

**BOROUGH OF FOLSOM
PLANNING/ZONING
BOARD OF ADJUSTMENTS
MINUTES**

November 15, 2017

The meeting was called to order at 7:04 PM.

SALUTE TO THE FLAG

CERTIFICATION: Adequate notice of this meeting has been given in accordance with the Open Public Meeting Act pursuant to Public Law 1975, Chapter 231. Said notice has been advertised in The Gazette and Atlantic City Press and is posted on the bulletin board showing the time and place for the meeting.

ROLL CALL:

Members Present: Charlie Pitale, Joe Pino, Joel Spiegel, Dave Cappuccio, Ben Pagano, Michael Veneziani, Claude Jones

Members Absent: Glen Smith, Mayor DeStefano, John LaPollo, Michael Sutts

Others Present:

Solicitor:	Jorge F. Coombs, Esq.
Board Engineer:	Vince Polistina, PE, PP
Board Secretary:	Susan Carroll

APPROVAL OF MINUTES:

A Motion was made by Mr. Cappuccio and seconded by Mr. Spiegel to approve the Minutes of October 18, 2017. There was a roll call vote with 3 ayes and 4 abstentions

Charlie Pitale	Yes
Joe Pino	Abstain
Joel Spiegel	Yes
Dave Cappuccio	Yes
Mike Veneziani	Abstain
Ben Pagano	Abstain
Claude Jones	Abstain

DECISION RESOLUTION:

A Motion was made by Mr. Spiegel and seconded by Mr. Cappuccio to grant the Decision Resolution for Storm Properties. There was a roll call vote with three (3) ayes and five (5) abstentions.

Charlie Pitale	Yes
Joe Pino	Abstain
Joel Spiegel	Yes
Dave Cappuccio	Yes
Mike Veneziani	Abstain
Ben Pagano	Abstain
Claude Jones	Abstain

A majority of those who voted on the application was needed. One of the absent members needed to read the Minutes of the Meeting, read the Resolution, listen to the recording from October, cast a vote, and Certify they have reviewed all of the materials and the vote.

APPLICATION 12-ZB-2017

Thomas Santanello of 530 E. Fleming Pike, Elm, N. J. seeking variances for Lot Area, Width, and Depth; Front, Side, and Rear Yard Setbacks; and Lot Coverage to build a new single family dwelling. The property is located on Block 502 – Lot 4 of the Official Tax Map of the Borough of Folsom and more commonly known as 1211 11th Street, Folsom, N. J. 08037 in the Agriculture (AG) Zoning District.

Mr. Coombs swore in Marisa Nardo, 28 Woodstream Dr., Atco, NJ and Thomas Santanello, 530 E. Fleming Pike, Elm, NJ. The Applicant was seeking to build a single family home on the property and planned to demolish the building which was there currently and clear out some of the trees in the front of the property. The single family dwelling planned was a one story rancher with a porch. The new single family dwelling will sit where the current house was located. There were 3 large trees a 30” and two 36” trees in the front of the property which will be removed. There was a 10’ Dogwood and 36” Oaks toward the left side.

The Applicant did not yet own the property. Mr. Santanello and Ms. Nardo were engaged. They planned to live in the home. Negative criteria included noise from demolition of the current structure and there may be some inconvenience to neighboring property owners during the demolition. There were no road closures anticipated for the demolition. The new house will be a modular. It will be delivered in sections which might cause possible road closures.

The new house will have a garage on it. Presently there were not a lot of vehicles going to and from the property. The new house will have two cars and it was estimated several more trips would emanate from the property each day than there is currently. It would cause additional congestion and traffic in the area.

The positive criteria included growing Folsom and an aesthetic improvement. The current house was not habitable because the roof was caved in and it was dangerous.

