

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REORGANIZATION AND REGULAR MEETING
MINUTES
JANUARY 28, 2008**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, January 28, 2008, at 7:30 P.M. in the Municipal Building, 50 Woodland Avenue, Township of Morris.

Statement of Adequate Notice

Chairman Vitale issued the following:

"I hereby announce and state that adequate notice of this meeting was provided by the Secretary of this Board of Adjustment by preparing a notice dated January 21, 2008 specifying the time, date and place of this meeting, posting such notice on the bulletin board in the Municipal Building; filing said notice with the Clerk of the Township of Morris; forwarding the notice to the Morris County Daily Record and the Morris News Bee, and forwarding, by mail, the said notice to all persons on the request list, and I hereby hand a copy of such notice to the Secretary of the Board of Adjustment for inclusion in the minutes of this meeting, all of the above actions being in accordance with N.J.S.A. 10:4-6, et seq., Open Public Meetings Act."

The Pledge of Allegiance was led by Ms. Sonia Santiago, Board Secretary

Roll call of Board Members and Professionals

Members Present

Mr. Lawrence C. Vitale, Chairman
Mr. James C. Allison
Mr. Thomas A. Luby
Ms. Norma Larkin
Mr. Rick Haan
Mr. Nelson Morales
Mr. Donnell Williams, Alternate #1
Mr. Paul Woodford, Alternate #2

Members Absent

Mr. Timothy Kronk

Also Present

Mr. Rich Oller, Board Attorney
Mr. James Slate, Township Engineer
Ms. Tirrell Loftin, Zoning Officer
Ms. Sonia Santiago, Board Secretary

Reorganization

Oath of Allegiance and Oath of Office administered by Mr. Rich Oller, Esquire to the following:

- Mr. Donnell Williams
- Mr. Rick Haan
- Ms. Norma Larkin

Sonia Santiago asked for nominations for Chairperson for the year 2008. Mr. Luby nominated Mr. Vitale as chairperson seconded by Ms. Larkin. No other nominations were made. Nominations were closed. On motion duly made, seconded and unanimously carried, Mr. Vitale was elected Chairperson.

Mr. Vitale was seated as Chairperson.

Mr. Vitale, Chairman asked for nominations for Vice-Chairperson for the year 2008. Mr. Vitale nominated Mr. Timothy Kronk second by Mr. Allison. No other nominations were made. Nominations were closed. On motion duly made, seconded and unanimously carried, Mr. Kronk was elected Vice Chairperson for the year 2008.

Mr. Allison moved, seconded by Mr. Morales, and unanimously carried, that the following resolutions be adopted as presented naming Mr. Richard Oller, Esquire as Board Legal Counsel, Mr. Adrian Humbert, Professional Planner and Mr. Ronald Graiff, Radio Frequency Consultant for the year 2008:

DESIGNATION OF BOARD LEGAL COUNSEL

WHEREAS, the Board of Adjustment of the Township of Morris has need for the professional services of Legal Counsel; and

WHEREAS, the practice of law is a recognized profession, regulated by law requiring extensive and specialized training and as such is an exception to the bidding requirements set forth in N.J.S.A. 40A:11-5 et. seq.; and

WHEREAS, the anticipated term of this contract is one year; and,

WHEREAS, Rich Oller, Esq. of the firm OLLER AND LUZZI has completed and submitted a business entity disclosure certification which certifies that OLLER AND LUZZI has not made any reportable contributions to a political or candidate committee in the Township of Morris in the previous one year, and that the contract will prohibit OLLER AND LUZZI from making any reportable contributions through the term of the contract; and,

WHEREAS, the Chief Financial Officer of the Township of Morris has filed a certificate of availability of funds in the amount of \$900.00;

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Morris, Morris County, New Jersey, that the Chairman and Board Secretary are authorized to enter into an agreement for the period January 1, 2008 to December 31, 2008 to engage Richard Oller, Esq., as legal counsel at the rate of \$125.00 per hour with a minimum of \$187.50 for attendance at regular and special meetings of the Board. The total to be paid shall not exceed \$900.00 to be charged to the Board of Adjustment, Other Expense budget.

