

Ronald Troppoli, Board Attorney called the meeting to order and the Administrative Officer read the opening statement.

Board Attorney Troppoli administered the Oath of Allegiance to new board members Jose Orozco, Herbert Massa and Alternate Paul Sayah.

ROLL CALL: The roll call showed the following members present: Matthew Hughes, Herbert Massa, Richard Mertens, Thomas O'Donnell, Jose Orozco, Michael Sanclimenti, Paul Sayah, James Moretti, Jr., and Wendell Nanson.

Also in attendance were John Mallon, Board Engineer, Charles Cunliffe, Board Engineer, Jennifer Beahm, Board Planner, Shari Spero, Board Certified Tree Expert, Matthew Howard, Director of Land Use and Eileen Rubano, Board Secretary

PLEDGE OF ALLEGIANCE:

REORGANIZATION:

Mr. Troppoli announced that the first order of business on the Reorganization Agenda was the Nomination for Chairman.

Mr. O'Donnell moved the nomination of Wendell Nanson for Chairman which motion was seconded by Mr. Hughes and carried.

Board Attorney Troppoli turned the meeting over to Chairman Nanson.

Chairman Nanson asked for a nomination to go into executive session. Mr. O'Donnell made a motion for the Board to go into Executive Session to discuss personnel. The motion was seconded by Mr. Hughes and carried with all members voting for the motion. After the Secretary read the Executive Session Resolution into the record the Board recessed into Executive Session.

Chairman Nanson asked for a nomination for Vice Chairman. Mr. Hughes moved the nomination of Michael Sanclimenti for Vice Chairman which motion was seconded by Mr. O'Donnell and carried.

Chairman Nanson asked for a nomination for Secretary. Mr. Moretti nominated Richard Mertens as Secretary which motion was seconded by Mr. O'Donnell and carried.

Chairman Nanson asked for nominations for Consulting Attorney. Mr. Orozco moved that the Board reappoint Ronald Troppoli, Esquire, for Board Attorney which motion was seconded by Mr. Moretti and carried.

Chairman Nanson asked for a nomination for Consulting Engineer. Mr. O'Donnell moved the Board appoint Charles Cunliffe PE, from the firm of T and M Associates which motion was seconded by Mr. Mertens and carried.

Chairman Nanson asked for a nomination for Consulting Planner. Mr. Orozco moved the Board appoint Jennifer Beahm, PP, AICP, from the firm of Leon Avakian Inc. which motion was seconded by Mr. Hughes and carried.

Chairman Nanson asked for nominations for the Certified Tree Expert. Mr. O'Donnell moved the Board reappoint Shari Spero, CTE, from the firm of CME Associates which motion was seconded by Mr. Sayah and carried.

Chairman Nanson asked for nominations for the Administrative Officer. Mr. Hughes moved the Board nominate Eileen Rubano for Administrative Officer which motion was seconded by Mr. O'Donnell and carried.

The Chairman asked for nominations for Recording Secretary. Mr. Moretti moved the Board nominate Eileen Rubano for Recording Secretary which motion was seconded by Mr. O'Donnell and carried.

Chairman Nanson asked if there was a motion to memorialize the resolution for the 2019 meeting dates. After some discussion on dates in questions, Mr. Hughes made a motion to memorialize the resolution for the Meeting Dates for 2019 which motion was seconded by Mr. Sanclimenti and carried.

Chairman Nanson announced that the official newspapers were determined by the Council and the Board Secretary said they were The Star Ledger and The Tri-Town News.

Chairman Nanson announced the Appointments for the Site Review Committee as follows: Thomas O'Donnell, Chairman; and Matthew Hughes and Paul Sayah as Members.

Chairman Nanson announced the Appointments for the Rules Committee as follows: Wendell Nanson, Chairman; and Michael Sanclimenti and Richard Mertens as Members.

There being no further business, the Reorganization meeting concluded and the Zoning Board of Adjustment's Regular meeting commenced.

REGULAR MEETING

APPROVAL OF MINUTES: There were no minutes to approve at this meeting.

VOUCHERS: There were no vouchers to approve.