Mr. Coombs swore in Linetta Frederico, 581 N. 2nd Rd., Hammonton. Ms. Frederico was the seller and executor of her father's estate. Her father did not live there. Nobody lived in the property for the past 37 years. It was dilapidated. There was no electric or water. Her uncle lived there, but he passed away in 1981. Ms. Frederico's aunt inherited it. When her aunt passed away the property became her father's. When her father passed away, the property became hers and her sister. The property went through a chain with no work done to it. The barns were dilapidated falling apart. The barns were old horse barns. The barns were not shown on the existing conditions plan because it collapsed into a pile of wood. The wood was given away.

The property was assessed at \$64,000.00. The assessed value of the property would more than likely go up if a house were built there. It would contribute to the tax roll for the Borough. Mr. Santanello did not have children.

Mr. Santanello was aware the property was in the Agricultural Zone District. He was not aware residential uses were not permitted in Agricultural Zoning Districts. The existing residence was built in 1940 and predated the Comprehensive Management Plan. Folsom's Comprehensive Management Plan was revised after the Pinelands Act was passed in 1978.

Mr. Coombs swore in Michael Santanello, 530 E. Fleming Pike, Elm, N. J. who was the Applicants (Thomas Santanello) father. The Pinelands issued a Certificate of Filing for the demolition and to rebuild on the property. The Applicant was trying to build and beautify the Folsom Borough by putting a nice house on the property.

It was indicated on the Application the Applicant was asking for C Variances for Hardships and D Variances for Change of Use. When a D Variance for a Change of Use from Agricultural Use to a Residential Use, the D Variance involved a balancing test of negative and positive factors. There were other residences along the stretch of 11th Street. There were at least 8 or 9 other residences along 11th Street. The proposed project would fall into the nature and character of the neighborhood. The property would not be grandfathered if the current house was completely demolished. The property was considered existing non-conforming. It did not need to be family owned to be grandfathered.

There were no other questions from the Board.

The Board Engineer clarified they did have rights to the existing residential dwelling. Three walls of the structure could be demolished and the structure rebuilt in the exact same footprint. There were some rights to a Residential Use at the property on the exact same footprint currently there now. The Applicant did not want to do that, but would rather rebuild with a new structure. It was in the Agricultural Zone. Residential Uses were not specifically permitted in Agricultural Zones. A residential dwelling would not be (permitted), but when the Borough and the Pinelands went through this (Comprehensive Management Plan) there was a recognition in the code where there weren't going to have all 40 acre farms in the Agricultural District. There were Conditional Uses by permit in the Agricultural Zone which recognized Residential Dwellings on either 3.2 acre or 1 acre lots. While Residential is not a specifically Permitted Use in the Agricultural Zone, there could be Residential Uses in the Zone provided certain conditions were met.

In this case, the structure will be demolished, Pinelands Development Credits were not redeemed, and there is an existing Residential Use. They do not meet all of the conditions. The lot size was 1.5 acres was more than the minimum required of 1 acre in the Code. A D Variance was required because the lot did not meet all of the Conditions. D Variances were required when a Proposed Use is not a Permitted Use. In this case, it was a Conditional Use where one of the Conditions was not met which triggered the need for a variance by the Zoning Board of Adjustment. It was the D Variance which was referenced in the report. There was a recognition by both Pineland and the Borough that Residential Uses may happen in the Agricultural District. It needed to be based on meeting certain Conditions. It was not a strict Use Variance where a Residential Use in an Agricultural Zone was completely not permitted by the Code. It was recognized in the Code there would not be all 40 acre farms. The Agricultural District did require the 40 acres. It was never anticipated when the Code was Adopted.

