

QUINTON TOWNSHIP PLANNING BOARD

RESOLUTION NO.: 2018-10

**APPROVAL OF JOHN R. ALLEN APPLICATION FOR
NONCONFORMING USE EXPANSION VARIANCE
AND WAIVER OF SITE PLAN REVIEW**

(METAL FABRICATION AND WELDING BUSINESS)

RE: Block 39, Lot 38.04 (427 Quinton-Marlboro Road – N.J.S.H. Route 49)

WHEREAS, an application was made to the Quinton Township Planning Board (“Board”) by JOHN R. ALLEN (“applicant”), whose address is 427 Quinton-Marlboro Road, Bridgeton, New Jersey 08302, for a variance and waiver of site plan review to expand a previously approved nonconforming use by (1) increasing the size of the building in which the applicant operates a metal fabrication and welding business; (2) expanding the hours of business operation; (3) hiring one more employee; and (4) placing two outdoor storage containers at the applicant’s property which is located at 427 Quinton-Marlboro Road in Quinton Township, designated as tax map Block 39, Lot 38.04 (the “property”), and more particularly depicted on the single-sheet plan entitled “Survey/Plot Plan for John Allen” dated June 23, 2017, prepared by Stephen Datz, P.L.S., New Jersey License No. 38942, and Thomas Tedesco, P.E., New Jersey License No. 38329, of Tedesco Engineering, L.L.C., 811 Landis Avenue, Bridgeton, New Jersey 08302, which plan was filed with the application and is hereby incorporated by reference herein; and

WHEREAS, Lawrence M. DiVietro, Jr., P.L.S., the Board’s professional planner, and Andrew Hogg, P.E., the Board’s professional engineer, issued a review letter dated January 30, 2018, in which they set forth the background of the application and the nature and extent of approvals requested; and

WHEREAS, the Board determined that it has jurisdiction to hear the application, and that the application is complete and in conformity with the Ordinance and the Municipal Land Use Law, except for matters requiring variance or waiver relief, and any matters that must be resolved as conditions of approval; and

WHEREAS, at its February 13, 2018 meeting, the Board (not including the Class I and Class III members) heard testimony and representations from the applicant John R. Allen, and his attorney Joan S. Adams, Esq.; discussed the application with the Board’s professional planner and solicitor; and provided an opportunity for interested persons to make statements or ask questions about the application; and

WHEREAS, the Board made the following findings and conclusions based upon its review and consideration of the aforesaid application materials, correspondence, testimony and representations:

1. The property consists of approximately 6.38 acres of land located on the southwest side of the Quinton Marlboro Road (N.J.S.H. 49). The property is the site of a one-and-a-half story frame dwelling, a 42' x 60' pole barn building, and related gravel driveways and other improvements, and is used as the applicant's single-family residence and the site of his metal fabrication and welding business known as "Country Metals," all of which was previously approved by the Board as a lawful nonconforming use as memorialized in the Board's Resolution 2016-10, dated September 13, 2016.
2. Metal fabrication and welding businesses are not included among the permitted or conditionally permitted uses in the P-BR zoning district in which the property is located, and they are therefore prohibited; accordingly the applicant has requested use variance relief pursuant to *N.J.S.A. 40:55D-70.d.(2)* to permit the following expansions of his previously approved nonconforming business operations and ongoing residential use of the property:
 - a. The applicant seeks approval to construct a 24' x 42' addition to the west side of the existing 42' x 60' pole barn in which the metal fabrication and welding business is and will continue to be conducted.
 - b. The applicant seeks approval to place two (2) storage containers at the property, one having dimensions of 8'H x 8'W x 20'L, and the other having dimensions of 8'H x 8'W x 40'L, for storage of materials and equipment used in connection with the metal fabrication and welding business.
 - c. The applicant seeks approval to extend his hours of business operation by one hour during weekday afternoons (from 4:00 p.m., as previously approved, to 5:00 p.m.), and for approval of specified Saturday business hours from 8:30 a.m. to 3:00 p.m.
 - d. The applicant seeks approval to hire one (1) additional employee, for a total of no more than three (3) persons (himself and two others) who would operate the metal fabrication and welding business at the property.
3. The applicant proposes no new site improvements other than the expansion of the pole barn building as shown on the plan, and placement of the two storage containers (which are already located on the property); accordingly the applicant has requested a waiver of site plan review pursuant to Quinton Land Use Ordinance § 170-72.
4. The applicant testified as follows:
 - a. The applicant testified that all work relating to the metal fabrication and welding business is done inside the pole barn at the property, but there that is insufficient space within the building to move and manipulate large materials and equipment safely and efficiently; accordingly, the applicant desires the building expansion to promote safe and efficient business operations.