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and,

BE IT FURTHER RESOLVED that an official notice of this action shall be published in accordance with the law.

DESIGNATION OF BOARD PLANNING CONSULTANT

WHEREAS, the Board of Adjustment of the Township of Morris has need for the professional services of a Planning Consultant; and,

WHEREAS, the practice of land use planning is a recognized profession, regulated by law requiring extensive and specialized training and as such is an exception to the bidding requirements set forth in N.J.S.A. 40A:11-5 et. seq.; and,

WHEREAS, the anticipated term of this contract is one year, and,

WHEREAS, Adrian P. Humbert, AICP/P.P of the firm Adrian Humbert Associates has completed and submitted a business entity disclosure certification which certifies that Adrian Humbert Associates has not make any reportable contributions to a political or candidate committee in the Township of Morris in the previous one year, and that the contract will prohibit Adrian P. Humbert, from making any reportable contributions through the term of the contract, and,

WHEREAS, the Chief Financial Officer of the Township of Morris has filed a certificate of availability of funds in the amount of \$1,000.00;

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Morris, Morris County, New Jersey that the Chairman and Board Secretary are authorized to enter into an agreement, dated January 22, 2007, for the period January 1, 2008 to December 31, 2008, with Adrian P. Humbert, AICP/P.P. of Adrian Humbert Associates at the rate of \$120.00 per hour with a minimum of \$180.00 for attendance at regular and special meetings of the board. The total expenditure shall not exceed \$1,000.00 to be charged to the Board of Adjustment, Other Expense budget.

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution. and,

BE IT FURTHER RESOLVED that an official notice of this action shall be published in accordance with the law.

RADIO FREQUENCY CONSULTANT – RONALD E. GRAIFF, P.E.

WHEREAS, the Township of Morris Board of Adjustment has need for the professional services of a Radio Frequency Engineer; and

WHEREAS, this practice is a recognized profession, regulated by law requiring extensive and specialized training and as such is an exception to the bidding requirements set forth in N.J.S.A. 40A:11-5 et. seq.; and

WHEREAS, charges incurred at the rate of \$ 220.00 per hour will be billed solely to the developers escrow account;

NOW, THEREFORE, BE IT RESOLVED by the Township of Morris Board of Adjustment that Mr. Ronald E. Graiff, PE be hired as a consultant to the Board of Adjustment to particularly discuss the site plan application of NYSMA d/b/a Verizon Wireless with the applicant's professionals to clarify certain issues and concerns of the Board. His appearance before the Board may be required in connection with this consultation.

An official notice of this action shall be published in accordance with the law.

* * *

On a motion made by Mr. Morales and second by Mr. Williams, all in favor, the following **Professional Appointments** were made for the year 2008:

Board Engineer – James R. Slate, P.E.
Alternate Board Engineer - David Hansen, P.E.
Alternate Board Engineer – Bernard G. Senger III, P.E.
Board Secretary – Sonia Santiago

On motion made by Ms. Larkin, and seconded by Mr. Williams, and unanimously carried, the following resolutions were adopted setting meeting dates for the year 2008/January 2009 and designating official

newspapers.

**NOTICE OF SCHEDULED MEETINGS
FOR THE YEAR 2008 AND JANUARY 2009**

BE IT RESOLVED, that the Board of Adjustment of the Township of Morris, County of Morris, State of New Jersey, will meet to consider and act upon public business at **7:30 P.M.**, prevailing time, on each of the dates set forth below, for the year 2007, in the Municipal Building, 50 Woodland Avenue, Township of Morris, New Jersey:

January 28th, 2008
February 25th
March 24th
April 28th
May 19th
June 23rd
July 28th
August 25th
September 22nd
October 27th
November 24th
December 8th
January 26th, 2009

BE IT FURTHER RESOLVED that additional meetings, if required, will be at the call of the Chairman with the proper notification, and

BE IT FURTHER RESOLVED that the Secretary is authorized and directed to:

- a.) Post said meeting schedule and maintain the same posted throughout the year 2008 on the bulletin board in the Municipal Building of the Township of Morris on Woodland Avenue;
- b.) Mail a copy of same to the Morris County Daily Record, the Morris News Bee and the Star Ledger.

