

**BRANCHVILLE BOROUGH PLANNING/ZONING
BOARD OF ADJUSTMENT**

**ANNUAL REPORT ON APPLICATIONS HEARD BY THE BRANCHVILLE
BOROUGH PLANNING/ZONING BOARD OF ADJUSTMENT
FOR THE CALENDAR YEAR 2018
PURSUANT TO N.J.S.A. 40:55d-70.1**

WHEREAS, the Planning/Zoning Board of Adjustment of the Borough of Branchville is required by N.J.S.A. 40:55D-70.1 to review its decisions on applications for variances and appeals and prepare and adopt by resolution an annual report of its findings concerning the Zoning Ordinance provisions which were the subject of applications in the year 2018 and its recommendations for Zoning Ordinance amendments or revisions, if any; and

WHEREAS, the Planning/Zoning Board of Adjustment has conducted this review as required by the State Statutes;

NOW, THEREFORE, BE IT RESOLVED by the Branchville Borough Planning/Zoning Board of Adjustment that the following constitute its annual report for the calendar year 2018:

A list of the applicants to the Planning/Zoning Board of Adjustment, the tax lot and block of the property which is the subject of the application, the provisions of the Zoning Ordinance from which variances or appeals were sought, the type of variance or relief sought and the date of the Board's decision, and whether the application was granted or denied, is as follows:

BRANCHVILLE BOROUGH PLANNING/ZONING

BOARD OF ADJUSTMENT

2018 Annual Report

The Branchville Borough Planning/Zoning Board of Adjustment heard the following applications in 2018:

1. **Agostinho Galvao.**

The Applicant applied for required variances to construct a new larger garage on Block 202, Lot 12 on the Branchville Borough Tax Map. The property fronts on Wantage Avenue and was located in the C Commercial Zone District. There was an existing single family dwelling on the lot and an existing garage. The lot contains 8,345 feet. The Applicant applied for variances to construct a new larger garage on the lot. The side line and rear yard setback is 3 feet, the same as the old garage. However, the new garage will be larger 20 feet by 24 feet containing 480 square feet. Applicant applied and was granted the following variances:

1. A Use Variance since the residential garage was not a permitted use in the Commercial Zone District.
2. Lot Area Variance. The Zoning Ordinance has a minimum lot area of 15,000 square feet. The lot contains 8,345 square feet.
3. Minimum Lot Width. The Zoning Ordinance has a minimum lot width of 100 feet. The lot has a width of 49 feet.

4. Minimum Side Yard Setback. The Zoning Ordinance requires a minimum side yard setback of 15 feet. The existing and proposed side yard setback for the garage is 3 feet.

5. Minimum Rear Yard Setback. The minimum rear yard setback in the Zoning Ordinance for accessory structures is 15 feet and the existing and proposed rear yard setback is 3 feet.

The Board granted the Application by Resolution dated July 11, 2018.

2. **Milk Street Distillery LLC.**

The Applicant applied for preliminary and final site plan approval and required variances to utilize an existing building owned by Ruggiero Realty Associates for the distilling manufacturing and bottling of liquor. The Board granted a use variance for this use in the C Commercial Zone District on Block 705, Lot 21 on the Tax Map. The Board also granted the variance for an outdoor storage container. The Board granted a variance from the requirement in the Zoning Ordinance which allows one sign. The Applicant applied for two signs. The lot fronts on two streets. The Applicant applied for a variance from the maximum square footage of a sign per side Zoning Ordinance allows a maximum square footage of 30 feet per side. Applicant applied for a variance of 37 square feet per side.

The Board approved the Application by Resolution dated September 9, 2015.

David Korber, a Borough Fire Inspector appeared before the Board on April 11, 2018. He expressed concern with the occupancy limit under the fire code. The Applicant had an event with an occupancy load of 109. He was concerned with the

number of persons occupying the site for an event.

Robert Huber, the Borough Construction Official, was concerned about the attendance as well. The original application approved a tasting room accessory to the distillery. Wes Powers indicated that the event which had occupancy of 109 exceeds the spirit and letter of the original approval. He regarded it as a change of use. George Boesze, the Borough Zoning Official issued a Notice Of Violation.

The Board felt that the issue was safety. The Borough Council could issue a Special Events Permit.

The Board concluded that the Applicant must apply for an Amended Use Variance and Site Plan Approval to have a nightclub. The Applicant must apply, advertise and notice this modified use variance and site plan application. The State Alcoholic Beverage Control Commission wants a written approval from the Borough.

The matter was discussed at the Branchville Borough Planning/Zoning Meeting on April 11, 2018. So far, the Applicant has not applied for the modified use variance.

