

**Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
February 12, 2026**

CALL TO ORDER:

Chairman Hagarty called the meeting to order at 7:30 pm

PLEDGE OF THE FLAG:

Chairman Hagarty called for everyone to rise and recite the pledge of allegiance to the flag.

SUNSHINE LAW:

Chairman Hagarty announced that the meeting is being held in compliance with the Open Public Meetings Act and has been duly noticed and published by law.

SWEARING IN OF NEW/ REAPPOINTED MEMBERS:

Class IV Member: Jeffrey Torrance Expires 12/31/2029

Mr. Sitzler swore in the reappointed member. He told the member to raise their right hand and repeat after him: I (state your name), so solemnly swear or affirm that I will support the constitution of the United States and the constitution of the states of New Jersey. That I will bear true faith and allegiance to the same and to the governments established in the United States and in this State under the authority of the people and that I will faithfully and partially and justly perform all duties of Planning Board members (stated their class) for the Borough of Pine Hill according to the best of my abilities, so help me God.

Mr. Sitzler congratulated Mr. Torrance.

ROLL CALL:

On a roll call vote, the following members answered present by roll call: Mr. Hagarty, Mr. Waddington, Mayor Green, Councilman John Robb, Mrs. Gilson, Mr. Torrance, Mrs. Robb, Mr. Farlow, Solicitor Mr. Sitzler, Engineer Mr. Clark, Planner Mr. Stan Slachetka, Zoning Officer Mrs. Keyek.

Absent: Mr. Brannigan, Planner Mr. Gray-Cornelius.

APPLICATION 2026-3

Trump National Golf Course
500 W Branch Avenue
Block 24.01, Lot 1
Use Variance and Site Plan Approval

Mr. Sitzler stated, For the record. I spoke to the attorney for Trump National Golf Course. And when I was reviewing the notice publication notices, apparently someone in his office in public, she noticed this meeting, inadvertently used the year 2025 rather than 2026 and both he and I did a little bit of research, and there really is no exception for that mistake. And so based on that, we did

not have jurisdiction. Faulty notice here tonight. So, they're going to re-notice for that reason, and we anticipate it will be heard at our March 12th meeting. If anyone is here for the Trump National Golf application, it will not be heard tonight under any event because the notice was sent out incorrectly. It was had the wrong year at 2025 is going to re-list for the meeting next month in March, once again, that March 12, 2026, it will be 7:30pm.

CORRESPONDANCE:

The New Jersey Planner Vol. 86, No. 6

JANUARY 2026 MINUTES:

Mr. Hagarty first asked if everyone has had a chance to review and if there are any questions or proposed changes to those meeting minutes. Seeing none, I will entertain a motion to approve the minutes of our January 8, 2026, meeting.

A motion to approve January 8, 2026, minutes, was made by Mr. Waddington and seconded by Mrs. Gilson.

ROLL CALL:

Mr. Hagarty – Yes
Mr. Waddington – Yes
Mayor Green – Abstain
Councilman John Robb – Abstain
Mrs. Gilson – Yes
Mr. Torrance – Abstain
Mrs. Robb – Yes
Mr. Farlow – Yes

Chairman Hagarty stated that the January 2026 minutes adopted.

RESOLUTION 2026-9

Douglas Tomkins
33 Valley Drive
Block 135, Lot 29
Bulk Variance

Mr. Hagarty stated next matter before us is resolution number 2026-9. I'll read the resolution so resolution of final zoning for granted bulk variances to Jennifer and Douglas Tomkins, subject to certain terms and conditions for in addition to their existing residential home located at block 135 block 29 also known as 33 Valley Drive. Board members, does anybody has any proposed amendments or changes to the resolution. Seeing none, I will entertain a motion for approval of resolution 2026-9.

A motion to adopt resolution 2026-9 was made by Mr. Waddington and was seconded by Mrs. Gilson.

ROLL CALL:

Mr. Hagarty – Yes
Mr. Waddington – Yes
Mayor Green – Abstain
Councilman John Robb – Abstain
Mrs. Gilson – Yes
Mr. Torrance - Abstain
Mrs. Robb – Yes
Jeffrey Farlow – Yes

Chairman Hagarty stated that resolution 2026-9 was adopted.

