

**MANCHESTER TOWNSHIP ZONING BOARD OF ADJUSTMENT**

**REGULAR MEETING**

**Thursday, September 25, 2014**

**Manchester Township Municipal Building  
1 Colonial Drive, Manchester, NJ**

**MINUTES OF MEETING**

1. The meeting of the Manchester Township Zoning Board of Adjustment was called to order at 7:00 p.m. by Chairwoman Linda Fazio.
2. This meeting had been duly advertised, filed and posted in accordance with the Open Public Meetings Act.
3. A Pledge of Allegiance and Salute to the Flag.

4. **Roll Call:**

Members Present: T. Umlauf, P. Salvia, W. Cook, L. Fazio, K. Vaccaro, J. Hankins, H. Glen, P. Ward

Members Absent: M. Dwyer

Also Present: C. Reid, Attorney  
R. Mullin, Engineer

**Administrative Session:**

**Approval of Minutes:** The Minutes for the August 28, 2014 meeting were **APPROVED** on motion by W. Cook and seconded by K. Vaccaro. All in favor.

**Payment of Bills:**

**RFP #18296** for T & M Associates in the amount of \$191.25 for Case 1414

Bills were **APPROVED** on motion by W. Cook and seconded by K. Vaccaro.

**ROLL CALL VOTE:** W. Cook, yes; K. Vaccaro, yes; T. Umlauf, yes; P. Salvia, yes; J. Hankins, yes; H. Glen, yes; L. Fazio, yes.

**Correspondence:** The Secretary stated she received a letter from Mr. Agosta asking that Case 1421 be carried to the October 23<sup>rd</sup> meeting. He did give a waiver of time.

**Professional Reports:** Mr. Reid has nothing at this time.  
Mr. Mullin has nothing at this time.

**Case 1421**

Joseph Agosta  
5B Pilgrim Court  
Whiting, NJ 08759

Block 75 Lot 70.775  
5B Pilgrim Court  
CWV Co-Op 3  
RC Zone

Mr. Agosta needs a variance to allow the construction of a 14' x 10' Florida room at the side of the dwelling having 29' between buildings where 40' is required.

This application was **CARRIED to the October 23, 2014 meeting** on motion by W. Cook and seconded by K. Vaccaro. No further notice will be given.

**ROLL CALL VOTE:** W. Cook, yes; K. Vaccaro, yes; T. Umlauf, yes; P. Salvia, yes; J. Hankins, yes; H. Glen, yes; L. Fazio, yes.

<b>Case 1413</b>	Wirt & Frances Villanueva 12 ETTY Court Manchester, NJ 08759	Block 56 Lot 713.02 12 ETTY Court R-40 Zone
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Mr. & Mrs. Villanueva need a variance to allow the installation of a 6' fence along the front property line along Torry Avenue where a 50' setback is required. Wirt Villanueva was sworn in by Mr. Reid. He stated that they installed a pool recently. He has 3 girls and would like a 6' fence opposed to a 4' fence which is permitted for privacy & safety. Most of his neighbors have 6' fences in the same area. With the pool he feels a 6' fence would make the yard more secure. His home faces ETTY Court, but his back yard is Torry Avenue. Mr. Mullin explained that is why he is required to have a 50' setback. The pool has already been installed as well as the fence. There is a 15' wide utility easement between him & his neighbor; the fence will not affect the easement. Mr. Cook asked how many of his neighbors have fences in that area. He stated a few of them. Do they go into the same area he is proposing his? Yes, they do. Mr. Cook asked the area on Torry if it's well traveled or remote. It is very remote; there is only 1 house back there. He does have children & the fence would provide some security when they are back there. Mrs. Vaccaro asked what the height of the fence is that is there now. It is the 6' fence that is there. Mr. Glen asked how far the fence is from the paved portion of Torry. The fence is located 15' off the pavement. The property behind the fence shall be maintained by the applicant. He did agree to that as a condition of approval.

Mrs. Fazio opened this portion of the meeting to the public. There being no public participation at this time, this portion of the meeting was closed.

This application was **APPROVED with conditions** on motion by W. Cook and seconded by K. Vaccaro.

**ROLL CALL VOTE:** W. Cook, yes; K. Vaccaro, yes; T. Umlauf, yes; P. Salvia, yes; J. Hankins, yes; H. Glen, yes; L. Fazio, yes.

