

PEQUANNOCK TOWNSHIP BOARD OF ADJUSTMENT
MEMORIALIZING RESOLUTION
DeGroot Holdings, LLC
280 Farm Road, Pequannock Township, NJ
Block 3001, Lot 2

WHEREAS, the applicant is the owner of property located at 280 Farm Road , Pompton Plains, New Jersey, Block 3001, Lot 2, located in the R-87 zone district; and

WHEREAS, the applicant has applied to this Board for the following relief;

1. Variance pursuant to N.J.S.A. 40:55D-70d(3) to permit the expansion of an existing conditional use which does not meet all of the conditional use standards of the ordinance; and
2. Preliminary and final major site plan approval, including the dimensional variances set forth below; and
3. Issuance of a flood plain development permit; and
4. Variance pursuant to N.J.S.A. 40:55D-70c to permit a rear yard setback of 22.2' instead of the required 30'; and
5. Variance pursuant to N.J.S.A. 40:55D-70c to permit continued absence of a planted buffer of 20' where none is provided; and
6. Variance pursuant to N.J.S.A. 40:55D-70c to permit the continued absence of a 10' planted buffer where none is provided; and

WHEREAS, testimony was taken at a public hearing on January 19, 2012, at which time the Board took sworn testimony and both the applicant and the public were afforded the opportunity to be heard and participate in the application and to make comments; and

WHEREAS, the Board has reviewed and considered all of the evidence and the testimony at the public hearings from which the Board makes the following factual findings:

1. All proper public notice has been given in accordance with the municipal land use law.
2. In addition to completed Township forms for site plan application, use variance application, and issuance of a flood plain development permit the Board has received and reviewed the following documents:

1. Site plan prepared by Darmofalski Engineering Assoc., Inc. dated 5/24/11 consisting of 3 sheets marked C2.01, C2.02, C2.03 plus a cover sheet marked 09-05; and
 2. Architectural plans prepared by James P. Catillo Associates dated 2/3/11 consisting of 2 sheets; and
 3. Planning report prepared by Kenneth Ochab, PP, AICP, dated 10/17/12 consisting of 6 pages of text and 3 pages of photographs; and
 4. Application for soil and settlement control plan certification dated 8/9/11; and
 5. One page engineering report prepared by David C. Battaglia, Township Engineer; and
 6. Four page planning report prepared by Eileen F. Banyra, PP, AICP, Consulting Planner to Zoning Board of Adjustment; and
 7. One page engineering report prepared by Darmofalski Engineering Assoc., Inc. Dated 1/6/12; and
 8. A large board with four photographs of the subject property, marked exhibit A-1 at the public hearing.
3. Subject property is a large, flat, generally square parcel located at the southeast corner of the junction of Jacksonville Road and Farm Road. It has a lot area of 19.07 acres and is presently improved with a commercial farming operation consisting of various greenhouses and barns and a single family home.
 4. A certain amount of confusion has existed in the presentation of this application and the various reports and filed plans. Although the property is located on Jacksonville Road from a practical standpoint, technically speaking it has an address of 280 Farm Road indicating that the front yard of the subject property would be Farm Road. The Board has accepted the applicant's position that the subject property fronts on Jacksonville Road.
 5. The current proposal is a relatively straightforward 120' deep by 240.7' wide addition to an existing greenhouse. However, the history of the development of the property is considerably more complicated and needs to be described in detail. It is most clearly shown on page C2.02 of the Darmofalski plan which was submitted with the application. Shown in light dashed lines is the original greenhouse apparently constructed in approximately 1986 to be 240' wide by 325' long with a generally east

west axis, consisting of approximately 78,000 sq. ft. In 1991 the Planning Board approved an additional greenhouse approximately 40' east of the original greenhouse consisting of 162,800 sq. ft. on an axis generally north and south. However, that second greenhouse was never built. Instead, the property owners constructed what amounted to an addition to the original greenhouse extending it approximately 320' to the east, but with the same southerly line as the original greenhouse. Although not specifically discussed at the public hearing, it appears that the revised shape of the greenhouse was in response to new technology in which plant material is grown on large movable trays or sleds which roll out from the south wall of the greenhouse to the open air on the south side of the structure.