RESOLUTION 2026-10

Elmwood Property Group, Inc.
69 E Woodburn Ave & 73 E Woodburn Ave
Block 47, Lots 34 & 40
Minor Subdivide

Mr. Hagarty stated next matter before us is resolution number 2026-10. Granting a minor subdivision together with a bulk variance subject to certain terms and conditions, creating two lots, one with an existing single family detached dwelling, and one a vacant buildable lot, for property located at block 47, lots 34 and 40, also known as 69 and 73 East Woodburn Avenue. Board members, does anybody has any proposed amendments or changes to the resolution. Seeing none, I will entertain a motion for approval of resolution 2026-10.

A motion to adopt resolution 2026-10 was made by Mr. Waddington and was seconded by Mrs. Gilson.

ROLL CALL:

Mr. Hagarty – Yes
Mr. Waddington – Yes
Mayor Green – Abstain
Councilman John Robb – Abstain
Mrs. Gilson – Yes
Mr. Torrance - Abstain
Mrs. Robb – Yes
Mr. Farlow – Yes

Chairman Hagarty stated that resolution 2026-10 was adopted.

AFFORDABLE HOUSING

Ordinance amending Chapter 23 of the code of the Borough of Pine Hill captioned “Land Use Ordinance of the Borough of Pine Hill” to address the requirements of the Fair Housing Act and the uniform housing affordability controls (UHAC) regarding compliance with the Borough of Pine Hill’s Affordable Housing Obligations.

Mr. Hegarty stated that all members should have a copy of the ordinance along with a letter from Mrs. Patricia Hendricks and another letter from Mr. Ashton Jones regarding their overview of the ordinance.

Mrs. Jenizza Corbin, Remington and Vernick, stated I am here tonight to review the consistency of proposed ordinance 2026-1066.

Mr. Sitzler swore Mrs. Jenizza Corbin under oath.

Mrs. Corbin continued, under the MLUL, before developing the body and development ordinances or amendments there to the board members to become consistent with the Borough's Master Plan and provide the report to council, and that would be that. So tonight, we're looking at the comprehensive amendment to the borough's existing affordable housing ordinance, as well as the development fee ordinance, which are the two primary components in the proposed ordinance before you tonight. To better understand why this ordinance is before you tonight, we have to look back at what has happened in the last year or so. The board actually adopted the housing element and fair share plan last year, in June 2025 and that was a critical step in taking compliance with the state mandated affordable housing obligations. Subsequently, the board received a conditional step order, which, combined with a new state law, mandates that the board must update its affordable housing ordinance along the development fee ordinance no later than March 15 of this year. Ordinance 2026-1066 a direct response to this mandate. In our professional review that's outlined in the letter, we analyze that ordinance, 2026-1066, against our state regulation, amended Fair Housing Act, the new law that was signed in 2026 housing affordability control act, or the you act, and the ordinance aligns the borough code with these, all these modern state regulations and standards of how affordable housing units should be managed and developed in the borough and How should be collected and used. While these specific administrative updates are not explicitly word for word outlined in the borough's master plan or in housing element, it is our finding that we are not inconsistent with master plan. In fact, the inaction or failing to adopt these ordinances would create a conflict. It would violate the new state regulations and undermine the rules and the purposes of this board establishing the goals of providing affordable housing. That's what's adopted last year in the housing document. To summarize, it is necessary to adopt whether it is an administrative regulatory update required by the state and boroughs of the court approved consent order. By adopting these changes, the board ensures that it's multiple regulations remains in compliance with the Master Plan and the state regulation. So it is, in our opinion, that this ordinance is not inconsistent with the board master plan. So therefore, we recommend the board adoption to the mayor and council, reflecting my presentation as it is.

Mr. Hagarty asked the board members, does anyone have any questions for Mrs. Corbin with respect to her presentation and testimony to respect for the ordinance 2026-1066? Seeing no questions, we will take a motion for adoption.