- b. The applicant testified that the proposed pole barn expansion would not involve the installation of any customized structures or fixtures for use exclusively or primarily in connection with metal fabrication or welding activities; rather, the building addition would consist only of walls, roof, floor, doors, and other features common to pole barns that are customarily constructed and used in Quinton Township for agricultural and residential accessory purposes.
- c. The applicant testified that, except for occasional late-day deliveries of materials that may be left outdoors overnight before being placed under cover the next day, the applicant will store all materials and equipment used in connection with the metal fabrication and welding business within the expanded pole barn and the two proposed storage containers, and that no other materials or equipment used in connection with the metal fabrication and welding business would be stored outside the expanded pole barn or outside the two storage containers.
- d. The applicant testified that the storage containers would not be placed within any minimum yard setback areas, and at the Board's request the applicant agreed that, as a condition of approval, he would submit a revised plan showing the proposed locations of the storage containers to confirm setback conformity and to help facilitate future compliance and enforcement of conditions of approval.
- e. The applicant testified that the proposed expanded weekday and specified Saturday business hours would be sufficient for his purposes, and that there would be no business operations at the property on Sundays.
- f. The applicant testified that he tries to reduce noise at his metal fabrication and welding business so as not to disturb his neighbors; he further testified that in more than six years of business operations he has received no complaint of any kind from neighbors or others.
- g. The applicant testified that he does not intend to hire an additional employee immediately but that he might want to in the future, and that there would be no more than three persons working at metal fabrication and welding business at the property at any time, those being himself and no more than two others.
- h. The applicant testified that all products and other items that are fabricated or welded at the property are delivered to clients and customers for off-site installation and use; the applicant testified that clients and customers very rarely visit the property.
- i. The applicant testified that materials and equipment used in connection with the metal fabrication and welding business are delivered periodically to the property by trucks, and that there is ample space at the property for these deliveries and for all other vehicle parking and circulation.

5. Based on the plan, application materials, and the applicant's testimony, the Board is satisfied that the property and all existing and proposed structures conform, or will conform, to all applicable P-BR district bulk and area requirements.
6. No member of the public appeared with respect to the application.
7. The Board's professional planner expressed no objection to approving the application subject to the conditions set forth below.
8. Based on the above testimony and the information set forth in all application materials, the Board finds that the *de minimus* nature of the applicant's proposed business expansion in the form of the two storage containers, the increased hours of operation, and the additional employee, as well as the improved safety and efficiency of indoor business operations that would be promoted by allowing the proposed pole barn expansion, together constitute sufficient "special reasons" to satisfy the "positive criteria" for the applicant's requested nonconforming use expansion variance pursuant to *N.J.S.A. 40:55D-70.d.(2)*. Further, based on the aforesaid testimony and information, and the fact that, except for the business activities that would be conducted within it, the expanded pole barn structure would be similar if not identical to pole barns that are commonly permitted for other uses in the P-BR zoning district, the Board also finds that, subject to the conditions of this approval, the requested nonconforming use expansion variance can be granted without substantial detriment to the public good, and without substantially impairing the intent and the purpose of the zone plan and zoning ordinance, and that the applicant has therefore satisfied the "negative criteria" for the use variance as required by *N.J.S.A. 40:55D-70*. Finally, based on the aforesaid reasons and information, the Board finds that granting the requested use variance approval would not be inconsistent with the intent and purpose of the Quinton Township Land Use Ordinance and Master Plan, and that the applicant has thus satisfied the so-called "enhanced quality of proof" as expressed by the New Jersey Supreme Court in *Medici v. BPR Co.*, 107 N.J. 1, 21 (1987).
9. Based on the applicant's testimony and representations, as well as information set forth in all application materials, and subject to the conditions of approval that are set forth below, the Board finds that the currently existing site improvements and other structures at the property will continue to adequately and safely accommodate the applicant's metal fabrication and welding business, deliveries, and occasional visitors to the property in a manner that will not negatively impact travelers on Route 49 or occupants of nearby properties, and that the applicant's plan and testimonial description of business operations satisfy the purposes of site plan review as set forth in Ordinance § 170-67. Accordingly, the Board finds that the literal enforcement of site plan review requirements would impose undue hardship upon the applicant and therefore deems it appropriate to waive site plan review pursuant to Ordinance § 170-72.