<b>Case 1417</b>	Kathy & Reinaldo Valentin 840 Birmingham Avenue Toms River, NJ 08757	Block 1.271 Lot 22 840 Birmingham Avenue R-10 Zone
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Mr. & Mrs. Valentin need a variance to allow the construction of second floor addition onto an existing dwelling having a 25.49' front yard setback where 30' is required. This application was carried from the August 28, 2014 meeting. Kathy Valentin was sworn in by Mr. Reid. Shannon Unger was sworn in by Mr. Reid. They would like to do an add a level. Mrs. Valentin said she wants to put her bedroom upstairs and add a bathroom. She would like to make a playroom downstairs for the kids. Mr. Unger is the contractor with Mattina Construction. The addition will be going straight up. The house is in the setback so if they were to move the location it would mess up the location of the stairs since they are only doing a partial second story. There will be a cantilever in the back of the house to make the stairs work. That will not affect the setback. Mr. Cook asked which side they are not meeting the setback. It's on the Champlain Street side.

Mrs. Fazio opened this portion of the meeting to the public. There being no public participation at this time, this portion of the meeting was closed.

This application was **APPROVED** on motion by W. Cook and seconded by K. Vaccaro.

**ROLL CALL VOTE:** W. Cook, yes; K. Vaccaro, yes; T. Umlauf, yes; P. Salvia, yes; J. Hankins, yes; H. Glen, yes; L. Fazio, yes.

A resolution of approval was read into the record by Mr. Reid and **APPROVED** on motion by W. Cook and seconded by K. Vaccaro.

**ROLL CALL VOTE:** W. Cook, yes; K. Vaccaro, yes; T. Umlauf, yes; P. Salvia, yes; J. Hankins, yes; H. Glen, yes; L. Fazio, yes.

A copy of the approved resolution is attached.

**Case 1418**

KST Contracting  
925 Wellington Avenue  
Toms River, NJ 08757

Block 68 Lot 3  
4043 Ridgeway Road  
PR-40 Zone

This application is for a use variance (mixed use) to construct a 3,500 square foot contractor's storage/maintenance building, material/vehicle storage and a parking area, along with associated site improvements. There is an existing single family dwelling on the lot. This application was carried from the August 28, 2014 meeting.

Mrs. Fazio has a conflict and recused herself from the following application. Mr. Cook stepped up as chairperson. Mr. Ward stepped up to fill Mr. Cook's seat.

Dina Vicari, attorney for the applicant was present. Mr. Cook confirmed that this is for the Use only and they would be back for site plan approval. That is correct. Sean Delany of Omland Engineering and Brian McPeak of Planning Progress were both sworn in by Mr. Reid. Each gave their credentials and was accepted by the Board. The following items were marked into evidence:

- A-1 Plan submitted sheet 3 of 4 existing conditions
- A-2 Site plan rendering of the 2 phases (interim conditions & the proposed conditions)
- A-3 Aerial map
- A-4 Photo exhibit #1 – existing site
- A-5 Photo exhibit #2 – nearby uses
- A-6 Photo exhibit #3 – nearby uses

The applicant is the contract purchaser of the property. He does not own the property; part of his reason for bifurcating the application is to save money on the engineering costs & expense. They want to make sure the proposed use is going to be acceptable to the Board before moving forward. Mr. Mullin stated that the application included a request for a waiver of not submitting architectural plans, he would like that addressed. Mrs. Vicari stated that they did provide them earlier. The applicant is looking at potential buildings that they want to purchase. It is the typical type of building they want to construct, is it that color, is it exactly those doorways, maybe not but they will provide testimony as to why they plan on putting them where they will be etc. Mrs. Vicari stated the project is intended to be done in 2 phases, the first phase is going to be just a gravel drive no building, the building will come later. The applicant needs to save up funds to be able to do the second phase where the driveway would move behind the building, more buffering and the building would be in front of the driveway. The driveway shown in the interim condition would be taken out and moved to the back. The waiver has been approved by the Board. Mr. Delany explained exhibit A-1. There is an existing dwelling on the property along with an existing garage. The property is located both in Manchester & Jackson. Manchester has a majority of the land that is why the application is being heard in Manchester. No approvals are required from Jackson. The site is just under 3 acres in size. There is an existing barn to the rear of the property as well. The site is zoned PR-40. Single family homes are permitted in this zone, however business uses and mixed uses are not. They would like to keep the residential use to be maintained on the property as well as a business use to occupy the central & rear portion of the lot. Mr. Delany went through points in Mr. Mullin's letter dated August 18, 2014. The property will be developed in 2 phases. (discussing A-2) In both phases the existing residential home will be maintained as a single family home, it will not be turned into an office or business use. They are proposing to construct first a second driveway off Route 571 up to the central portion of the site just beyond the existing garage & paved area. It