Mr. Sitzler responded to Mr. Hagarty, on the floor should be so much position that it is important that ordinance 2026-1066, as reflected in what we've just heard about summary presented by Mrs. Corbin is not inconsistent with our current master plan. That is what we're charged with doing. We also have the right to make comments which feel that there's a necessity to do that. So that is the primary goal under that statute is to determine whether it's not inconsistent. That would be the motion for this one.

Mr. Hagarty stated, as Mr. Sitzler has summarized and consistent with the testimony from Mrs. Corbin and what the information had in the packet with respect to the ordinance, and letter from Mrs. Hendricks, I'll entertain a motion to adopt the ordinance, and with the finding that is not inconsistent, that ordinance 2026-1066, the ordinance amending chapter 23 caption land use ordinance address requirements of the Fair Housing Act and uniform housing affordability controllers, UMAC, regarding compliance with the Borough of Pine Hill affordable housing obligations is not inconsistent with our master plan.

A Motion that the ordinance 2026-1066 is not inconsistent with the Mater Plan was made by Mr. Torrance and seconded by Mr. Waddington.

ROLL CALL:

Mr. Hagarty – Yes
Mr. Waddington – Yes
Mayor Green – Yes
Councilman John Robb – Abstain
Mrs. Gilson – Yes
Mr. Torrance - Abstain
Mrs. Robb – Yes
Mr. Farlow – Yes

Chairman Hagarty stated that resolution 2026-10 was adopted.

Mr. Sitzler stated, to follow up Mr. Chairman, I prepared a letter to be signed based on what the board just did because of the time limitations that we have to act under the state law and not having enough time to wait for next meeting for the formal resolution. We do have the right to do a transmittal which is a report of the board as you as the chairman would forward when there is time limitations so that Council could have it in wiring of what actually took place today. It is dated today and that would be just as good as if I did a formal resolution.

Mr. Hagarty responded to Mr. Sitzler, ok.

APPLICATION 2026-4

Salvador Calixto
34 Hazel Lane
Block 100, Lot 17
Bulk Variance

Mr. Sitzler explained, Mr. Kevin Calixto is here to interpreter for his father. Let me know explain this to the board, when we have an interpreter, it is different than a court interpreter, which I'm also interested because we're not required to hire them through the Municipal Land Use law, there is someone like trusted family member, friend. When you have a question, go for the board professionals as well. When you make a statement to the applicant, you have to wait for the translation, and then the translator, Kevin in this case, will have his father answer them in Spanish and then tell us in English what his father said. So, it is a little bit of a tedious step by step process, because we all have the outcome normally, we speak and we ask a question and somebody jumps right in. It'll get really confusing, unless we sort of use that discipline to wait for the translator and wait for the response. So that's the only thing I really want to say.

Mr. Sitzler swore in Mr. Salvador Calixto and Mr. Kevin Calixto under oath.

Mr. Sitzler stated, it appears this is a bulk variance pertaining to a shed.

Mr. Kevin Calixto said yes.

Mr. Hagarty stated, lets deal with the issue of completeness.

Mr. Clark stated, we reviewed the application and the applicant provided all of the requirements for a variance application.

Mr. Sitzler explained to Mr. Kevin Calixto the completeness process. He stated, completeness means that your dad submitted everything to us for us to make a determination.

Mr. Hagarty explained to Mr. Kevin Calixto, the first step we're going to do is our professionals have deemed the application complete, so we will vote on the terms of completeness. Then, we will move to the next step. I will entertain a motion to deem application 2026-4 complete.

A Motion to deem application 2026-4 complete was made by Mrs. Gilson and seconded by Mr. Waddington.

ROLL CALL:

Mr. Hagarty – Yes

Mr. Waddington – Yes

Mrs. Gilson – Yes

Mr. Torrance - Yes

Mrs. Robb – Yes

Mr. Farlow – Yes

Chairman Hagarty stated that application 2026-4 was deemed complete.

Mr. Hagarty explained to Kevin Calixto, our professionals will go through their letter of the review of the application of the comments, and then that can essentially create an agenda for you in terms of your response.