DESIGNATION OF OFFICIAL NEWSPAPERS

WHEREAS, Chapter 231 of the Public Laws of the State of New Jersey for 1975 (N.J.S.A. 10:4-6 to 10:4-21) known as the "Open Public Meetings Act", requires adequate notice of meetings of public bodies, as therein defined, and in the manner therein set forth, and prescribed certain other procedures to be followed by such bodies.

BE IT HEREBY RESOLVED by the Board of Adjustment of the Township of Morris, Morris County, New Jersey, this 28th day of January 2008, as follows:

1. The Morris County Daily Record and the Morris News Bee (or as an alternate to the Morris News Bee, the Star Ledger) are hereby designated as the two newspapers to receive notice of

meetings as required by any and all sections of the Open Public Meetings Act, it appearing that said newspapers are most likely to inform the local public of such meetings.

2. The location of posting of notice of meetings shall be the bulletin board in the Municipal Building of the Township of Morris, located at 50 Woodland Avenue, where notices of this kind are normally posted

Regular Meeting

On motion duly made, seconded, and unanimously carried, the minutes of the December 10, 2007 meeting were approved as circulated and placed on file in the office of the Board of Adjustment.

Consideration of the following resolutions thereby memorializing the action taken by the Board at the November 26, 2007 and December 10, 2007 meetings.

BA-15-05

Omnipoint Communications

Block 9805, Lot 1, 77 Whippany Road, OS-GU zone. Section C&D.

Public hearing held on September 24, 2007, applicant received approval for a variance for the front yard setback and a conditional use variance for the construction of a 120' high telecommunication monopole with equipment cabinets on the site of Collinsville Fire House.

Mr. Allison moved, seconded by Mr. Williams, roll call as indicated that resolution of approval, attached hereto and by reference made part of the official minutes of this meeting, be adopted as presented, memorializing the action taken by the Board at the November 26, 2007 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Ms. Larkin	YES
Mr. Woodford	YES
Mr. Haan	YES
Mr. Williams	YES
Mr. Vitale	YES

BA-09-07

Sean & Kathryn Parkot

Block 9801, Lot 16, 7 Terry Drive, RA-25 zone. Section C.

Applicant proposes the construction of a 28.5 x 26.4 foot two car garage and a 5 x 12.2 foot one story addition. These proposed additions will create a combined side yard setback of 35.6 foot where a minimum combined side yard setback of 60 foot is required.

Ms. Larkin moved, seconded by Mr. Williams, roll call as indicated that resolution of approval, attached hereto and by reference made part of the official minutes of this meeting, be adopted as presented, memorializing the action taken by the Board at the December 10, 2007 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Ms. Larkin	YES

Mr. Haan	YES
Mr. Morales	YES
Mr. Vitale	YES

Tej Bhatnagar

BA-19-07

Block 1801, Lot 1, 248 W. Hanover Avenue, RA-15 zone. Section C.

Demolition of existing dwelling and placement of a new modular single family dwelling. The proposed dwelling will be attached to an existing 20 ft. x 20 ft. garage, which currently has a nonconforming Second Street front yard setback of 22.3 ft. where 50 ft. is required and an existing non-conforming side yard setback of 19.4 ft. where a 20 ft. is required. The house to be demolished has an existing non-conforming W. Hanover front yard setback of 9.3 ft. where 50 ft. is required. Applicant proposes to maintain the existing front yard setback. On September 12, 2005 the Board granted approval for the demolition of the existing dwelling and placement of a modular single family dwelling. This work did not begin within the required time of commencement.