will provide 10 parking spaces for vehicles. An area for some landscape material storage. They will also construct a small gravel parking area adjacent to the residence; the existing garage carport play area will be transformed into the maintenance building for the proposed business use on a temporary basis. The residence will still have a place to park. Access for the business will be strictly from that driveway. The applicant has proposed to add additional buffering on the northern property line to screen the business use. The driveway & parking area will be all gravel; they are not proposing any asphalt. In phase 2, the storage bins & parking area will be removed & relocated further to the rear of the property. They will be installing a new well & septic for the business use. The proposed new building will be 175 feet from the existing residential dwelling. With the location there will be minimal tree removal needed. All the doors on the garage will face the rear of the property. The applicant chose this site because the location is central to all his locations that he deals with. He does landscaping, excavating for developments in Ocean & Monmouth counties. This will be the main location of the business. The primary use will be for maintenance of his equipment that he has on job sites. Mr. Cook asked if the applicant would testify as to the operation. They will only be doing limited repairs such as oil changes, undercarriage repairs/replacements, maybe some light duty welding, and some work on the engines to make sure it is working properly. All will be done inside the building. No equipment will be stored on site there permanently. They will store vehicles temporarily, but typically the vehicles are stored on the job sites. All the workers will not be going to the site every day & coming back. There will most likely be 3 employees on the site, mostly office staff. Mr. Cook stated that this type of testimony should be given by the applicant. As for the zoning they meet all the bulk requirements of the site except for 2 which are existing conditions the lot frontage and the lot width. The lot frontage is 200' required they have 190.39 feet. The lot width 200' is required they have 188.64 feet. Mrs. Vicari did reach out to the adjacent property owners to acquire additional property, but with no success. She will provide copies of the buy/sell letters for the file. The buy/sell letters are usually done with the site plan application, but she did them ahead of time. They did not submit an environmental impact statement or report as part of this variance application, but would submit something at time of site plan if required. The storage of materials stored on site would be typical landscape material, mulch, stone etc. It would not be a supply area; it would be more of a leftover from sites until they bring it to another site. He also has a snow removal business in the wintertime so he will discuss the storage of sand & salt. Mr. Glen asked what the time frame was for the phasing. Mr. Delany believes it would be about 2 years.

Mr. Cook opened this portion of the meeting to the public for questions of Mr. Delany. There being no questions at this time, this portion of the meeting was closed.

Mr. McPeak will be giving planning testimony at this time. The property is a developed site and set amid other developed sites. Ridgeway Road is designated under the master plan as a major collector road in the Township. This site is one of several sites the applicant looked at. It was the only spot that was available & suitable for the use he is proposing. The applicant currently resides in Manchester and would like to stay here. The site is in red on that map. He explained the photos on A-4, the first photo is the for sale sign on the property. Also a photo of the Welcome to Manchester Township sign. He went on to explain what positive criteria means and negative criteria. In his review, he has concluded that both positive & negative criteria have been met. The reasons this promotes the general welfare it advances the purposes of planning pursuant to the Manchester Master Plan goals & objectives as well as the municipal land use law. The master plan goals & objectives include 2 specific items that he finds are advanced by this application, 1 is to create a balanced and compatible arrangement of residential, commercial, office & industrial land uses. This goal is advanced by the re-use of this previously developed site in that the re-use will reduce wasteful conversion of scarce remaining open spaces for such a use. Secondly, the master plan goals & objectives include a statement that the Township wishes to continue to use practical & flexible development criteria in order to protect existing open space, conserve the natural landscape, protect sensitive ecological areas & provide for development on a controlled and comprehensive basis. This goal is advanced by the provision of this low impact mixed use in a location that is identified by the applicant as ideally suited for his business operation. The proposed mixed use is appropriate for a busy roadway. Mr. McPeak will be speaking about the aerial photo A-3 as he explains A-6 which are nearby uses in Manchester Township #5 is a mixed use (Bettio), #6 is Ridgeway Liquors, #7 is Best Paving and #8 is also a mixed use which is residential & landscaping (Manchester Gardens). The photos on A-5 are nearby uses in Jackson Township. #1 is Blackies

Welding, #2 is a horse farm along with storage of construction equipment, #3 is a mixed use residential & DeStefano Well Service, and #4 is a mixed use residential & a Krausz's convenience store. Mr. McPeak believes the positive criteria are met. As for the negative criteria, in his opinion approval of this variance will advance the general welfare & the intent & purposes of the Township zone plan and municipal land use law. His testimony has cited specific language that supports that. With regard to the negative criteria this variance can be granted without substantial detriment to the public good. His opinion is founded on the testimony presented by himself & the applicant's engineer. The proposed operations won't have a substantial detriment to the surrounding uses or to the balance of the Township. He finds there will be no substantial detriment to the public good by the granting of this variance. He did address concerns from Mr. Mullin's review letter.

Mr. Cook opened this portion of the meeting to the public for questions of Mr. McPeak. There being no questions at this time, this portion of the meeting was closed.