Mr. Kevin Calixto responded ok to Mr. Hagarty.

Mr. Clark went over his portion of the review letter. The plan shows multiple lots and then the consolidated lots 17, 18, 19, 20, and 21, then consolidated them all to lot 17. There are a couple existing non-conformances here, the front yard setback, side yard setback, those are existing non-conformities. The shed requires three variances, one for the side yard setback, the existing side yard setback, or the required is five feet the shed in place at 2.2 feet from the side property around lot 15, the shed exceeds the maximum height committed the shed high, and the maximum it is 12 feet, the highest point and the footprint of the shed exceeds maximum square feet of 240, where the maximum allowed is 144 square feet.

Mr. Hagarty commented to Mr. Kevin Calixto, essentially tonight, what your application is asking for is the approval of these three variances that professionals have just mentioned with respect to the sidewalk setback, the height of the shed and the foot foundation.

Mr. Salvador Calixto agreed with Mr. Hagarty.

Mr. Stan Slachetka asked for clarification that the actual shed does conform to the rear yard is greater than five feet to the rear property, this would be just for the side yard setback.

Mr. Clark asked Mr. Kevin Calixto to give the board some history on shed, if it's been constructed. When was that? Did it replace an existing shed, those types of things?

Mr. Kevin Calixto responded to Mr. Clark, Oh, no, we just brought the property, and it was already existing shed. Other than that, we really don't know too much about the history. So yes, over the years, it has wear and tears and we're just trying to fix whatever needs to be fixed, but we didn't build the shed, it was already there.

Mr. Clark asked Mr. Kevin Calixto, you didn't build the shed? Was it already there?

Mr. Sitzler asked Mr. Kevin Calixto, did you change it and make it any bigger or higher.

Mr. Salvador Calixto responded to Mr. Sitzler, no.

Mr. Sitzler responded to Mr. Salvador Calixto, ok, we want to make sure that's on the record.

Mr. Salvador Calixto responded ok to Mr. Sitzler.

Mr. Clark stated, there are a couple other existing non-conformities regarded to a chain like fence within the Hazel Lane right of way, those with that chain link fence also there if we want the property.

Mr. Salvador Calixto responded yea to Mr. Clark.

Mr. Slachetka asked Mr. Salvador Calixto, how long have you owned the property?

Mr. Salvador Calixto responded to Mr. Slachetka, one year.

Mr. Hagarty asked Mr. Salvador Calixto, very generic again, before we go through it during that year that you've owned the property, can you describe what changes or modifications you've made to the property in terms of any work that's been done.

Mr. Salvador Calixto responded to Mr. Hagarty, none at all.

Mr. Bryan Clark continued his portion of the review letter, there's also a wood fence that encroaches onto the lot 15, which is the property north of this by 0.95 feet. That was there when you bough the house?

Mr. Kevin Calixto responded yes to Mr. Clark.

Mr. Bryan Clark continued his portion of the review letter, Comment H, the wood fence appears on the applicant's survey to terminate near the existing building setback line, but the 2022 Google Street View images show that the fence continues in the front of part of the building. The height of the fence is not identified. It looks like the fence does end at the front facing the building. Correct?

Mr. Salvador Calixto responded yea to Mr. Clark.

Mr. Clark continues, and then the max height is not an issue because it doesn't come into the front yard. Have you removed any trees from their property since you purchased it, or any landscaping?

Mr. Kevin Calixto responded no to Mr. Clark.

Mr. Clark continued his portion of the review letter, Comment I, the shed increases the impervious coverage on the property, and given the close proximity to the neighboring properties, does any of the runoff in that shed spill off onto the neighboring properties?

Mr. Kevin Calixto responded no to Mr. Clark.

Mr. Clark responded to Mr. Kevin Calixto, it appears that the property slopes towards Hazel Lane. Is that correct?

Mr. Kevin Calixto responded yes to Mr. Clark.

Mr. Salvador Calixto stated, the shed was smaller but its bigger now but I haven't made any changes.

