DELANCO TOWNSHIP
JOINT LAND USE BOARD
2014 ANNUAL REPORT OF VARIANCES

1. APPLICANT – VON LUTCKEN, SCOTT

Property Designation – Block 812, Lot 2, R-1-30 Zone, 1600 Second Street

The Board granted sideyard and aggregate sideyard setback variances to permit the construction of home additions to the front and rear of the existing single family home. The board found that the layout of the existing home limited the options for its expansion. The board further found that, in addition to the fact that the subject property is 10 ft. narrower than the minimum lot width required in the zone, the existing home is built on a slant, rather than parallel to the lot's side lot lines. As a result, the front of the existing home is nearer to the west side lot line than the rear. These three facts, the narrowness of the lot, in combination with the location and layout of the existing home present the applicant with a genuine hardship which satisfied the positive criterion.

The board found that the variance could be granted without substantially impairing the intent and purpose of the master plan or zoning ordinance because the proposed additions would enhance an existing use which is permitted in the zone and because the proposed additions would not create new deviations from the bulk standards of the ordinance but would merely cause *de minimus* increases in pre-existing nonconforming conditions on a pre-existing nonconforming lot. The board also found that the variances could be granted without substantial detriment to the public good because the surrounding area, like much of Delanco Township, was developed prior to the adoption of the Township's first zoning ordinance and, as a result, nonconforming conditions such as those that would result from the grant of these variances are not uncommon in the applicant's neighborhood.

2. APPLICANT – HOVBROS COOPERTOWN ROAD, LLC

Property Designation – Block 2100, Lots , R-1 Zone, 430 Delaware Avenue

The Board denied the applicant's request to modify three architectural features that were part of a previously approved use variance. The applicant sought approval to modify or eliminate architectural features from its approved plan, the inclusion of which entitled it to receive density bonuses which entitled the applicant to develop the tract at a higher density. The applicant asked

to modify the architectural features but to retain the density bonuses that were approved in its original application.

The board determined that the zoning ordinance pertaining to the applicant's project tried to use architecture to help create a certain kind of community and the density bonuses were offered to encourage a certain kind of community. The evidence provided during the hearing established that the design features in question have an objective and that the failure to provide them is detrimental to that objective. The applicant presented no evidence to the contrary.

3. APPLICANT – CANTON, PETER

Property Designation – Block 1208, Lot 1, R-1 Zone, 430 Delaware Avenue

The Board granted front and sideyard setback variances to permit the demolition and reconstruction of a nonconforming structure on an isolated undersized lot along with a conditional design exception to permit the main entrance of the dwelling to be located on the side of the home. The board found both variances could and should be granted for the following reasons: a) the exceptional shallowness of the lot created a genuine hardship that satisfied the positive criteria for the grant of the frontyard setback variance; b) as to the sideyard setback variance, the board noted that the positive criteria could also be met when "an extraordinary and exceptional situation uniquely affecting" a structure or structures on a specific piece of property presents the property owner with an undue hardship; and c) the subject property is truly unique. Two concrete headwalls transverse the property and the existing home is built above one of them. Half of the lot is underwater half the time. The current location of the existing home, less than six (6) feet from the side lot line, maximizes the utility of the property in a way no other location on the lot can or will. Allowing the applicant to rebuild on the existing foundation preserves and maximizes the utility and habitability of the property.

The board found that both variances could be granted without substantial detriment to the public good. This conclusion was based, in part, on the fact that two adjacent property owners came out to speak in favor of the application and none opposed it. In addition, the replacement bungalow will be immensely more attractive than the structure that is in place now. Finally, there are no homes alongside the subject property to be adversely affected by either variance. The board also found that both variances could be granted without substantially impairing the intent and purpose of the zone plan and the zoning ordinance. This conclusion was based largely on the fact that the proposed use is permitted in the zone. In addition, the existing structure has been part of the neighborhood landscape for almost a century. Its existing

nonconformities have not substantially impaired the zone plan to date, so allowing their continuation should not do so in the future. And, finally, allowing the existing structure to be improved both structurally and aesthetically will advance the purposes of the zone plan.

4. APPLICANT – ZHOU, ZHI G.

Property Designation – Block 402, Lot 1.02, R-5 Zone, 1001 Second Street

The Board granted a rear yard setback variance to permit a wooden deck to be built five feet from the property's rear lot line. The board found that the variance could and should be granted for the following reasons:

(a) The positive criteria was met on the basis of hardship. The minimum lot depth required in the R-5 zone is 100 feet. The average lot depth of the subject property is approximately (88) feet. The property is also a corner lot which means that it has two front yards. In combination these factors leave the applicant with a small back yard, made smaller by a ponding problem;

(b) The location chosen for the deck was a logical one, that is, behind the home's back door that opens into the kitchen on the deepest side of the lot;

(c) The grant of the variance would not entail a substantial impairment of the master plan or zoning ordinance because decks are specifically permitted accessory uses in the zone, the deck complies with the sideyard setback requirement and even after the addition of the deck the property will be well below the impervious cover limitations of the zoning ordinance; and

(d) The grant of the variance would not be a substantial detriment to adjoining property owners because the solid vinyl fence that encloses the applicant's rear yard is a good sound barrier.

5. APPLICANT – YILMAZ, ZEKI (YAREN INVESTMENTS, LLC)

Property Designation – Block 1004, Lot 4.01, R-4 Zone, 824 Burlington Avenue

The Board granted a use variance to use the property as an office and a market rate apartment but denied the applicant's request for a site plan waiver. Although mixed uses are not prohibited, neither use is permitted in the R-4 Zone. The board found that the positive criteria for the grant of both variances were met because the structure is peculiarly suited for the proposed use and the structure is not reasonably adaptable to a conforming use. The board also found that the mixed use of the structure would be a good adaptive reuse of what was formerly a neighborhood amenity (barber shop) and that the grant of the proposed variances would promote

a specifically enumerated objective of the Municipal Land Use Law, namely, the provision of sufficient space in appropriate locations for a variety of residential and commercial uses.

With respect to the negative criteria, the board found that the variances could be granted because the uses will not be substantially at odds with the established character of the neighborhood and because all of the commercial activity in the proposed office will be on the inside of the property. However, the board found that while the variances could and should be granted, limits had to be placed on the kinds of offices that could occupy this space and a minor site plan had to be prepared to allow the board and its staff to evaluate issues such as landscaping, lighting, signage and parking.

6. APPLICANT – BARTLETT, MATTHEW

Property Designation – Block 809, Lot 5, R-3 Zone, 229 Fenimore Lane

The Board granted a conditional use variance to permit the applicant to engage in a home occupation. A conditional use variance was required because the applicant could not comply with two standards applicable to the proposed conditional use. Specifically, the applicant could not provide an off-street parking space for the one permitted non-resident employee and could not provide an additional off-street parking space for each 200 sq. ft. of floor area dedicated to the home occupation. The applicant met all other applicable requirements.

The fact that only one non-resident, the applicant's partner, will visit the site, that the applicant and his partner will both be off-site during most of the day and that the applicant's neighborhood has more than enough daytime parking available to accommodate the one additional personal vehicle that the applicant's business will attract to the site led the board to conclude that the site can accommodate the proposed use despite the fact that it does not have the two additional off-street parking spaces required by ordinance.

The Delanco Township Joint Land Use Board does not recommend any zoning ordinance changes based on the information contained in this report.