6. The present proposal is to extend the existing greenhouse an additional 120' to the east which will bring the northeast corner of the structure to 57.9' from the east property line. Had the 1991 L-shaped configuration of the greenhouse been constructed as originally planned, the rollout technology would have been impossible.
7. As carefully detailed in the Board Planner's report as well as depicted on page C2.02 of the plans, there are two sets of dimensional requirements which apply to this application. The first is that the greenhouses are a conditional use under section 189.07.020 of the municipal zoning code. In addition, the property is also subject to the dimensional requirements of the bulk regulations of the zoning schedule for the R-87 residential district. With respect to the R-87 residential regulations, the proposed project violates both building coverage and impervious coverage. However, this is a built in conflict between the R-87 residential uses and the conditional use of greenhouses as permitted under the conditional use section of the ordinance. The proposal meets both the building coverage and impervious coverage requirements of the conditional use regulations and it is being used for the conditional use. With respect to rear yard, the proposal does not meet the requirements of either the R-87 district requirements or the conditional use requirements. However, since the Board is accepting Jacksonville Road as the front of the property, the rear yard is the northerly property line. The existing minimum setback of the rear line is 22.2' and although 6 water storage tanks will be added to the rear yard, none will be closer to the rear property line than 22.2'. In addition, the adjacent property to the north is also a commercial agricultural use under the conditional use section of the zoning ordinance and therefore the required buffers can be eliminated with no detriment to either property.
8. There is a driveway in the rear yard which violates the requirement that no driveway be closer than 25' to the rear lot line. However, since the adjacent is also a commercial farm, that driveway can be permitted with no detriment to either property.

9. With respect to the overall building construction on site it appears that in 1977 approval was received to construct a barn of 4,140 sq. ft. In 1986 an approval was granted to construct an additional 37,800 sq. ft. of greenhouse. In 1991 approval was granted to construct a 162,800 sq. ft. additional greenhouse. Consequently, a total of 204,740 sq. ft. of greenhouse and barn have been approved to date. As built, the existing greenhouse and barns are a total of 169,977 sq. ft. or 34,763 sq. ft. less than has been approved. Even with the addition of the proposed 28,884 sq. ft. extension of the existing greenhouse, the total building coverage on site will be 5,879 sq. ft. less than was previously approved. Consequently, although the current proposal is to add 28,884 additional sq. ft. to the greenhouse, it does not constitute an expansion of what has been previously approved. In fact, it's a contraction.
10. In addition to the additional greenhouse square footage, the applicant also seeks approval for 6 new 79,000 gallon water storage tanks which will be used in an environmentally positive way to recapture rooftop rain from the entire greenhouse and store it for recharge into the ground at appropriate times, potentially additional usage within the greenhouse and tactical release of the stored water to assist in flood control measures in the area.
11. In addition the applicant seeks approval for 300 sq. ft. of additional office type space to be used in connection with the onsite staff and administration of the agricultural business. Specifically the additional square footage would be used to add an employee break room and new bathrooms and expand the office area.
12. No members of the public appeared to testify at the public hearing of this application.

Based upon the above factual findings, the Board has reached the following conclusions:

1. The applicant has sustained its burden under N.J.S.A. 40:55D-70d.(3) to permit the conditional use of a greenhouse which does not meet the ordinance conditions because even though the proposal deviates from the condition of the ordinance the property is still an appropriate location for the proposed improvements and addition. There are several facts which lead directly to this conclusion. First, the property was currently being used as a greenhouse and most of the construction for which approval is requested in this application has been completed and has been in use for many years. Second, the current proposal seeks approval for less square footage of construction than has been approved previously. Finally, the subject property is surrounded by agricultural uses along Farm Road as part of a substantial agricultural district in the Township. The proposed use is fully consistent with the existing conditions surrounding the subject property.

2. The applicant has also sustained its burden for preliminary and final approval of a major site plan, issuance of a flood plain development permit and variances to permit a rear yard of 22.2' instead of the required ^{50'}_{30'}, the provision of a 20' buffer in one place where no is provided and a 10' buffer in another place where none is provided and the existence of a driveway which should

be no closer than 25' to a side or rear property line. The rear yard deficiency and the driveway are both located on the north side of the property which is immediately adjacent to another commercial farm. Consequently, those deficiencies have no negative impact on either property. The provision of landscape buffers would have virtually no impact in this case because of the size of the property. Since the property itself is more than 19 acres, since the buildings on it are huge and the property is bounded on the north by other commercial farms and on the east by a school property, the buffer would provide no virtually no benefit to anyone and would have no impact in the overall landscape.

