

# KELLY & WARD, LLC

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April 21, 2023

## **Via e-mail**

Stephanie Pizzulo, Administrator  
Andover Township Land Use Board  
134 Newton Sparta Road  
Andover Township, NJ 07860

**Re: Pat Barone – Application #A23-3  
41 Kilroy Road (tax assessment Block 62, Lot 4.04)  
Application for Interpretation and “c” variance(s)  
R-3 Zone**

Dear Ms. Pizzulo:

Applicant provides the following response to Mr. Stoner’s report on completeness (the numbering corresponds to Mr. Stoner’s report):

2. **Completeness Comments**

**Checklist #1 – General requirements**

a. #5 – Certification that taxes have been paid will be supplied

**Checklist #7 – Appeals, Interpretations, Special Questions, Variances**

a. #16 – comment (contours – waiver requested, no proposed changes to existing grade)

#17 – soil classification data – *waiver requested – no grading changes proposed*

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#20 Wetlands – L.O.I or letter of exemption. *The LOI/line verification previously issued for this property, together with the title block with DEP’s approval and portions of the approved map showing the structures are attached. The application to DEP and full size Wetlands Delineation Plan are available and can be supplied to Mr. Stoner and for the Board’s file. Per the Interpretation Map by Canger Engineering Associates (October 2022) the coop that was in derelict condition was removed and the existing 2-story workshop constructed over the same location many years ago. The derelict carport was likewise removed years ago. The existing garage is the structure proposed to be transformed into ag labor housing with the same footprint. Based on these unique circumstances a waiver from further application to DEP is appropriate.*

#30 Preliminary architectural plans – *the plans being developed are for rehabilitation of the existing primary dwelling.*

#32 description of alternatives considered – *the primary dwelling and numerous outbuildings existed when Mr. Barone acquired the property in January 2006, following which agricultural use was added as permitted in the R-3 zone. The single family dwelling is set far back from Kilroy Road, more than 550’, and is generally situated parallel to the shoreline of Valentines Pond versus parallel to the road. The existing garage to be converted to ag labor housing is set back 455’ from Kilroy Road, also a considerable distance.*

### 3. Interpretation Comments:

d. Section 190-42 ag/farm requirements:

ii. Spacing requirements:

B. 150’ between all barns, outbuildings and accessory buildings – *The distance is 14.5 between the garage (to become ag labor housing), and 2-story workshop constructed where a coop used to be. Both are more than 150’ from the primary dwelling. The workshop does not have utilities and is not/will not be*

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*connected to the septic system or used for residential purposes. These buildings will continue to be used together as part of the ag operation: the location complies with the wetlands buffer requirements and permitted in the riparian by DEP's Flood Hazard Area approval (see 5.C). Photo H-1 of the existing garage to be converted to ag labor housing, taken 10/18/2006, is attached. It is on the maps approved by DEP (see 5.A and 5.C)*

*In addition, the existing side yard setback for the stable is 9.8' and for the coop is 5.0' which do not meet the 20' requirement. These are small ag buildings set back some 550' from Kilroy Road. The improvements on adjoining 163 Andover Mohawk Road (Block 62, Lot 4.02) are more than 200' distant from the boundary line and the area is densely wooded.*

e. Narrative explaining existing and proposed uses of the structures - *Information regarding use of the ag buildings for ag labor housing, existing workshop, stable and coop is included in the preceding paragraph. The primary residence is to be rehabilitated, and sheds and the cabin shown on the Interpretation Plan are accessory to the residential use.*

*The cabin at the shore of Valentines Pond is a small 1 room structure (200 SF +) without utilities, well or septic system. The cabin existed on the shoreline in the same location prior to 2006 for use when enjoying Valentines Pond as part of the residential use. See photos I-1 and J-1 taken on 10/18/2006 that include the cabin.*

*Provision of architectural plans for the ag labor housing is a proper condition of approval. Using the same footprint the garage would be converted to a 2-bedroom bungalow with a 2<sup>nd</sup> story. Testimony will be provided relative to the ag labor housing.*

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## 4. Bulk Variance Comments:

b. structures in the front yard – *Applicant seeks a variance for the existing garage to be ag labor housing being in the front yard with regard to the single-family (primary) dwelling. Based upon the unusual orientation of the residence it is not clear that the existing 2-story workshop is, in fact, located in the front yard. Similarly, while the existing stable and coop are less than the required 20' from the lot line, they seem to be located in the side yard of the residence. To be developed at the hearing and, if found to be needed, Applicant will request additional variance relief.*

c. 20' setback for accessory structures and prior approvals/variances – *The pond-front cabin is addressed in 3.e above. The Barone property is one of four parcels subdivided from a 36.124 acre tract (Block 62, Lot 4) in the early 1970s.*

*Single family residential use was exempt from site plan approval requirements. Variances for location of structures were not previously granted. If needed Applicant seeks bulk variances for setback of existing structures.*

d. 20' height limitation for accessory structures - *Mr. Fox verified that the height of the 2-story workshop is 16'± and will testify accordingly.*

## 5. Additional Comments:

*Issues related to wetlands, flood hazard areas and soil erosion were addressed and resolved years ago:*

A. *Freshwater Wetlands Letter of Interpretation/Line Verification issued by DEP on 03/09/2007 and DEP approved Wetlands Delineation Plan by Civil Engineering, Inc. dated 09/02/2006 and also approved by DEP on 03/09/2007. Attached.*

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***B. NJPDES General Permit effective 11/13/2008, certified to by W. A. Straub, Manager of the Soil Conservation District. Attached.***

***C. Flood Hazard Permit approved 01/08/2010 based upon Flood Hazard Area Permit Plan by Civil Engineering, Inc. dated 04/13/2009. The Permit was recorded in the Office of the Sussex County Clerk on 02/03/2010. Attached.***

We trust that the foregoing satisfactorily addresses completeness and look forward to moving forward with a hearing.

Thank you for your consideration.

Very truly yours,

KELLY & WARD, LLC

*Kelly & Ward, LLC*

KW/msm  
Attachments

Copy sent to:

Cory L. Stoner, Board Engineer  
Richard Brigliodora, Board Attorney  
Mr. Pat Barone, Applicant  
Canger Engineering Associates, Applicant's Engineer