

Resolution No.: #10 – 20

**RESOLUTION OF THE BOROUGH OF CLAYTON PLANNING BOARD
GRANTING USE AND BULK VARIANCE RELIEF WITH
MINOR SITE PLAN APPROVAL
FOR BLOCK 1902, LOT 13
(1078 North Delsea Drive)
APPLICANT – D&E IRONWORKS, INC.**

WHEREAS, the Applicant, D&E Ironworks, Inc. of 1078 North Delsea Drive, Clayton, New Jersey, submitted an application seeking use and bulk variance relief with minor site plan approval; and

WHEREAS, the subject property is located at 1078 North Delsea Drive known as Block 1902, Lot 13 and is owned by the Applicant; and

WHEREAS, Raymond Feliciano, a principal in D&E Ironworks, Inc., appeared before the Board on May 18, 2020 and was represented by Dale T. Taylor, Esquire with; and

WHEREAS, the Board constituted itself as a Zoning Board of Adjustment since the requested relief requires, inter alia, use variance relief to permit a non-conforming use; and

WHEREAS, the Applicant purchased the property in 2006 and has operated a metal fabrication business on the site since owning the property along with renting out an existing residential dwelling. The property when purchase was known as McAllister Welding and before that Torbay, Inc.; both predecessors having used the subject site for metal fabrication purposes;

WHEREAS, the subject property is located in the HB Zoning District which does not permit a metal fabrication or residential use and the Applicant now proposes to erect a 20 foot by 20 foot building as part of an expansion of the metal fabrication business; and

WHEREAS, the Applicant enjoying good success with the existing metal fabrication business and intending to retain the income stream from the residential dwelling that the

Applicant rents out now seeks use variance relief together with bulk variance relief along with a minor site plan approval; and

WHEREAS, in support of their application proffered the testimony of Gregory J. Simonds, P.E. of GS Engineering with offices in Swedesboro, New Jersey and Raymond Feliciano as a principal in D&E Ironworks, Inc., the owner of metal fabrication business and residential dwelling on the subject site; and

WHEREAS, in further support of this application, the Applicant has submitted a Use Variance/Minor Site Plan consisting of one (1) sheet dated March 10, 2020 and signed and sealed by Gregory J. Simonds, P.E. along with 3 sheets of hand-drawn elevations of the proposed improvements; and

WHEREAS, Block 1902, Lot 13 is located in the HB (Highway Business) Zoning District and comprises 229,425 square feet or approximately 5.27 acres; and

WHEREAS, the subject lot as zoned HB (Highway Business) does not permit the existing and intended uses, but the subject site is within the Delsea Drive Rehabilitation Zone with a plan for revitalization being developed during the pendency of the instant application; and

WHEREAS, due to the unique shape of Block 1902, Lot 13 bulk variance relief is required as while the subject lot is 1,535 feet deep it only has 150 feet of lot frontage with preexisting non-conformities of 30.3 feet for a front yard setback where 100 feet is required and a side yard setback of 4 feet where 50 feet is required; and

WHEREAS, the proposed improvements will enable the Applicant to purchase specialized equipment used for use in its metal fabrication business; and

WHEREAS, the Board in reviewing the application and submissions and questioning the Applicant and their representatives and as a result the Applicant has testified to and/or agreed to the following: **1.** The site is adjacent to commercial and industrial uses, **2.** This expansion enhances development of land outside of town center, **3.** The existing business

requires specialized equipment for drilling into steel and the like allowing for the business to expand, **4.** There is a well head protection area towards the back of the lot which is and shall remain unaffected by these improvements, **5.** Expansion of use and proposed development of the site will not significantly increase motor vehicle traffic (no retail sales), **6.** The proposed building is set five (5') feet off of the side property line with its overhead door facing the interior of the lot so that the machine may be properly operated as it is on rails and literally needs to roll out of the proposed building up to 20 feet and up to the existing earthen drive necessitating the placement of the building close to the property line, **7.** The Applicant plans a further expansion of this business and this is the first step, **8.** The Applicant has agreed to work with the Board professionals to develop a modest plan to enhance the appearance of the subject site which may include an extension of the tree line and placement of additional bushes to the South along with painting the roll up doors, improving the appearance of an existing sign and touching up the building paint as needed, **9.** The Applicant agrees to comply with the Fire Company's requests as outlined in the May 17, 2020 review letter, **10.** The Applicant shall connect to available public water and sewer but is permitted to delay the connection to sewer service for up to eighteen (18) months from the date of the memorialization of this Resolution or upon any site plan approval the Applicant may receive in advance of the expiration of said eighteen (18) months, **11.** The Applicant shall submit a letter to the Land Use Board as to the status of the proposed major site plan application on or before one (1) year from the date of the memorialization of this Resolution of Approval, **12.** The Board agreed to waive the requirement for sidewalk in front of the subject site for the instant application and may revisit requiring sidewalk when the major site plan application is filed, **13.** The additional runoff is so minor that stormwater calculations are not required for this approval, **14.** The Applicant is not adding any additional signage, **15.** The Applicant shall add the Wellhead Protection Area to the Plan, and **16.** The Applicant has acknowledged the Board Planner's and Engineer's review letters and shall comply with the comments contained therein; and