3. The subject application has been submitted to and received the approval of NJDEP which has jurisdiction over the wetlands and major drainage facilities on site. Since the NJDEP has approved the existing construction and, has in fact suggested the above ground water detention tanks, this Board is satisfied that a flood plain development permit may be issued without any negative impact to the Township or the immediate vicinity of the subject property.

4. The Board has been advised by the Township Engineer, David C. Battaglia, that there are no engineering concerns that cannot be addressed in the permitting process. However, Mr. Battaglia's report to the Board indicates that there is an inconsistency between the NJDEP permit and the plan in that the NJDEP has approved the installation of 4 new water storage tanks, whereas 6 are proposed. The applicant agreed that if that discrepancy requires an amendment to the NJDEP permit, such amendment will be obtained by the applicant.

5. Even though the subject property is located in the airport hazard zone, it appears to be an ideal use for that location. First and foremost the structures on site are well below the maximum elevations permitted in an airport hazard zone and there is no plan or likelihood that the structures would ever substantially exceed their present height. In addition, since this is a commercial use the noise of landing and taking off would not have the same negative impact as it would if this property had been developed residentially as is permitted in this zone.

6. All of the requested relief can be granted without substantial detriment to the zone plan, zoning ordinance or the public good.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment of the Township of Pequannock this 2nd day of February, 2012 that it now memorializes, ratifies and adopts the action taken at its meeting on January 19, 2012 granting the application of DeGroot Holdings, LLC for the following relief:

1. Variance pursuant to N.J.S.A. 40:55D-70d(3) to permit the proposed modifications to an existing conditional use which does not meet all of the conditional use standards of the ordinance; and
2. Preliminary and final major site plan approval, including the dimensional variances set forth below; and
3. Issuance of a flood plain development permit; and

4. Variance pursuant to N.J.S.A. 40:55D-70c to permit a rear yard setback of 22.2' instead of the required 30'; and
5. Variance pursuant to N.J.S.A. 40:55D-70c to permit continuation of the absence of a planted buffer where 20' is required, and
6. Variance pursuant to N.J.S.A. 40-55D-70c to permit the continuation of the absence of a planted buffer where 10' is required; and

All of the relief granted above is subject to the following conditions:

1. All construction will be in substantial conformity with the site plan filed with the application prepared by Darmofalski Engineering Assoc., Inc. dated 5/24/11 as the same made be modified and revised in accordance with this resolution and the adjustments to be made by the Board engineer and planner.
2. All additional structures and buildings shall be substantial conformity with the architectural plans prepared by James P. Catillo Assoc. dated 2/23/11.
3. Although the Board is not requiring a formal landscape plan to be presented, the landscaping of the overall project will remain subject to the reasonable review and requirements of the board consulting planner, Eileen Banyra PP, AICP, with the understanding that once the construction has been completed, the overall project will be reviewed for appropriate landscaping installation.
4. The additional barn and office space to be constructed pursuant to this approval shall be used solely for the purposes described in the application and the testimony at the public hearing. There shall be no residential use of any portion of the structures constructed in accordance with this approval.
5. The applicant's engineer and the Township engineer shall confer with each other to reach agreement on an appropriate procedure to determine when water should be released from the above ground water storage tanks and at what rate the water should be discharged from those tanks.
6. The granting of the relief in this resolution shall not be deemed to nullify compliance of any other applicable governmental regulations, including but not limited to NJDEP, Morris County Planning Board, Morris County Soil Conservation District, NJDOT for airport hazard zone permit approval, if required, and any and all required permits by governmental entities having jurisdiction over the project.
7. No permits and/or certificate of occupancy shall be issued for the construction permitted by this resolution, unless and until all fees, costs and escrows required in connection with this application have been paid in full.

I hereby certify that the above is a true copy of a resolution adopted by the Board of Adjustment of the Township of Pequannock at its regular meeting on February 2, 1012.



Linda Zacharenko, Secretary
2/2/12