ENGINEERS REPORT

Vincent J. Polistina, PE, PP, CME
Craig R. Hurless, PE, PP, CME




Civil / Municipal Engineering
Site Plan and Subdivision Design
Surveying
Land Use Planning
Water and Wastewater Design
Environmental Consulting
Inspection / Construction Management

MEMORANDUM

DATE: November 14, 2017

TO: Planning / Zoning Board of Adjustment
Borough of Folsom

FROM: Vincent J. Polistina, PE, PP 
Planning/Zoning Board Engineer

RE: Thomas Santanello
Application No. 11-ZB-17
PA No. 4117.11

LOCATION: 1211 11th Street
Block 502, Lot 4

STATUS: C Variances

EXISTING USE: Single Family Residential

PROPOSED USE: Proposed Single Family Residential

JURISDICTIONAL AREA: Pinelands

The materials submitted and subject to review are as follows:

NO.	TITLE	PREPARED BY	DATE	REVISION
	Application Materials	Applicant	10-20-17	
1 of 1	Survey/Plot Plan (Sketch)	Robert J. Monson, PLS	10-9-17	
1 of 1	Site Photograph	Applicant	10-20-17	
	Certificate of Filing	Pinelands Commission	5-9-17	

DESCRIPTION:

The Applicant, Thomas Santanello, has submitted an application requesting variance relief to permit the construction of a new single family dwelling on Lot 4 in Block 502. The subject property is also known as 1211 Eleventh Street and is located within the AG Agricultural zoning district. The 1.5-acre site contains an existing dilapidated one story single family dwelling and has frontage on Eleventh Street.

The Applicant is proposing to demolish the existing dwelling and construct a new single family dwelling on

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Phone: 609.646.2950 Fax: 609.646.2949
E-mail: polistinaassoc@comcast.net

the property. The Applicant proposes to install a new septic system and a new private well.

The Applicant is seeking a variance from the conditional uses by permit to allow the construction of the single family dwelling on the lot, after the demolition of the existing dwelling, since residential uses are not permitted within the Agricultural zoning district. The Applicant has also requested variances from lot area, lot width, lot depth, front yard setback, rear yard setback and maximum lot coverage.

COMPLETENESS REVIEW:

This application has been reviewed using the Borough's checklist for hardship ("C") variances. The following items were found to be deficient:

Item 28 - When an applicant intends to use a conventional septic disposal system, location of test holes, test results and approximate location of the intended disposal field. The Applicant has requested a waiver.

Item 29 - Plans and profiles of proposed utility layouts, such as sewers, storm drains, water, gas, communications and electric, showing feasible connections to existing or proposed utility systems. The Applicant has requested a waiver.

ZONING REQUIREMENTS:

The property is located in the AG Agricultural zoning district. Permitted uses in this district are outlined in Section 200-20 of the Borough's ordinance.

The following is a list of the area and bulk requirements for the proposed development:

AG Agricultural Zoning District				
Standard	Required	Existing	Proposed	Status
Use		Single Family Dwelling	Single Family Dwelling	Non-Conforming
Lot Area	40 acres	1.505 acres	1.505 acres	Non-Conforming
Lot Width	300 ft	249.97 ft	249.97 ft	Non-Conforming
Lot Depth	500 ft	243.50 ft	243.50 ft	Non-Conforming
Front Yard Setback	200 ft	77.1 ft	80 ft	Non-Conforming
Side Yard Setback	75 ft	96.7 ft	92 ft	Conforming
Rear Yard Setback	100 ft	151 ft	114 ft	Conforming
Principal Building Height	35 ft max	17 ft	< 35 ft	Conforming
Lot Coverage	3%	2%	5%	Non-Conforming

ENC = Existing Non-Conforming

All other aspects of zoning must comply at the time of the issuance of building permits.

VARIANCES:

1. **Section 200-20.C(1) Conditional Uses by Permit** - Residential dwellings on 3.2 acre lots or 1.0 acre lots in accordance with §200-65.A. are permitted uses upon obtaining a conditional use permit from the Planning Board. The Applicant is demolishing the existing single family dwelling on the subject property and constructing a new single family dwelling. The proposed single family dwelling does not meet the conditions listed in §200-65.A(2) for detached single family dwellings on 1.0 acre lots. The Applicant has requested a 'D' variance.

