**Chairman Nargiso brought the regular meeting of the Butler Planning Board for April 17, 2014 to order followed by a Pledge to the Flag. This meeting is being held in conformance with the Public Meeting Act having been duly advertised and posted at Borough Hall.**

**ROLL CALL:**

Present: Donnelly, Roche, Drexler, Hauck, Alviene, Brown, Grygus, Finelli, Calvi, Fox, Nargiso

Absent: None

**CORRESPONDENCE:**

Correspondence from D’Angelo & D’Angelo dated April 9, 2014

Requesting an adjournment of their application to the May 15, 2014 meeting

14-179V Shri Sai Shakti, LLC – carried to May 15, 2014 without further notice being required

Motion: Donnelly

Second: Brown

All Ayes

14-180V Olympic EDM Service – notice was incomplete. Applicant will re-notice and be placed back on the agenda for May 15, 2014.

Motion to dismiss so applicant can re-notice

Motion: Fox

Second: Donnelly

All Ayes

**CASES TO BE HEARD:**

**SD14-47 Erin McDermid – 8 Scott Street Block 37 Lot 33 & 34**

Mark Palus – Professional Engineer

Kirk McDermid – property owner

Accepted as an expert witness by motion

* Mr. Palus stated this application is for a minor subdivision.
* The property was approved by the Butler Planning Board for a minor subdivision back in 2008. However the application was never finalized by filing the required deeds with Morris County.
* It is an existing property with a single family home, it is located in the R4 Zone
* Lot area of 15,596 where 6,250 square feet are required
* Request approval of an identical application that was approved by in 2008.
* Creating two lots – one lot 33 and one lot 34.
* Lot 33 will house the existing single family home which is to remain, 8,379 square feet
* Fully conforming to the bulk ordinance requirements with the exception of a front yard setback.
* R4 requires 35 foot front yard setback the existing home is at 26.0 feet, which has been an existing condition for many years – no improvements or alterations are planned for this home
* Lot to be created which would be the vacant building lot, which currently has a shed/garage on it, which will be removed. The new lot 34 will have an area of 7,217 square feet.
* 100% fully conformance to the bulk ordinance requirements
* All improvements recommended by the Board Engineer will be complied with
* The municipality recently paved Scott Street. The new lot to be created will need access to municipal services, in order to do that it would have to trench out into the road. There is a 4 ½ year moratorium on opening the road. There are construction and engineering solutions which typically accepted to mitigate the impact on the road.
* Any cuts made in the road to accommodate the new home, the pavement would be patched using infrared patching method which provides a seamless repair to the pavement.

Board questioned Mr. Palus on various aspects of his testimony

Public portion opened by motion.

Public portion closed by motion.

Conditions of approval

* All road cuts are to be repaired by the infrared as required by the Board’s Engineer
* This approval shall be subject to all terms and conditions contained in the resolution approved on July 17, 2008 and attached

Motion: Brown

Second: Finelli

Voted Aye: Donnelly, Roche, Hauck, Alviene, Brown, Finelli, Calvi, Fox, Nargiso

Voted Nay: None

NC14-53 Velasco/Meqdadi – 34 Third Street – Block 19 Lot 4

Mr. Barbarula stated there was going to be an application for Velasco/Meqdadi heard in May 15, 2014. The proposed applicant on that night advertised for tonight (April 17, 2014) for a non-conforming two family and the notices omit the utilities. Since the utilities were not notified the board does not have jurisdiction. You will have to do the notices all over again, including the utilities. Additionally you will have to prove to the board that this was a two family prior to 1955.

**14-181V Joseph Servidio – 18 Homestead Ave – Block 50 Lot 21**

Service is in order and the applicant can proceed

Oath Given

Mr. Servidio stated the following:

* Proposing a two car garage
* Would like to have enough room on the top for storage
* Would like to have 25 feet in height
* The doors would be 10 foot
* Pull down staircase to the storage area
* Description of adjourning properties
* Description of setbacks
* Footings with slab and block construction
* 200 amp service for the stick welder, for maintenance of his own equipment

Board members have concerns regarding welding/body work being done in a residential area.

Mr. Servidio stated that he does it to repair his own equipment to use in his business. He further stated that his tools are out home; shop is in Wayne and does not leave his tools there, bring it home, fix it and then bring it back.

Further stated that he has been running this business for 22 years from his house, and there have never been any complaints that he is aware of.

Mr. Barbarula stated that the point is if it is going to be done on a regular basis then you are talking about operating a business. However it is something that is done on occasions it is an impossible policing issue and unless the ordinance says you cannot do it at all, I think there are certain issues like if your car breaks down you would have three days to works on it. The issue is if your testimony is that every week you bring home stuff and want to use it in the garage, then you need a use variance because then you are making the garage a repair shop. If your testimony is I have equipment and from time to time it breaks and you bring it home periodically, could it be abused, yes is it prohibited, I don’t think so and that is for you to decide.

Mr. Servidio stated he brought a piece of equipment home last Monday, changed the oil, greased it, brought it back and it was the first time it was there in two years and occasional minor work on his own motorcycles.

Councilman Fox stated he has a problem with the height of 25 feet.

Mr. Servidio stated 14 inch beam on the 19.6 pushes it up to 21 feet.

Mr. Darmofalski stated in a storage area above a garage you want to make sure that you don’t create a story or an area that could become occupied. Somewhere in the 19.6 to 21 category gets to you so that your head room is not considered a story. 19.6 would be 8 foot to the ridge. 25 is a little excessive.

Mr. Brown so it would be not to exceed 21 feet.

Mr. Darmofalski – that would be reasonable

Mr. Darmofalski further stated that the definition for garage private and garage public. A private garage is an accessory building or structure or a portion of a main building only for the parking of vehicles of the occupants of the principal use. (143-6). A public garage is building or part thereof other than a private garage use for the storage, care or repair of motor vehicles customarily used for private transportation, school buses and commercial vehicles. Mr. Brown is correct, we do allow private garages (we can all have hobbies) repairs to commercial vehicles is beyond the line.

Mr. Finelli questioned the survey provided with the application and if it was a current survey.

Mr. Servidio stated the survey provided is not an updated survey. There was an extension to the house in 2004.

Mr. Barbarula stated the survey must be updated to reflect what is currently on the property. One of the things based upon the reading of the statute if you want to do the commercial repairs based upon the ordinance definition that would need another variance that is not advertised for, a use variance. If you are just going to fix your motorcycles, I don’t believe that would be a use variance. The application before the board must show the existing conditions. Your application must be amended and if you want to do the use variance doing the commercial repairs you have to re-notice adding a use variance.

Mr. Barbarula stated the applicant has to make a decision as to what he wants to do regarding the commercial aspect that would be a use variance. Survey must be updated to reflect everything that is on the property.

Motion: Donnelly

Second: Hauck

All Ayes

Application will be carried to May 15, 2014 without further notice being required.

**APPROVAL OF VOUCHERS**

Motion: Brown

Second: Fox

Voted Aye: Donnelly, Roche, Hauck, Alviene, Brown, Finelli, Calvi, Fox, Nargiso

**APPROVAL OF MINUTES – March 20, 20914**

Motion: Brown

Second: Fox

Voted Aye: Donnelly, Roche, Hauck, Alviene, Brown, Finelli, Calvi, Fox, Nargiso

**MOTION TO ADJOURN:**

Motion: Brown

Second: Donnelly

ALL AYES

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 Chairman – Planning Board

ATTEST:

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 Secretary – Planning Board

ADOPTED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_