks Mr. Smith if he used the architectural design standard or his own standard.
Mr. Smith states: certain air change is necessary for a smoking lounge and how the air changes;
mechanical code and it has to be approved by the County's Board of Health.
Mr. Smith states they are getting rid of the air not filtering the air.
Mr. Lechner asks if the smoke stack can be enhanced to blow the air 15' instead of 10'.
Mr. Smith states the exhaust will NOT be near any windows and a 2nd story isn't present.
Mr. Rotkah summarizes and discusses no site plan needed (waiver).

A motion to approve the above mentioned application with the following conditions: display case changed, no smoke impact on any other store, hours of operation : 10 am to 9 pm Monday thru Saturday; Sunday 11 am to 7pm,no alcohol, no club membership was made by Mr. Bucceroni and seconded by Mr. Scarduzio.

Roll Call:

Vice Chairman Simiriglia	No
Mr. Bucceroni	Yes
Mr. Scarduzio	Yes
Mr. Rosati	Yes
Mr. Treger	Yes
Ms. Scully	Yes
Chairman McMullin	Yes

Application Approved.

A motion to Adjourn was made by Mr. Scarduzio and seconded by Mr. Bucceroni.

Respectfully Submitted, Jean Gomez, Recording Secretary.