3. Steven M. Worthington.

The Applicant applied for required variances to convert an existing five bedroom single family home into two one bedroom apartments on Block 506, Lot 2 on the Branchville Borough Tax Map located at 241 Route 206, Branchville Borough. The property is located in the Highway Commercial Zone District. The first apartment would be on the first floor of the dwelling. The second apartment would be on the second floor of the dwelling and would also include the third floor. The total

lot area is 36,059 square feet in Branchville Borough. The lot also extends into Frankford Township. The property is located on the west side of Route 206 between Country Lane and Morris Avenue. The Applicant applied for and obtained the following variances:

1. Use Variance for an apartment on the first floor of the dwelling in the Highway Commercial Zone District. Apartments are permitted on the second floor in the Zone District.
2. Lot Area Variance. The Zoning Ordinance requires a minimum lot area of 40,000 square feet. The lot has a total of 36, 059 feet within Branchville Borough. The lot has additional land within Frankford Township. However, only the area within Branchville Borough may be counted toward the minimum lot area. The Board finds that the functionally has more than 40,000 square feet.

The Board granted the variances by Resolution adopted May 9, 2018.

4. **Feel Better Pops Inc.**

The Applicant applied for preliminary and final site plan approval to use an existing building for the production and wholesaling of fruit pops. The building fronts on Broad Street and Railroad Avenue. The property is a permitted use in the C Residential Zone District. The use is a wholesaling use since no customers will come to the site. It is located at 33 Broad Street and on Block 202, Lot 12 on the Tax Map.

The application was heard December 12, 2018. The Resolution granting approval was adopted January 9, 2019.

5. Selective Insurance Company of America Preliminary and Minor Site Plan Approval and Variance.

The Applicant applied for site plan approval and variance approval to install a solar facility on the site of the Applicant's existing office complex which serves as headquarters for Selective Insurance Company of America. The property is known as Block 101, Lot 1 on the Branchville Borough Tax Map. Part of the solar facility will be installed on top of the existing garage and there will be ground mounted solar panels on approximately eight (8) acres of land located to the northeast of the parking garage. The solar facility will not change the existing business office operations on the property. The property is located in the Professional and Office Zone District.

The Branchville Planning/Zoning Board of Adjustment had to determine whether the solar use was a permitted accessory use to the office use. The Board concluded that the use was an accessory use to the office use and was thus a permitted use in the zone district.

The Applicant also applied for a variance to add the solar use as a 13th accessory structure. Only two accessory structures are permitted by the Zoning Ordinance in the zone district. The Board granted the variance under N.J.S.A. 40:55D-70 (c) (2). The Board found that the benefits outweigh the detriments for the grant of the variance. The solar facility will promote the environment and will advance the provision of renewable energy. It will reduce the carbon footprint. Solar facilities are deemed inherently beneficial uses under the Municipal Land Use Law, N.J.S.A. 40:55D-4.

The Board had a public hearing on the Application December 12, 2018. The Board adopted a Resolution approving the Application on January 9, 2019.

SUMMARY

OVERALL OBSERVATIONS AND RECOMMENDATIONS

The Borough installed a sewage treatment system which is operated by the Sussex County Municipal Utilities Authority. Elizabethtown Gas Company has also installed natural gas lines. Since the sewage treatment system has been completed the construction of some new buildings can be anticipated.

The Board has addressed its Affordable Housing Obligations. It has received Substantive Certification of its Fair Share Plan. It has adopted development ordinances to implement the Fair Share Plan.

Three of the applications, Galvano, Worthington and Feel Better Pops, Inc. utilized existing buildings. Milk Street Distillery which was approved in a prior year also utilized an existing building.

Selective Insurance Company of America applied to install a solar facility which involves renewable energy and is beneficial to the environment.

The Planning Board adopted a new Master Plan on May 9, 2018. Pursuant to that Plan, the Board adopted the following amendments to the Zoning Ordinance,

1. Block 202, Lot 30, the KME Knife Sharpeners Lot was changed to a commercial zoning designation.
2. Block 501, Lot 4 which involves a dental use was changed to a commercial zoning designation.

3. Block 202, Lots 11, 12, 13, 14 and 16 were changed from a commercial zone designation to R-1 Residential.
4. The PR Zone District was adopted to implement the Affordable Housing Obligation.

No additional amendments to the Zoning Ordinance or Land Development Ordinances are recommended at this time.

The Branchville Borough Planning/Zoning Board held a public hearing on January 9, 2019 and advertised the meeting and invited the public to come and discuss possible new uses to be permitted in the Borough of Branchville. The meeting was very constructive. The Board will consider the comments at that meeting for possible future action.

**IN FAVOR OF THE WITHIN RESOLUTION APPROVING THE ANNUAL
REPORT FOR 2018:**

OPPOSED:

ABSTAIN:

I certify that the within Resolution adopting the Annual Report of the Branchville Borough Planning/Zoning Board of Adjustment was adopted by the Board at its meeting on _____, 2019.

**BRANCHVILLE BOROUGH
PLANNING/ZONING BOARD OF
ADJUSTMENT**

By: _____
Michael Clune, Chairman

RTM: 02/15/2019