

**BOROUGH OF GIBBSBORO
PLANNING BOARD MINUTES
September 27, 2023
7:00 P.M.**

Meeting called to order at 7:05 p.m.

Secretary Troxel read the Opening Statement: "All the notice requirements of the Open Public Meeting Act have been complied with in full."

ROLL CALL

Present:

Chairwoman LuAnn Watson
Vice Chairman Michael Kelly
Mayor Edward G. Campbell
Councilman Michael MacFerren
Mrs. Susan Croll
Mr. Barry Rothberg
Mr. John Ritz

Absent:

Ms. Barbara Gellura
Mr. Dennis Deichert

Professionals:

Solicitor, Kathleen McGill Gaskill
Engineer, Gregory Fusco
Planner, Brian Slaugh

RESOLUTIONS

PB2023-9-25 RESOLUTION GRANTING BULK VARIANCES WITH CONDITIONS TO ALLOW FOR THE EXISTING TWO SHEDS AT THE SUBJECT PROPERTY KNOWN AS BLOCK 102, LOT 2, ALSO KNOWN AS 2 RIDGEWOOD ROAD, GIBBSBORO, NEW JERSEY

Motion to approve resolution: Mr. Rothberg, second Mrs. Croll

Poll: Ayes – Kelly, Campbell, MacFerren, Croll, Rothberg, Watson

MINUTES

Motion to dispense reading and approve the minutes of 8/23/23: Mr. Kelly, second Mrs. Croll

Vote: Ayes unanimous (Gellura, Diechert absent)

CORRESPONDENCE

To: Secretary Troxel, dated 9/14/23
From: Melanie Levan, Esq.
Re: Request to adjourn application for Conditional Use Variance
Freshley Green LLC (Docket #23-15)
10 Democrat Way (Block 59.03, Lot 3)

COMPLETENESS

1. CERTIFICATE OF APPROPRIATENESS (Docket #23-16)

Applicant: Robert & Diane Johns
Project: Installation of chimney for wood burning stove
Address: 107 United States Avenue
Block 8.03, Lot 6.09
Fee/Escrow: Paid

Robert and Diane Johns appeared on behalf of this application and were sworn by Ms. Gaskill. Mr. Slaugh and Mr. Fusco were also sworn in preparation for their testimony.

Mr. Slaugh recommended that the application be deemed complete.

Motion to deem application complete: Mayor Campbell, second Mr. Kelly

Poll: Ayes – Kelly, Campbell, Croll, Rothberg, MacFerren, Ritz, Watson

2. BULK VARIANCES (Docket #23-17)

Applicant: Kenneth & Kristen Johnston
Project: Bulk variance for second shed that exceeds 100 square feet
Address: 17 Yarmouth Way
Block 18.08, Lot 1
Fee/Escrow: Paid

Kenneth Johnston appeared on behalf of this application and was sworn by Ms. Gaskill. Mrs. Croll recused herself from participating.

Mr. Slaugh recommended that the application be deemed complete.

Motion to deem application complete: Mayor Campbell, second Mr. Rothberg

Poll: Ayes – Kelly, Campbell, Rothberg, MacFerren, Ritz, Watson

OLD BUSINESS None

NEW BUSINESS

1. CERTIFICATE OF APPROPRIATENESS (Docket #23-16)

Applicant: Robert & Diane Johns
Project: Installation of chimney for wood burning stove
Address: 107 United States Avenue
Block 8.03, Lot 6.09

Fee/Escrow: Paid

Mr. Johns testified that he wished to install a zero-clearance flu on the exterior of his home. The proposed chimney will have a foundation and be enclosed by a shell with siding to match the other siding on the structure. The proposed chimney will be placed on the right side of the structure. As part of the project, Mr. Johns will be replacing all of the siding with a Colonial White with a smooth finish, as well as the roof.

Public Comment: None

Motion to grant a Certificate of Appropriateness for the application as submitted: Mayor Campbell, second Mrs. Croll

Poll: Ayes – Kelly, Campbell, Croll, Rothberg, MacFerren, Ritz, Watson

3. BULK VARIANCE & CERTIFICATE OF APPROPRIATENESS (Docket #23-17)

Applicant: Kenneth & Kristen Johnston
Project: Bulk variance for shed that exceeds 100 square feet
Address: 17 Yarmouth Way
Block 18.08, Lot 1
Fee/Escrow: Paid

Planner Review Letter, dated 9/7/23

Mr. Johnston testified that he is currently storing all of the equipment necessary to maintain his property in the garage. He has two small children who also store their toys in the garage, and he wishes to relocate his equipment to a separate storage area. He has calculated the amount of storage space required, and is requesting a variance for a shed measuring 264 square feet.