Pursuant to N.J.S.A. 40:55D-70(d), no use variance can be granted without showing that the variance or other relief can be granted without impairing the intent and purpose of the Zone Plan and Zoning Ordinance. In requesting the variance, the applicant must demonstrate both the positive and negative criteria that will result from the deviation from the Zone Plan and Zoning Ordinance. The Board must balance the special reasons that have been provided versus the negative impacts that will be created when deliberating the relief that has been requested. Should the Board feel that the applicant has demonstrated that special reasons exist, the negative impacts have been addressed, and there will not be a significant impairment of the zone plan or zoning ordinance, the applicant has provided the burden of proof necessary to allow for granting of the variance.

2. **Section 200-20, Table I. Lot Area** - The minimum lot area required in the AG Agricultural zoning district is 40 acres. The Applicant is proposing to demolish the existing single family dwelling and construct a new dwelling on a lot with an area of 1.505 acres whereas a minimum of 40 acres is required. A variance has been requested.
3. **Section 200-20, Table I. Lot Width** - The minimum lot width required in the AG Agricultural zoning district is 300 feet. The Applicant is proposing to demolish the existing single family dwelling and construct a new dwelling on a lot with an existing lot width of 249.97 feet whereas a minimum lot width of 300 feet is required. A variance has been requested.
4. **Section 200-20, Table I. Lot Depth** - The minimum lot depth required in the AG Agricultural zoning district is 500 feet. The Applicant is proposing to demolish the existing single family dwelling and construct a new dwelling on a lot with an existing lot depth of 243.50 feet whereas a minimum lot depth of 500 feet is required. A variance has been requested.
5. **Section 200-20, Table I. Front Yard Setback** - The minimum front yard setback required in the AG Agricultural zoning district is 200 feet. The Applicant is proposing to demolish the existing single family dwelling which has an existing front yard setback of 77.1 feet. The Applicant is proposing to construct a new single family dwelling which will have a proposed front yard setback of 80 feet, whereas a minimum front yard setback of 200 feet is required. A variance has been requested.
6. **Section 200-20, Table I. Lot Coverage** - The maximum lot coverage permitted in the AG Agricultural zoning district is 3%. The subject lot has an existing lot coverage of 2% and the Applicant is proposing to demolish the existing dwelling and construct a new single family dwelling. The Applicant is proposing a lot coverage of 5%, whereas a

maximum lot coverage of 3% is permitted in the Agricultural zoning district. A variance has been requested.

REVIEW COMMENTS:

1. The Applicant has received a Certificate of Filing from the Pinelands Commission for the construction of the proposed single family dwelling. As a condition of the Pinelands Commission approval, the reconstruction of a single family dwelling must be started within five years of the demolition of the existing single family dwelling. An application to the Pinelands will be required if the new single family dwelling is not constructed in within the five year time limit following the demolition.
2. The Applicant is seeking variances from the permitted uses/conditional uses by permit, and bulk and area standards of the Agricultural zoning district. Testimony shall be provided supporting the need for these variances.
3. The Applicant should indicate if the existing driveway will be utilized for the proposed single family dwelling. The Applicant shall indicate the number of parking spaces required and shall provide the parking on a plan.
4. The Applicant should indicate if any of the existing trees on site will be removed.
5. As a condition of approval, the Applicant shall submit a plan showing the proposed septic system, private well and all other required utilities to service the proposed single family dwelling.
6. The Applicant shall obtain approval from the Atlantic County Board of Health for the proposed septic system. Evidence of approval must be provided as a condition of approval.
7. This application is subject to the approval of any other agency having jurisdiction on this project. The Applicant should discuss the status of any other approvals.

Should there be any questions regarding the contents of this report, please feel free to contact this office.

There were letters from the Applicant related to the septic system and utility layouts. The Applicant was seeking the Variances first and if they get the Variances they will do the building design. The letters indicated the Borough would be provided with the septic design, utility layouts, and plot plan. There were no Checklist Waivers. The items would be provided as Conditions of the Approval.

The Applicant was seeking C Variances for Lot Area, Lot Width, Lot Depth, Front Yard Setback, and Lot Coverage because of the size of the lot.