Mr. Clark responded to Mr. Salvador Calixto, the center of the shed appears to be newer and in a better condition, there's an overhang on both sides that period older than the actual shed in the picture provided.

Mr. Sitzler asked Mr. Kevin Calixto a question, do you or your father in the future plan to make it bigger, smaller, or redo it?

Mr. Salvador Calixto responded no to Mr. Sitzler's question.

Mr. Sitzler continued, because if the board were to grant you an approval, it would be for as it is today, the only thing that you could do is to fix what's there, you cant make it higher or bigger.

Mr. Salvador Calixto responded no to Mr. Sitzler's question.

Mr. Kevin Calixto responded to Mr. Sitzler's question, its just used for our storage.

Mr. Clark asked Mr. Salvador Calixto, the overhang on the siding, are you replacing those?

Mr. Salvador Calixto responded yea to Mr. Clark.

Mr. Clark asked Mr. Salvador Calixto, just taking them off?

Mr. Salvador Calixto responded yes to Mr. Clark.

Mr. Clark asked Mr. Salvador Calixto, so you're taking off the older sections on both sides?

Mr. Salvador Calixto responded yes to Mr. Clark.

Mr. Clark asked Mr. Kevin Calixto, everything is staying as it is?

Mr. Kevin Calixto responded to Mr. Clark, yes, just doing repairs.

Mr. Slachetka asked Mr. Kevin Calixto, what is the shed going to be used for, just storage?

Mr. Kevin Calixto responded to Mr. Slachetka, it's just going to pretty much be used as storage.

Mr. Slachetka asked Mr. Kevin Calixto, there won't be any other activity in the shed?

Mr. Salvador Calixto responded no to Mr. Slachetka's question.

Mr. Kevin Calixto responded to Mr. Slachetka, there won't be any plans for anyone to live in the shed or anything like that.

Mr. Clark asked Mr. Salvador Calixto, are you going to paint the shed?

Mr. Salvador Calixto responded yes to Mr. Clark.

Mr. Clark asked Mr. Salvador Calixto, a color to match the house?

Mr. Salvador Calixto responded to Mr. Clark, white or something.

Mr. Clark asked Mr. Salvador Calixto, of your neighbors have similar sheds in size?

Mr. Salvador Calixto responded to Mr. Clark, they have a metal shed.

Mr. Clark asked Mr. Salvador Calixto, is it a similar size shed?

Mr. Salvador Calixto responded yes to Mr. Clark.

Mr. Hagarty asked Mr. Kevin Calixto, it's an important part to clarify, just to make sure I'm perfectly clear. So, the shed in its current condition is shown in the photograph, this was exactly as it was when you purchased the property?

Mr. Salvador Calixto responded to Mr. Hagarty; we moved the door.

Mr. Hagarty asked Mr. Salvador Calixto, ok, but you didn't construct of that shed?

Mr. Salvador Calixto responded no to Mr. Hagarty's question.

Mr. Kevin Calixto responded to Mr. Hagarty, my dad is trying to say is he put the pilots there so nobody would get hurt.

Mr. Hagarty responded to Mr. Kevin Calixto, ok, that's why I want the record to be clear.

Mr. Clark asked Mr. Salvador Calixto, so you changed the plywood, it was the center section that repairs were made. Did you make it taller with those repairs to the center?

Mr. Salvador Calixto responded no to Mr. Clark.

Mr. Clark asked Mr. Salvador Calixto, so the center section looks like it did before, you just added some plywood?

Mr. Salvador Calixto responded yes to Mr. Clark.

Mr. Slachetka asked Mr. Salvador Calixto, when you're taking about the pilot, are you talking about the sign piece of what you put on the side here?

Mr. Salvador Calixto responded to Mr. Slachetka's question, that's only temporary.

Mr. Clark asked Mr. Salvador Calixto, has the roof changed?

Mr. Salvador Calixto responded to Mr. Clark, the roof had to be changed.

Mr. Clark asked Mr. Salvador a question, so the framing is the same but you just replaced the roof?

Mr. Salvador Calixto responded to Mr. Clark, and the middle.