Mr. Slaugh noted that the cluster provisions of the R-40 zone in the Wynnewood neighborhood require that an oversized accessory building meet the same setbacks as the principal building – 12 feet. Mr. Johnston's survey allowed for a 10-foot setback, but he is willing to comply with the 12-foot requirement. The originally proposed shed appeared to exceed 10 feet in height, which is the maximum height permitted. Mr. Johnston is willing to substitute a shed that meets the 10-foot requirement and provided a supplementary exhibit from the builder showing that a 10-foot option is available.

Public Comment: None

Motion to grant a bulk variance for an oversized shed and a Certificate of Appropriateness: Mr. Rothberg, second Mr. Kelly

Poll: Ayes – Kelly, Campbell, Rothberg, MacFerren, Ritz, Watson (Croll recused)

PENDING BUSINESS

1. CONDITIONAL USE VARIANCE (Docket #23-15)

Applicant: Freshley Greene LLC
Project: Operation of a Cannabis Class 2 Manufacturing Business
Address: 10 Democrat Way
Block 59.03, Lot 3
Fee/Escrow: Paid

2. CERTIFICATE OF APPROPRIATENESS (Docket #23-18)

Applicant: Solare America
Project: Installation of solar panels on gas station canopy
Address: 3 North Lakeview Drive
Block 7.04, Lot 16.09
Fee/Escrow: Paid

EXEMPTION WAIVERS

1. 11 Eastwick Drive (shed installation)

INFORMATIONAL

1. Next regular Planning Board meeting is scheduled for Wednesday, October 25, 2023 at 7:00 p.m. at the Senior Recreation Center.

PUBLIC COMMENTS

ADJOURNMENT



AMY C. TROXEL, Secretary

**RESOLUTION OF THE GIBBSBORO PLANNING BOARD
GRANTING BULK VARIANCES WITH CONDITIONS TO ALLOW FOR THE
EXISTING TWO SHEDS AT THE SUBJECT PROPERTY KNOWN AS BLOCK 102,
LOT 2, ALSO KNOWN AS 2 RIDGEWOOD ROAD, GIBBSBORO, NEW JERSEY**

On August 23, 2023, the Borough of Gibbsboro Planning Board (hereinafter the "Board") held a public hearing at which time the following members were present:

LuAnn Watson, Chairperson
Michael Kelly, Vice-Chairperson
Edward Campbell, Mayor
Michael MacFerren, Councilman
Susan Croll
Barbara Gellura
Barry Rothberg
Dennis Deichert
John Ritz

The following were also present at the meeting:

Kathleen McGill Gaskill Esquire, Solicitor
Amy C. Troxel, Planning Board Secretary
Greg Fusco, Planning Board Engineer
Brian Slaugh, Planning Board Planner

SUBJECT

Whereas the Board considered the Application of Joseph J. Fallon, Jr., residing at 2 Ridgewood Road, Gibbsboro, New Jersey 08026 (hereinafter referred to as "the Applicant"), for several bulk variance for a previously installed shed situated in the side yard of the Applicant's residence at 3 Ridgewood Road, Gibbsboro, New Jersey, also known as Block 102, Lot 2 on the Borough of Gibbsboro Official Tax Map (hereinafter the "Subject Property");

Whereas the application was reviewed by the Board's Planner, Brian Slaugh, PP, AICP, by letter dated 08/18/2023;

Whereas the Board considered the following documents submitted by the Applicant:

- (1) Gibbsboro Land Use Application signed by the Applicant on 07/17/2023 and docketed as 2023-14;
- (2) Borough of Gibbsboro Submission Checklist;
- (3) Certification of Taxes dated 07/14/2023; and
- (4) Survey of Premises prepared by JTS Engineers and Land Surveyors, Inc., and signed by Philip J. Schaeffer, PLS dated 04/18/2023;

Whereas a hearing on the completeness of this application was conducted on August 23, 2023 with the Applicant appearing *pro se* and the Board having considered the testimony and review letter of the Board's Planner, and the recommendations set forth therein, the Board on motion duly made and seconded, waived the missing submission items and deemed the application complete for hearing.