NOW, THEREFORE, BE IT RESOLVED by the Quinton Township Planning Board (not including the Class I and Class III members) that, for the reasons set forth above, the applicant's requested nonconforming use expansion variance and waiver of site plan review to

permit the proposed pole barn building addition and placement of the two proposed storage containers at the property as described by the applicant and as depicted on the applicant's plan for use in connection with the applicant's ongoing metal fabrication and welding business, as well as the applicant's proposed expanded business hours and additional employee, are hereby approved along with the applicant's ongoing single-family residential use of the property, subject to the following conditions:

- A. The applicant must pay any and all required fees and escrow replenishment amounts that are due or may become due to the Township within seven (7) days notice thereof. Prior to issuance of a zoning permit pursuant to **condition G.**, below, the applicant must accomplish replenishment of any outstanding fees or review escrow amounts.
- B. The applicant must comply with all representations made by the applicant or through any representative during the course of the applicant's presentation to the Board and in all plans and other documents and materials filed with the application.
- C. The applicant must cause his survey/plot plan to be revised by the plan preparers to depict, to scale, the proposed 8'H x 8'W x 20'L and 8'H x 8'W x 40'L storage containers in their respective proposed locations at the property, and to confirm that neither proposed location is within any P-BR zoning district minimum yard setback.
- D. The applicant must submit the revised survey to the Board's planner for review and approval, and also to the Board's solicitor.
- E. Following approval by the Board's planner, the applicant must file signed originals of the approved revised survey/plot plan with the Planning Board Secretary and the Quinton Township Zoning Officer.
- F. No land disturbance, site work, or other development activity relating to the construction of the proposed 24' x 42' pole barn addition may occur until a zoning permit has been issued pursuant to **condition G.**, below, and all applicable construction permits have been issued.
- G. A zoning permit must be applied for and obtained from the Quinton Township Zoning Officer prior to construction of the proposed pole barn addition. No zoning permit will be issued for construction of the proposed pole barn addition until:
 - 1. The Zoning Officer has received written confirmation from the Planning Board Secretary that **conditions A. and C. through E.** have been satisfied, including but not limited the applicant's replenishment of any outstanding fees or review escrow amounts;
 - 2. The Zoning Officer has confirmed that the proposed storage containers have been located (or relocated) at the property consistent with the applicant's approved revised plan filed per **condition E.**, above;