Mr. Sam Tuma, the applicant/contract purchaser was sworn in by Mr. Reid. He explained the type of operations that will be on the property. It will be an area that he can come back and do maintenance on his equipment. Maybe store some landscape material there. It will be minimal; most of his work is out on the jobs. Most of his equipment goes site to site. It is not normal for all his equipment to come back each night & leave in the morning. All the employees go directly out to the job sites. All the materials get delivered directly to the job sites, if there is anything left at the end of the job it would come back to the site for the next job. The maximum number of employees that would be on the site would be about 7 or 8. He does not meet with clients at the office; he meets them at the job sites. As far as repairs on the vehicles it would be limited to oil changes, tune ups, undercarriage repairs or replacements, light welding and type of mechanical work. Nothing major, they will not be rebuilding engines. The work would be done during normal business hours. The existing garage on site could accommodate the needs for those repairs. Typically they work Monday through Friday 7:30-4:00 closed Sunday, very rarely on Saturday usually just repair work. Mr. Cook asked about welding on site and the snow removal operation, what happens when the equipment breaks down in the middle of the night. He stated they repair them at the site, they have gas powered welders. Mr. Cook asked about the leftover materials, what types of materials are there? Mr. Tuma stated typically mulch, riverbed stone. All the sites usually have the same materials, if they leave it on the job site it disappears. The only time they work on a Sunday would be if it snowed. Mr. Cook asked about containing the noise to the adjacent properties, will there be any work done outside? Most of the work will be done inside, some of the equipment won't fit in the garage, but he would use the existing carport & put plywood around it to buffer the noise. The plows will be stored at this location. He has (4) 8 foot plows. Salt will not be stored at this location, he worked out a deal with a hotel near the site they plow and they will be storing the salt there in exchange for salting there parking lot. Mr. Reid asked if he could stage his plows at this site as well. No, not really. Mr. Reid was concerned about starting a snow plow in the middle of the night. They get the plows ready during the day and take the trucks home with them when snow is expected. Mr. Salvia asked if they would be installing a lift. No, they will not be. Mr. Salvia was concerned about oil spills during oil changes. They haven't had a problem with that. Mr. Cook asked about floor drains. He hasn't gotten that far in the planning process. Mr. Glen asked where his current shop is. It's in the old Freehold Lumber yard; he has not received any violations. Mr. Glen asked about what type of equipment he has. His heaviest piece of equipment is 40,000 lbs. It is transported on a tag along trailer. It is a track machine. Mr. Mullin asked if he would be living in the residence. No, his son would be. Is he involved in the business? Yes he is. Mr. Umlauf asked if he would be storing gasoline & diesel fuel on site. No, he would not. He would not be bringing excess fill back to the site on a normal basis. He asked what would be stored in the barn. That would be hand tools, shovels, etc.

Mr. Cook opened this portion of the meeting to the public for questions of Mr. Tuma. There being no questions at this time, this portion of the meeting was closed.

Mr. Mullin asked about the phase development, that would be presented as part of the formal site plan application? That's correct. Plans would be drawn up separately for whatever those respective improvements are? Yes, that's correct.

Mr. Cook opened this portion of the meeting to the public for questions or comments. There being no public participation at this time, this portion of the meeting was closed.

Mr. Glen was concerned about the phasing of the project; he would like everything done at one time. He thinks it will be turned into a storage yard and no building will ever happen. Mr. Tuma's goal is to have it done within 2 years. There was discussion amongst the Board about a sunset provision in the resolution. Mr. Reid stated that the building is more part of the site plan approval; this is just for the use at this time. The sunset provision should be dealt with during site plan process.

This application was **APPROVED with conditions** on motion by J. Hankins and seconded by K. Vaccaro.

Conditions of approval:

Normal hours of operation 7:00 a.m. – 6:00 p.m. Monday thru Saturday (under extenuating circumstances some Sundays due to weather conditions)

No bulk salt storage on site

Any work outside would require sound buffers of some sort

Will comply with the Township noise ordinance

8 employees on site

Limit the amount of material stored on site to mulch, riverbed stone, and topsoil

No retail business on site

No fuel storage tank on site

No night maintenance after 7:00 p.m. or before 7:00 a.m.

All waste materials stored in drums and transported off site

No more than 3 drums of waste on site at a time

All waste materials will be stored inside building

Will be stored in the current garage until building is constructed

**ROLL CALL VOTE:** J. Hankins, yes; K. Vaccaro, yes; T. Umlauf, yes; P. Salvia, yes; H. Glen, yes; P. Ward, yes; W. Cook, yes.

Mr. Glen asked that the meeting packets be ready for pick up on the Thursday or Friday before the meeting to give sufficient time to visit the sites. The Secretary stated she would do her best.

**Adjournment:** The meeting was adjourned at 8:55 p.m. on motion by P. Salvia and seconded by P. Ward. All in favor.

Respectfully submitted,

Darlene E. Garcia  
Secretary