WHEREAS, the Board, in light of the foregoing testimony and in consultation with the Board's planner, agreed that the Applicant has addressed the special reasons and promotion of the general welfare of the community as the basis for the grant of a use variance; and

WHEREAS, the grant of the requested use variance does not adversely impact the zone and zone plan and further results in a superior utilization of a parcel in concert with an existing business and proposed businesses with a net benefit to the community; and

WHEREAS, members of the public were permitted to speak on the application at the regularly scheduled Planning Board Meeting held on May 18, 2020 and no one appeared to be heard; and

WHEREAS, the Board has considered the report dated April 16, 2020 from Federici & Akin, P.A. as prepared by Paul D. Breier, P.E., P.P., the Board's professional planner, said professional review letter is incorporated and made a part herein; and

WHEREAS, the Board has considered the report dated April 8, 2020 from Federici & Akin, P.A. as prepared by Stan M. Bitgood, the Board's professional engineer, said professional review letter is incorporated and made a part herein; and

WHEREAS, the Board has carefully considered all the documents submitted and the testimony of the witnesses;

WHEREAS, the application for use variance and bulk variance relief with waivers was **Granted** by the Borough of Clayton Combined Planning and Zoning Board of Adjustment, by a _____ *yes* to _____ *no* vote.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Clayton Planning Board constituted as a Zoning Board of Adjustment, that it does hereby **Approve** the grant of use and bulk variance relief with waivers to permit the hereinbefore detailed improvements in constructing a 20 foot by 20 foot building with related site improvements with all necessary and requested variances and waivers, and grants use and bulk variances with waivers as set forth herein, subject to and contingent upon the following:

1. Compliance with the Engineer's report, Federici & Akin, P.A., dated April 8, 2020, all of which is incorporated herein by reference; and
2. Compliance with the Planner's report, Federici & Akin, P.A., dated April 16, 2020, all of which is incorporated herein by reference; and
3. The Applicant agrees to comply with and perform all obligations as stated above herein in the body of this Resolution.
5. The Applicant obtaining all required approvals/waivers from all outside agencies.
6. Applicant and owner are reminded that site safety is their responsibility. It should be noted on the plan that "The owner or his representative shall designate an individual responsible for construction site safety during the course of site improvements pursuant to N.J.A.C. 5:23-2.21(e) of the N. J. Uniform Construction Code and CFR 1926:32(f) (OSHA Competent Person)".
7. Applicant shall meet any and all COAH and/or Fair Share Growth Obligations.
8. Applicant shall post and provide all Performance and Maintenance Guarantees and Bonds together with Inspection Escrows.
9. Final approval shall be subject to the following **(if required)**:
 - (A) Documentation of final approvals by: (1) Gloucester County Planning Board; (2) Gloucester County Soil Conservation District; (3) Borough of Clayton Fire Code and Police Officials (as to approved emergency vehicle access plan); (4) NJDEP wetlands permit; and (5) Stream Encroachment permit; and (6) any other required Local, County and State approvals, if applicable.
 - (B) Any and all provisions as required by previous resolution shall be

satisfied and incorporated into this resolution as if fully set forth herein.

(C) Engineering, planning and testaments as submitted by the Applicant have been accepted, and any changes set forth by the Applicant shall be subject to review by the Borough of Clayton Combined Planning and Zoning Board of Adjustment and its professionals, with subsequent approval being required and as a condition of final approval.


(D) Any landscaping to be provided and any amendments thereto shall be approved by the Borough's Engineer/Planner.

(E) Any on-site hazardous conditions shall be eliminated in accordance with NJDEP regulations and requirements.


BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor, and the Borough Zoning Officer.

THIS RESOLUTION DULY ADOPTED at a regular meeting of the Borough of Clayton Planning Board held on Monday, June 22, 2020.

**Borough of Clayton Combined Planning Board
And Zoning Board of Adjustment**


By: Joseph Abate, Chairman

Attest:


Debbie A. Schlosser, Secretary

ROLL CALL VOTE

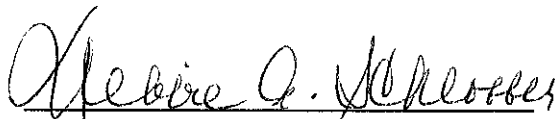
THOSE IN FAVOR _____

THOSE OPPOSED _____

THOSE ABSTAINED _____

CERTIFICATION

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted by the Borough of Clayton Combined Planning Board and Zoning Board of Adjustment at a regularly scheduled meeting of the Board held on June 22, 2020 at the Borough of Clayton Municipal Building, 125 Delsea Drive, Clayton, New Jersey 08312 at 7:00 p.m. and memorializes the decision reached by said Board on the herein application at the Board's May 18, 2020 meeting and public hearing.


Debbie A. Schlosser, Secretary