3. The Zoning Officer has confirmed that the proposed pole barn addition will comply with the size, orientation, and location of the pole barn addition as depicted on the applicant's approved revised plan filed per **condition E.**, above; and
 4. The Zoning Officer has confirmed that the applicant's pole barn addition plans include no proposal for installation of any customized structures or fixtures for use exclusively or primarily in connection with metal fabrication or welding activities that could render the pole barn unusable for commonly permitted agricultural and residential accessory purposes (see also **condition M.**, below).
- H. No construction permit for the proposed pole barn addition may be issued unless the Quinton Township Zoning Officer has issued a zoning permit pursuant to **condition G.**, above, as confirmation that all "local approvals" are in place for such construction as required by *N.J.A.C. 5:23-2.15(f)4.ii.(1)*. The applicant may not state pursuant to *N.J.A.C. 5:23-2.15(a)5*. in any construction permit application for the pole barn addition that "local prior approvals have been given" unless the Quinton Township Zoning Officer has issued a zoning permit for construction of the pole barn addition pursuant to **condition G.**, above.
- I. No use of the completed pole barn addition may occur until (a) construction of all aspects of the pole barn addition have been completed in compliance with all applicable New Jersey Uniform Construction Code specifications as evidenced by a final NJUCC certificate of occupancy or certificate of approval; and (b) all conditions of this resolution of approval have been and continue to be satisfied.
- J. Except for occasional overnight outdoor storage of materials or equipment delivered to the property late in the day, all materials and equipment used in connection with the applicant's metal fabrication and welding business at the property must be stored in the expanded pole barn or in the two approved storage containers. Any materials or equipment stored outdoors overnight following late-day delivery must be placed within the expanded pole barn or the two approved storage containers the next day following delivery.
- K. The applicant may operate the metal fabrication and welding business at the property between the hours of 7:30 a.m. and 5:00 p.m. Monday through Friday each week, and between the hours of 8:30 a.m. and 3:00 p.m. on Saturdays. The applicant may not operate the metal fabrication and welding business on Sundays.
- L. No more than two (2) persons in addition to the applicant may work at the applicant's metal fabrication and welding business at the property.
- M. No customized structures or fixtures for use exclusively or primarily in connection with metal fabrication or welding activities may be installed as part of the expanded pole barn structure that could render the pole barn unusable for commonly permitted agricultural and residential accessory purposes.

- N. The property and the structures upon it may be used only for the applicant's metal fabrication and welding business as approved herein, and for the applicant's single-family residence, all as depicted on the applicant's approved revised plan, subject to the conditions of this resolution. No additional structures or uses may be constructed or conducted at the property unless first approved by the Planning Board.
- O. Violations of any conditions of this approval may be enforced as zoning violations or in any other manner provided by law.
- P. This Resolution 2018-10 supersedes and replaces the Board's previous Resolution 2016-10 in the event of, and to the extent of, any inconsistencies between the two.
- Q. The Planning Board Secretary shall cause the following form of notice to be published in *The South Jersey Times* no later than ten (10) calendar days following the date of this resolution:

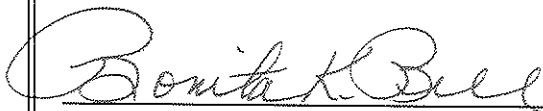
QUINTON TOWNSHIP PLANNING BOARD

NOTICE OF DECISION

TAKE NOTICE that on March 13, 2018, the Quinton Township Planning Board adopted Resolution 2018-10 approving the nonconforming use expansion variance and site plan waiver application of John R. Allen, 427 Quinton-Marlboro Road, Bridgeton, New Jersey 08302, for a metal fabrication and welding business he operates at property located at that address designated as Block 39, Lot 38.04 on the Quinton Township Tax Map. The resolution of approval and copies of the application, plans, and related materials, are on file at the Quinton Township Planning Board Office at 10 Cottage Avenue, Quinton, New Jersey 08072, and are available for public inspection by appointment only by contacting Bonita K. Bell, Planning Board Secretary, at (856) 362-0753 or (856) 935-8404, or by writing to her by mail c/o Quinton Township Planning Board, 10 Cottage Avenue, P.O. Box 227, Quinton, New Jersey 08072, or by email at qtnwpplanbd@comcast.net.

The undersigned Chairperson of the Quinton Township Planning Board hereby certifies that the above is a true copy of a resolution adopted by said Board on **March 13, 2018** to memorialize action taken on **February 13, 2018**.

Attest:



Bonita K. Bell, Secretary
Quinton Township Planning Board



Cynthia Sherman, Chairperson
Quinton Township Planning Board