Mr. Clark asked Mr. Salvador a question, the whole thing in the middle was? Ok. Is that new foundation there to?

Mr. Salvador Calixto responded to Mr. Clark, yes.

Mr. Clark asked Mr. Salvador a question, and that center piece is the same size and shape as the previous one?

Mr. Salvador Calixto responded to Mr. Clark, yes.

Mr. Clark explained, so basically, it was like a rotten tooth, we extracted the middle portion and put in a new intended to end pieces that are older and put in a new shed that was similar to the original one inside shape.

Mr. Salvador Calixto responded to Mr. Clark, yes.

Mr. Sitzler explained, so the board understands, it may be non-conforming, preexisting repairing is different than expanding under the law. So, if he did nothing more than expanding the portions, if I understand his testimony, will be like repairing a broad fence, but not replacing and tearing it down. But it's different when you tear down a fence and put a whole new one, where you just fix the existing one by patching it. So is not an expansion if they only repair it. That's what the law really holds in these types of cases, but totally making it bigger, expanding the size of it, or not just repairing it, but replacing the whole thing would be a whole different story.

Mr. Slachetka explained, it doesn't change the variances that would be required. Even if they replace the entire fence, the entire shed, and put up a new one exactly in the same footprint, in the same height, they're not triggering any new variances, they will need the variances that are set forth.

Mr. Sitzler explained, Yea, the only difference would be dealing with an unpermitted redo. It could be looked at a little differently in terms of the balancing of what the board has to do in balancing the enemies of what's preexisting. So that always happens with fences, when people don't understand why they have to come before the board and they put a whole new fence up. It may not be permitted where the old one was not in forming use, rather they took down rather than repairing.

Mr. Hagarty made a comment, yeah, I understand. Now, what I'm trying to understand is the timetable of what was done, because it looks like in Kevin, and this is why I want from your testimony, you said you've purchased the property approximately a year ago, then sometimes it appears, from my review of the records, that sometime around September of 2025, you must have submitted a zoning application for a new shed. There's a letter from Mrs. Keyek, the Zoning Officer, that at that point on September 30th, where you say that the zoning application to add new shed was denied.

Mrs. Keyek made a comment, while driving through the neighborhood, I noticed what appeared to be a new shed, with no permits. So, I believe the Construction Office issued a stop work order. Which then caused them to submit a zoning permit. I don't have the exact timing.

Mr. Hagarty stated, that's ok. I'm just trying to figure out how we got here to this stage.

Mr. Sitzler stated, I guess the testimony is they were going to repair.

Mr. Hagarty responded to Mr. Sitzler, that's my understanding. So, Kevin again, ask your dad because this is important as Mr. Sitzler says. The work that is done on the shed, is it, I'm not going to put words in your mouth but give us your testimony, I believe, as we've understood it, is to repair the shed that existed, not to expand on it or other improvements.

Mr. Kevin Calixto responded yes to Mr. Hagarty.

Mr. Hagarty asked the board, any other questions or comments? Seeing none, I will entertain a motion to open the floor to the public with respect to application 2026-4 and only 2026-4

A motion to open the floor to the public with respect to application 2026-4 was made by Mrs. Gilson and seconded by Mrs. Robb.

Mr. Hagarty stated, All in Favor "I".

All present stated, "I".

Mr. Hagarty stated the meeting is now open to the public to discuss application 2026-4. Any members of the public wishing to speak, please step forward and state your name and address for

the record. Seeing none, I will entertain a motion to close the meeting to the public with respect to application 2026-4.

A motion to close the meeting to the public with respect to application 2026-4 was made by Mrs. Gilson and seconded by Mrs. Robb.

Mr. Hagarty stated, All in Favor “I”.

All present stated, “I”.

Mr. Hagarty stated the meeting is now closed to the public with respect to application 2026-4.

Mr. Hagarty stated, Mr. Salvador and Kevin Calixto, thank you for coming before us based on your testimony in terms of when you acquired the property, and the work that you did, I'll say, was repair work to the existing shed, and nothing but repair work, because of that, the issues that we spoke about that variances are needed, and that's the side yard setback, the height and the footprint that are all preexisting conditions when you purchase the property.