Whereas the hearing on the Applicant's request for bulk variance relief followed the completeness hearing of August 23, 2023 with the Applicant continuing *pro se* with notice of this

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hearing having been given in accordance with New Jersey statutes, the Open Public Meetings Act and the Municipal Land Use Law, with a quorum being present;

Whereas the Board heard the testimony of the Applicant and the testimony of the Board's engineer, Gregory Fusco, PE, PP, CPWM, and the Board's planner, Brian Slauch, PP, AICP and the comments by the Board's solicitor, and having open the hearing to the public with Danny Norberry, residing at 1 Ridgewood Road, Gibbsboro, NJ, expressing no objections to this variance application and having considered the application and exhibits submitted in connection herewith.

NOW THEREFORE BE IT RESOLVED that the Board makes the following findings of facts:

FINDINGS OF FACT

1. The Applicant is the owner, along with his wife, Mary Ann Fallow, of the Subject Property which is located in the Cedar Croft Heights neighborhood of Gibbsboro and known as 2 Ridgewood Road, Gibbsboro, New Jersey. The Subject Property, which is 9,430 square feet in size, is designated as Lot 2 of Block 102 of the Official Tax Map of the Borough of Gibbsboro and is situated in the R-10 Residential Zoning District. The Subject Property is not located in the historic district of the Borough of Gibbsboro.

2. The Applicant is seeking several bulk variances for a shed which was constructed without prior zoning approval as is required by Borough Code §400-10.F. The variances requested by the Applicant are as follows: (a) The Subject Property has two (2) sheds and the Applicant is seeking relief from Borough Code §400-10.E which permits only one (1) shed if the lot is less than 40,000 square feet in size; (b) the shed in question is larger than the maximum permitted floor area of 100 square feet as required in Borough Code §400-10 A and the Applicant is seeking relief to allow for a shed with 112 +/- square feet of floor area; and (c) the shed in question is situated 1.39 feet from the side property line where a minimum setback of 10 feet is required by Borough Code §400-10.D.

3. The Applicant testified that he has three (3) businesses, and he uses the sheds in question for storage for tools and equipment used in those businesses and he is in need of more storage space. The Applicant maintains that the basement of his split-level styled home is not suitable for storage and there is no available storage space in either the garage or the rear shed.

4. In addressing the issue of the number of existing sheds on the Subject Property, it was noted both in the review letter and testimony of the Board's Planner, that the larger shed in the rear side yard on the Subject Property is 150 square feet in area and 2.30 feet from the easterly side property line. The construction of this shed predated the 2005 ordinance restricting the size of sheds and is grandfathered as to that limitation. This shed remains non-conforming as to the 10-foot minimum setback.

5. In addressing his current request for variance relief for the second shed, it is noted from the survey submitted as part of this application that the principal residence has a 15.69-foot side yard from the easterly property line with Lot 1, Block 102. It is within this side yard that the Applicant has constructed the shed in question leaving a 6.3 foot passageway between this shed and the residence. If the Applicant were to move the shed further away from the property to comply with the required setback, there would be no passageway to the rear yard, and any

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movement to increase the side setback away from the property line would make the movement of tools and equipment from the storage sheds difficult. The shed is setback 24.6 feet from the front building line. The Applicant maintains that to move the shed to the rear would be costly and would hamstring the efficient movement of tools and equipment in and out of the storage sheds. To mitigate against any adverse effect to the surrounding area of the granting of these variances, the Applicant proposes to install a six (6) foot solid white vinyl fence to screen the shed from street view.

6. The property owner of a neighboring residence which is located directly across the street from the Applicant's home, Danny Norwood, testified that he has a direct view of the shed and would be most affected by the new shed and has no objections to the Applicant's application for variance relief.

7. The Board concluded that the installation of the proposed 6-foot fence would be a condition of any approval and that as further condition of the granting relief for these two nonconforming sheds that both be removed prior to any sale of the property to another owner, which condition would be memorialized in a deed restriction recorded on the property.

CONCLUSION OF LAW

Whereas the Board while acting in its capacity as a Zoning Board of Adjustments has jurisdiction over this application for bulk variances under *N.J.S.A. 40:55D-70(c)*, which authorizes the granting of variance relief in the event of hardship or, alternatively, which authorizes the granting of variance relief if the purposes of the New Jersey Municipal Land Use Law are substantially advanced by deviation from the Zoning Ordinance requirements, and the benefits of deviation substantially outweigh any detriment.