Mr. Luby moved, seconded by Mr. Morales, roll call as indicated that resolution of approval, attached hereto and by reference made part of the official minutes of this meeting, be adopted as presented, memorializing the action taken by the Board at the December 10, 2007 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Ms. Larkin	YES
Mr. Morales	YES
Mr. Haan	YES
Mr. Williams	YES
Mr. Vitale	YES

Public Hearings

BA-04-07

William Farley Development Corp.

Block 3301, Lot 51, 41 Mendham Avenue, RA-25 zone. Section C&D.

Continuation of the August 27, 2007 and November 26, 2007 public hearings, applicant proposes to relocate and maintain a 10.5 x 22.8 single face billboard on the existing single family residential property creating a front yard setback of 7 feet where a minimum front yard setback of 60 feet is required.

Mr. Dennis McConnell, Attorney for the applicant entered his appearance and presented the application to the Board. He stated that he had reported to the Board attorney and secretary that they had resolved the matter between his applicant and CBS outdoor sign. I was waiting for memorialization of that settlement and I was just advised that was not forthcoming because of certain corporate sign off. I ask the Board to direct that the sign be removed. We came before you as part of a D variance to show that there was a pre existing nonconforming use, that being the billboard. We had CBS sign here we had one of their agents, Christopher Wiss who testified before the Board who produced a construction building permit for block 148, no lot number, on Mendham Avenue, dated February 23, 1956. That particular building permit does not indicate any particular lot nor does it indicate what the building permit was issued for. We also had introduced as exhibit B-1 the zoning ordinance for the Township Morris dated April 28, 1955. At that point in time billboards were not permitted in that zone. Our application has failed. We have failed to prove that we had a preexisting nonconforming use on this property. Therefore, I think the Board knowing to make a decision and that is that this nonconforming structure be removed. We ask the Board to direct the Zoning Officer to issue a violation notice to have the sign removed. We

had a basic agreement with CBS sign which Mr. Farley offered \$50,000.00 to compensate for them to remove the sign. Mr. Farley made a business decision. We had an oral agreement but unfortunately CBS is not holding upon their end of the agreement. Mr. Farley will stand by his agreement and work with them and come up with that compensation. We also ask that the Town continue the efforts in the future to find an alternate location for the CBS sign. We ask that the application be denied because we haven't been able to present the proofs that the sign was built in conformance. We ask that the zoning officer issue a notice violation and give them certain amount of days to remove the sign.

The meeting was opened to the public; no one appeared to be heard.

Mr. Allison moved, seconded by Ms. Larkin that denial be granted to the application of William Farley Development thereby not permitting, on Block 3301, Lot 51 the maintenance of the existing billboard and that the Board Attorney be authorized to prepare a formal resolution memorializing the action taken by the Board, same to be presented for consideration at the February 25, 2008 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Ms. Larkin	YES
Mr. Williams	YES
Mr. Haan	YES
Mr. Morales	YES
Mr. Vitale	YES

Certified Shorthand Reporter present for the following application

BA-06-06

Madison Gas Mart

Block 8301, Lot 5, 219 Madison Avenue, B-11 zone. Section C & D.

Continuation of the May 21, 2007, June 25, 2007, August 27, 2007 and October 22, 2007 public hearings, applicant proposes to convert three existing mechanical bays into a convenience store which includes a Dunkin Donut franchise.

Mr. Anthony Wahl, Attorney for the applicant entered his appearance and made a brief summary of the application to the Board.

The following professionals being sworn in by the Board Attorney appeared to be heard.

Mr. Thomas Stern, Professional Engineer

Mr. Kamlesh Shah, Architect

Ms. Elizabeth Dolan, Traffic Expert

The following exhibits were submitted as evidence.