Mr. Salvador Calixto agreed with Mr. Hagarty.

Mr. Hagarty continued, that's what I believe I've interpreted in terms of in testimony.

Mr. Sitzler commented, So, Mr. Chair, if I can implement what you just said, using the September 30th, 2025, letter by Mrs. Keyek, it sets forth exactly what they're seeking here. The proposed square foot of feet of the shed currently exist is 192 maximum permitted under our ordinance is 140 Square feet, so that would be the area size of variance that they're requesting. The proposed height of the shed, which is what's existing, as Mrs. Keyek determined, is 15 feet and the maximum height permitted under our ordinance is 12 feet. There's a three foot difference. And then the proposed right side yard setback is 2.19 feet, as it currently exists, whereas the minimum should be 5 feet, so those are the three variances.

Mr. Hagarty stated, okay, so that being said, Mr. Sitzler has summarized the variances. I will entertain a motion for granting the variances for application 2026-4.

A motion to grant the approval for variances and bulk variances for application 2026-4 was made by Mrs. Robb and seconded by Mrs. Gilson.

ROLL CALL:

Mr. Hagarty – Yes

Mr. Waddington – Yes

Mrs. Gilson – Yes

Mr. Torrance - Yes

Mrs. Robb – Yes

Mr. Farlow – Yes

Mr. Hagarty stated application 2026-4 for bulk variance has been approved.

APPLICATION 2026-5

Hildebrando Perez Cabrera

262 New Freedom Road

Block 131, Lot 30.03

Bulk Variance and D(2) Expansion of a Non-Conforming Use Variance

Mrs. Natalie Perez Rudio gave her introduction to the board. Her father doesn't speak good English, so she is there to translate between him and the board.

Mr. Sitzler asked Mrs. Rudio, does your father speak English a little?

Mrs. Rudio answered he does to Mr. Sitzler's question.

Mr. Sitzler asked Mrs. Rudio, does he own this property individually?

Mrs. Rudio answered yes to Mr. Sitzler's question.

Mr. Sitzler asked Mrs. Rudio, is there anyone else on the deed besides himself?

Mrs. Rudio responded to Mr. Sitzler, it's just him.

Mr. Sitzler explained to Mrs. Rudio, unlike our last application, this is a very complex application that your dad is trying to present to the board. The house that he bought is in a zone that does not permit residential use. What that means, when you bought this non-conforming use, under the zoning laws, even though it's in a general business district, where residential uses are not permitted. He is proposing to do the work on it he's expanding that non-conforming use, and that becomes a, under the zoning laws, a use variance, which is the hardest and highest standards to get for someone, because it's not a bulk variance like that you were listening to the last application about the height of something, or how close it is with their called bulk variances, the use variances means an expansion is just like it's not permitted in that zone. What's required when the board votes on your use variance, there has to be a minimum of 5 board members agreeing that you are entitled to that variance, it can't be less. It's not a simple majority of 4 to 3 that you would lose on 4 to 3, though that's what I'm trying to say is, before we start. There are some other issues where there's some complexity but that's the biggest one and you're not required to get a lawyer in any kind of land use board application. You're not required to hire professional person, such as a professional planner, such as we have on the board who could assist you, but for the board to decide to give your dad an expansion of a use variance, he has a burden of proof with you helping him to prove all the elements that are required from the state, Municipal Land Use Law. If our planner knows what they are, he can try to help you get that information to us, but he can't provide it for you. The burden of proof in that application is always on the applicant, which is your dad. You won't get to do a do-over if you don't get all the proofs that are required for very specific proofs in a use variance. If you do not get that proof in, the Board may feel it has no other obligation to do under all but to deny that application, and then the only thing you could do is appeal it. Your dad could appeal it to a court which would be a long, expensive process, and things would be not be where you want them to go. I'm saying all of this because you have the actual right to continue on and do what you're doing today, but I just wanted to make you know that we can't provide the proof for your dad or for you. I don't know what your background is or what your experience is, or you know even what the proofs are required if your dad has to present because he doesn't have any

professional people with him today, no lawyer, no planner, no engineer. Mr. Chairman, I wanted to put that all on the record.