CORRESPONDENCE: The Board Secretary had a letter from Salvatore Alfieri, Attorney for Euro Supply Ltd. d/b/a Stone Quest LLC, asking for this application to be carried to the February 25, 2019 Zoning Board agenda along with an extension of time for the board to act until the end of March 2019. Mr. Alfieri also said he would renounce for the new hearing date. Chairman Nanson informed the public that the application of Euro Supply would be moved to February 25, 2019 with notice.

The Board Secretary also had a letter from Allen Kaplan, Attorney for Robert and Delores Kowalski asking for the application to be carried to give them time to make changes to the plans in accordance with the changes that were agreed upon with the objectors. Mr. Kaplan also granted the Board and extension of time to act on the application through the end of March. The Board carried the application of Robert and Delores Kowalski to the Board's March 11, 2019 with no further notice.

SWEARING IN OF BOARD PROFESSIONALS: Charles Cunliffe, Jack Mallon, Jennifer Beahm, Shari Spero and Matthew Howard were sworn in by Board Attorney Troppoli.

RESOLUTIONS: Mr. Sanclimenti made a motion to memorialize the resolution granting a Certificate of Nonconformity to Karl Giggenbach. Motion was seconded by Mr. O'Donnell and carried with Messrs. Hughes, Mertens, O'Donnell and Nanson voting for the motion.

APPLICATIONS BEFORE THE BOARD:

a. **Case No. BA18-29 / Patrick McDaniel**

Harvey York, Attorney for the Applicant, appeared along with Patrick McDaniel, Applicant. Mr. York stated that they were seeking a certificate of nonconformity for a detached garage built in 1993. They will show that when it was built they received permits but none exist but the garage is there. They have 6 or 7 exhibits which will substantiate that the garage was built in 1993 and although the zoning has changed, this is a pre-existing nonconforming structure.

Patrick McDaniel, Applicant, was duly sworn and testified that he has owned and lived on the property at 18 Sunset for 40 years, since 1979. When he wanted to build his garage he went to town hall for permits but when he moved out of state he burned all the paperwork and all he has is a receipt from the town which says garage. He also testified that subsequent work was done in 2003 for a sunroom which he received permits for and entered a land use certificate for that. He did not have a survey to go with the certificate. He also presented a sketch of garage which he drew and when he did two separate OPRA requests in 2018 he received copies of this sketch. Mr. McDaniel testified that he picked up the assessor's record from the Town today and he has been assessed for the garage since 1993. He also presented a Certificate of Approval dated 10/2/14 for work done on his hours and a 2011 survey which shows the garage.

Mr. McDaniel further testified that he built the garage in 1993 according to the zone requirements at the time and it contains gas, water, heat and electric all of which were approved in 1993. He stated that the use of the garage was a workshop as he restores cars, particularly race cars.

Board Planner, Jennifer Beahm questioned the use of the second story of the garage and Mr. McDaniel said it was a gym. He further explained that when his wife got sick it helped for her to work out so she turned the second floor into a gym and storage space.

Land Use Director, Matthew Howard, testified on the history of the property and after researching the property he found permits before the 90's and after but nothing in the 90's for the garage. He also said that the height of the structure determines the setback but in the previous ordinance, specifically 1994, accessory structure setbacks were not specific to

the height of the structure and there was no maximum height but the setback was 10 feet. He further testified that the survey presented shows that the structure meets the setback and the Township agrees this should be looked at with the old zoning ordinance. Mr. Howard said that with the evidence presented this application does not require a variance and a certificate of nonconformity could be issued.

Mr. Cunliffe, Board Engineer, said the attorney gave a good history of the property through his questioning but he wondered whether they had a separate service for the garage. Mr. McDaniel said that the electric is separate with the garage on its own meter but everything else is tied in. Mr. Cunliffe was also concerned with any new owners thinking that they can rent out the second floor of the garage which is not permitted in the zone and Attorney York agreed that if approved a condition could be that it can't be rented out.

Chairman Nanson opened the hearing up to members of the public but since no one appeared, the public portion of the hearing was closed.