The Applicant received a Certificate of Filing from the Pinelands for the demolition of a structure 50 years or older. Pinelands required the structure is rebuilt within five years. If the structure is rebuilt within five years no additional Application will be needed for the Pinelands Commission. It will not be reviewed again by Pinelands as long as the reconstruction occurs within five years.

Pinelands gave its initial approval for the proposal of the property. The only obstacle was the Approval of the C Variances and D Variance. It was consistent with the Borough's Master Plan and would remain a residential property. Either the exact same dilapidated structure in the exact same footprint could be rebuilt or the Variances could be granted to build a brand new structure. It was better for the Applicant and better for the Borough. It was expected the property would remain residential either way. The Applicant did not meet all of the strict requirements, but the Use was not any different than what it was currently and there will be a better building/structure as a result of granting the Variances.

It was not a final site plan. A plot plan with septic and all details will be submitted. The plot plan was not submitted yet because the Applicant did not know if the Variances would be granted. The D Variance would allow the Applicant to locate the new structure. There was flexibility to locate the new structure where they wanted with the Variance put in place by the Approval.

There were no other question for the Engineer.

The Waivers for Septic Design and Utility Layouts would be Conditions of the Approval.

A Motion was made by Mr. Pino and seconded by Mr. Pagano to deem the Engineers Report complete. A roll call vote was taken with Ayes all.

Charlie Pitale	Yes
Joe Pino	Yes
Joel Spiegel	Yes
Dave Cappuccio	Yes
Mike Veneziani	Yes
Ben Pagano	Yes
Claude Jones	Yes

The meeting was opened to the public for comment. There was no public comment. The public portion was closed.

A Motion was made by Mr. Pino and seconded by Chairman Pitale to Approve the D Variance allowing Conditional Use by Permit and allowing a Residential Dwelling within the Agricultural (AG) Zoning District. There was a roll call vote with ayes all and one abstention.

Charlie Pitale	Yes
Joe Pino	Yes
Joel Spiegel	Yes
Dave Cappuccio	Yes
Mike Veneziani	Yes
Ben Pagano	Abstain
Claude Jones	Yes

A Motion was made by Mr. Pino and seconded by Chairman Pitale to approve the Bulk Standard C Variances for Lot Area, Lot Width, Lot Depth, Front Yard Setback, and Lot Coverage. There was a roll call vote ayes all and one abstention.

Charlie Pitale	Yes
Joe Pino	Yes
Joel Spiegel	Yes
Dave Cappuccio	Yes
Mike Veneziani	Yes
Ben Pagano	Abstain
Claude Jones	Yes

OTHER BUSINESS:

Mr. Coombs informed the Board of the Soulsations located at Liberty Square on the Black Horse Pk. The property was operated by Liberty Square Enterprises. They had a tenant by the name of Choates Contractors. Darryl Choates operates Choates Contractors. They were operating a restaurant with an outdoor tent/pavilion which was fixed to the ground in the fire lane next to Liberty Square. Folsom's Zoning Officer has ticketed them. The property owner was also noticed on the violations. The property owner's attorney, Mr. Greenberg, and the Borough's Solicitor corresponded with each other. Mr. Greenberg was thankful for the issuance of the summons because the tenant was in violation of the commercial lease and was moving to evict.

The matter was in litigation. The property owner tried litigating with the tenant for non-payment of rent, but the tenant escrows the rent then pays it and continues business.

This issue specifically dealing with the zoning violations and alterations to the property without permission was a violation of one of the lease terms. Mr. Coombs will keep the Board advised as it progresses. There were Code violations for Expansion of Use, Non-Conforming Uses

within the Rural Development RD District and put up an Accessory Structure without coming to the Board. The tent/pavilion was affixed to the ground.

There was no other business for the Board.

The next scheduled meeting will be December 20, 2017 at 7:00 pm

The meeting was adjourned at 7:40 pm

Respectfully submitted,

Susan Carroll