Mr. Hagarty responded to Mr. Sitzler, I agree with what you're saying.

Mr. Hagarty made a comment to Mrs. Rudio, I think Mr. Sitzler is trying to give good advice out there in terms of what should be considered. We're not trying to dissuade you from continuing either way, it's your prerogative. But as Mr. Sitzler has said, the standard for this type of application is extremely high. It's the highest that we have, and the fact that, in doing so, it doesn't appear that you have any representation, with respect to professionals with you or any legal assistance. You know, these are the sort of areas we're going to want to have some discussions about.

Mr. Hagarty made a comment to Mrs. Rudio, let's take a quick recess so you can discuss with your dad what you'd like to do moving forward.

Mr. Sitzler made a comment to Mrs. Rudio, if you have any questions for me, I'd be happy to answer them. I just don't want you to get in the middle of and then realize that you're not able to reach what you have to do to convince the board, there are certain things that have to be proven.

Recess was roughly 20 minutes.

Mr. Sitzler stated, Mr. Chairman, thank you for giving us some time, because I think it's been productive our planner, engineer, and zoning officer joined in the conversation. The applicant is going to ask us for a one month adjournment so they can consult with their architect, any other professional they choose to do so, so that they can have someone here who can assist them with the groups that are required for the expansion of the use variance. I will say this to the board that Natalie showed me the advertisement when her dad bought the house, and the realtors told them this was in a residential setting, so it's clearly on their sort of a big misrepresentation to them when they bought it. The architect will assist them, and also in the course of talking, because they have an easement to date from another property on the side of them, I explained that you might need some proof of what the easement terms are. But in lieu of that, what they intended to do was to do an egress driveway to the house off of New Freedom Road so they can satisfy the condition that our engineer pointed out they need parking, because you can't park right on New Freedom Road. So, they had a little sketch, and the architect, I told them, the architect also helped them with a more permanent sort of positioning driveway, because New Freedom Road as a county road. If we approve them, they may just have to get an approval from Camden County for access.

Mr. Hagarty responded to Mr. Sitzler, ok.

Mr. Sitzler asked Mrs. Rudio, is that correct Natalie, you want a postponement?

Mrs. Rudio responded yes to Mr. Sitzler's question.

Mr. Sitzler stated, if there's anyone here, I don't see anyone that is here for this application. I am making the public announcement as required that this matter, regarding 262 New Freedom Road Hildebrando Perez Cabrera, that application will be postponed to our March 12th meeting at 7:30 pm it is not going to be necessary for Mr. Cabrera to readvertise and re-notice the public or

neighbors from that meeting. He can just come here as by a standard trying to get an architect or professional person to help them with their presentation of their application

Mr. Hagarty responded to Mr. Sitzler, ok.

OLD BUISNESS:

None.

NEW BUSINESS:

Mr. Hagarty stated, I know there is a meeting on March 12th here at 7:30. If there are any members unable to make it, please reach out to Ms. Wakeley. Any other new business? Seeing none, I will entertain a motion to the public to discuss any issues.

A motion to open the floor to the public was made by Mr. Waddington and seconded by Mrs. Gilson.

Mr. Hagarty stated, All in Favor "I".

All present stated, "I".

Mr. Hagarty stated, the meeting is now open to the public to discuss any issues. Seeing no members of the public present, I will now entertain a motion to close the meeting to the public.

A motion to close the meeting to the public was made by Mr. Waddington and seconded by Mrs. Gilson.

Mr. Hagarty stated, All in Favor "I".

All present stated, "I".

Mr. Hagarty stated, the floor is now closed to the public. I will now entertain a motion to adjourn the meeting.

A motion was made by Mrs. Gilson and seconded by Mr. Waddington to adjourn the meeting.

Mr. Hagarty stated, All in Favor "I".

All present stated, "I".

Meeting adjourned at 9:12 pm

Nicole Wakeley,
Planning Board Secretary