Whereas the Board finds that the Applicant has demonstrated by clear preponderance of evidence that the granting of the bulk variances as described herein is appropriate given the existing configuration of structures and improvements in the rear yard of the Subject Property and subject to the conditions imposed in this Resolution for screening the shed from public view which will make for a better visual environment without adversely impacting surrounding properties, and any impact to the surrounding area will be mitigated by those conditions and the fact that these non-conforming sheds will be removed prior to the sale of the Subject Property. Subject to the conditions herein imposed, the benefits outweigh the detriments, thus satisfying the positive and negative criteria for the granting of bulk variance relief under, and pursuant to, the cited statute.

NOW THEREFORE, BE IT RESOLVED, that the motion duly made by Susan Croll and duly seconded by Dennis Deichert on August 23, 2023 that the required bulk variance relief from the provisions of Borough Code§400-10A, 10D and 10E and 10F to permit the continuation of existing non-conforming sheds on the Subject Property be and is hereby GRANTED subject to the conditions herein set forth.

1. That the application, all exhibits, testimony, maps and other documents submitted, and all representations made, and all testimony given before the Board at its meeting of August 23, 2023 are true and accurate of the facts relating to the Applicant's request for relief. In the event that it appears to the Board, on reasonable grounds, that the application, exhibits, testimony, maps and other documents submitted are not accurate, are materially misleading, or are the result of mistake, and the same have been relied upon by the Board as they bear on facts which were

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essential in the granting of the relief sought, the Board may rescind its approval and rehear the application, or any part of said application, either upon the application of an interested party or on its own motion, when unusual circumstances so require, where a rehearing is necessary and appropriate in the interest of justice;

As a condition of approval, the Applicant shall construct a solid white 6-foot vinyl fence to connect to the existing vinyl fence on the Subject Property to screen the sheds from the public view and shall submit proof to the Board's secretary that this condition has been complied with by the Applicant.

As a condition of approval, the Applicant shall cause the nonconforming sheds on the Subject Property to be removed prior to the sale or transfer of the Subject Property, and a deed restriction memorializing that condition shall be duly executed by the Applicant and his wife for recordation with the Office of the Camden County Clerk. All costs associated with the drafting and recordation of that deed restriction shall be the responsibility of the Applicant.

The Applicant is responsible for obtaining all other approvals or permits from other governmental agencies as may be required by law, and the Applicant shall comply with any requirements or conditions of such approvals or permits which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The Applicant is solely responsible for determining which governmental and/or public agencies permits and/or approvals, if any, are required. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from any such outside agencies, with a copy thereof to the Board's solicitor, engineer and planner.

5. The Applicant must maintain an escrow account with the Borough of Gibbsboro and pay the costs of all professional review and other fees required to act on the application, pursuant to the applicable provisions of the Borough's land development ordinances, zoning code and any other applicable municipal codes, and the New Jersey Municipal Land Use Law. The Applicant's escrow account must be current prior to any permit being issued, or construction or other activity commencing on the approved application.

6. At any time after adoption of this Resolution should a party of interest appeal to the Board for an order vacating or modifying any term or condition set forth herein, upon a proper showing of materially misleading submission, material misstatement, materially inaccurate information or a material mistake made by the Applicant, the Board reserves the right to conduct a hearing with the Applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault or deficiency in the application, the Board shall take whatever action it deems appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval or such other action as appropriate.

7. The Applicant shall indemnify and hold the Borough of Gibbsboro harmless from any claims whatsoever which may be made as a result of any deficiency in the application, or as to any representation made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance on certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Borough pursuant to N.J.S.A. 340:55D-12.C, and publication of the notice of public hearing in this matter in accordance with the law.

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ROLL CALL VOTE

LuAnn Watson, Chairperson	Yes
Michael Kelly, Vice-Chairperson	Yes
Edward Campbell, Mayor	Yes
Michael MacFerren, Councilman	Yes
Susan Croll	Yes
Barbara Gellura	Yes
Barry Rothberg	Yes

BE IT FURTHER RESOLVED that a certified copy of this Resolution of Memorialization be sent via regular mail to the Applicant within ten (10) days of the date of adoption, and a copy of this Resolution shall be filed with the Administrative Officer or Clerk of the Borough, Borough Construction Official, Borough Zoning Officer and made available to all other interested parties.



Amy C. Troxel, Secretary
Planning Board
Borough of Gibbsboro

CERTIFICATION

This Resolution of Memorialization being adopted by action of the Planning Board of the Borough of Gibbsboro on this 27th day of September, 2023 is a true copy of the action taken by the Gibbsboro Joint Land Use Board at its meeting held on August 23, 2023.



Amy C. Troxel, Secretary
Planning Board
Borough of Gibbsboro