Mr. O'Donnell made a motion to approve the certificate of nonconformity for Patrick McDaniel. Motion was seconded by Mr. Mertens and carried with all eligible members voting for the motion.

b. Case No. BA18-32 / Peter Kowalenko (Pekay Industries)

Michael Paxton, Attorney for the Applicant, appeared and asked for some exhibits to be marked into evidence.

Peter Kowalenko, Applicant, was duly sworn and testified that he is the sole shareholder, and he purchased the property in the name of Pekay Industries in 1977. The business makes ceramic parts for the aircraft and medical industry and it has been operating on the property since he purchased it in 1977. He further testified that the operation has not changed or expanded since then. A certificate of occupancy was presented into evidence however it has been hanging on the wall of the shop for 40 years so it is faded and you can't read anything.

Mr. Paxton stated that the Howell Township Fire Bureau has no objection to the granting of the certificate and they have been performing annual inspections from 1981 to the present with no changes to the operations.

Mr. Kowalenko testified that there are only four or five similar businesses in the United States.

Mr. Howard, Land Use Director, testified that there was a prospective buyer who wanted to continue the use of the property with no changes to the site. Upon researching the property Mr. Howard found that in 1992 the property was zoned SED and in 1995 it changed to ARE-2. Mr. Howard said that based on the Fire Bureau's report it is clear that the use of the property pre-dated the zoning change.

Mr. Paxton said that as long as general, light manufacturing and assembly are permitted on the site and not confining it to this particular industry they would be okay with the Board's decision.

Upon questioning by the Board Engineer, Mr. Cunliffe, Mr. Kowalenko testified that he

currently has four employees but at the height of the business he had as many as 14. Supplies are received and shipped via UPS or similar size truck.

Board Planner, Jennifer Beahm, said that the nature of this manufacturing use is benign enough with no tractor trailers coming to the site, and a small amount of employees such as 14 versus a business with 55, but she is concerned with the certificate being too broad that it would raise problems in the future.

Mr. Howard said since the building is only 50 x 100' any expansion of the nonconforming use would require them to come back to the board. He also said they could restrict the certificate as to number of employees, types of deliveries and hours of operation.

Mr. Paxton said the building is relatively small which would restrict the intensity and number of employees but he respects the Board's concerns and Mr. Kowalenko testified that the hours of operation are 8 a.m. to 4 p.m., Monday through Friday and sometimes they have only 4 employees when business is slow.

Chairman Nanson suggested conditioning the certificate on light industrial, limited with 10 to 14 employees with similar hours.

Mr. Cunliffe suggested further restricting it to with a clause that there will be no visitors to the site for sales purposes and no clients dropping in as visitors may impact the parking on site.

Mr. Howard had questions on outside storage or operations and Mr. Kowalenko said there were no outside storage and no outside operations. Mr. Howard said if the Board constructed the certificate to limit it to manufacturing and light assembly, normal business hours of 8 to 5, Monday through Friday, shipping using box size trucks, 14 employees or less, no retail or public to the site and on outdoor operations or storage he would be comfortable in evaluating future tenants on the site.

Chairman Nanson opened the hearing up for members of the public and the following appeared:

Pastor Dan Brinley, 462 Squankum Yellowbrook Road

Pastor Brinley said he is the Pastor for the church next door to Mr. Kowalenko and he has been an incredible neighbor. The church has been there for the last 11-12 years and there have been no problems. He was concerned with any heavy industrial use that may be there in the future but he thinks with the guidelines laid out they would have no issues.

Seeing no one else wishing to come forward with questions or comments on this application, Chairman Nanson closed the public portion of the hearing.

Mr. Sanclimenti made a motion to approve the application for Peter Kowalenko (Pekay Industries). Motion was seconded by Mr. Orozco and carried with all eligible members voting for the motion.

Mr. Moretti made a motion to adjourn the meeting. Motion was seconded by Mr. Mertens and carried. Meeting adjourned at 9:29 p.m.

Respectfully submitted,
Eileen Rubano, Recording Secretary

NOTE: A CD or DVD of this meeting is available on request.