A-5 Site Plan last revised March 23, 2007

A-6 Proposed exterior elevations plan

Summary of Testimony – Thomas G. Sterns III, Professional Engineer

Mr. Sterns stated that site is an existing gas station. We are proposing to remove the mechanical bays and convert to a convenience store with a Dunkin Donuts counter. There are six existing pump parking stalls which will remain and five parking stalls for the convenience store with a twelve foot aisle for one way circulation exiting onto Madison Court. Mr. Sterns proceeded to review exhibit A-5 with the Board. Mr. Sterns stated that a ramp will be provided to the NE of the building for handicapped accessible. The dumpster will be relocated on parking space number six enclosed with a foot stockade fence. The plan shows 74.77% of impervious coverage which is below the 75% which is allowed by Township ordinance.

We will also provide a landscape buffer behind the building. A lengthy discussion was carried regarding the parking spaces and garbage pick up.

The meeting was opened to the public; the following persons appeared to be heard.

James Moran	101 Pitney Place
Stephen Brunskill	518 Pitney Place
Roberta De Simone	5 Beechwood Drive
John Picone	1 Madison Court
Jerry Woznick	406 Pitney Place
Janice Woznick	406 Pitney Place
Lee Goldberg	10 Arrowhead Road

Summary of Testimony – Kamlesh Shah, Architect

Mr. Shah stated what we are proposing to do is keeping the shell as is. No exterior renovations will be done except to install canopies and awnings. Interior renovations consist of a mini mart and a Dunkin Donut store. The Dunkin Donut area will be approximately 459 square feet and the mini mart will 1317 square feet which is approximately 76% of the entire building. We will also refurbish the existing bathrooms. We will be doing a concrete trench for plumbing and will comply with DEP requirements related to any contamination issue. No cooking will be done on site. All donuts will be delivered to the site from another location. On the outside of the building we will be removing the bay doors and replacing them with windows. The existing sign will be replaced with a dunkin donut general letter sign. We are not proposing any other improvement to the outside. A lengthy discussion was carried regarding the renovations to the site.

The meeting was opened to the public; the following persons appeared to be heard.

Janice Woznick	406 Pitney Place
James Moran	101 Pitney Place
Roberta DeSimone	5 Beechwood Drive
Maureen Rhatigan	504 Pitney Place
Lee Goldberg	10 Arrowhead Road
Jerry Woznick	406 Pitney Place
Stephen Brunskill	518 Pitney Place

Recess at 9:29 pm.

Meeting reconvened at 9:41 pm.

Summary of Testimony – Elizabeth Dolan, Traffic Expert

Ms. Dolan stated that after the last meeting we performed a series of updated manual turning movement traffic counts at the site driveways and at the Madison Court intersection with Madison Avenue. The Board requested that we revisit the site when school is in session stay away from holidays and bad weather. She proceeded to summarize the report submitted with the Board. She stated that the difference from the previous report dated August of 2006 was about a 200 vehicle increase on Madison Avenue within an hour. Those volumes show an increase from August of 2006 to September 2007. Traffic volume on Madison Court remains the same and traffic volume entering and exiting the site remains the same. We used the highest volumes as the bases for our new analysis which has been summarized in an addendum dated November 29, 2007 and submitted to the Board. She stated to have done comparisons with other facilities similar to the one proposed. A lengthy discussion was carried regarding the traffic flow.

The meeting was opened to the public; the following persons appeared to be heard.

Stephen Brunskill	518 Pitney Place
James Moran	101 Pitney Place

Lee Goldberg
James Ryan

10 Arrowhead Road
513 Pitney Place

Mr. Wahl stated that this conclude the testimony for the evening. We have one more witness Mr. Tobia it appears that some Board members will not available for the next meeting we request that this application be carried to the next available meeting.

Mr. Oller informed the applicant's attorney that there is a lot of testimony and questions about the canopy and style. The plan that we have in front of us talks about a cloth canopy perhaps at the next meeting you can bring a day light picture and a evening picture so that we can see what it looks like when it's lighted. The aesthetics of the canopy is very important to this Board and if more information could be obtained regarding the lighting of the canopy. Ms. Larkin was concerned regarding where the garbage was going to be located and if they could look into placing it at another location on site. The Board also would like to know what the existing lighting spread is. The Board also requests the applicant to consider additional reduction to the impervious coverage, show the placement of condenser units, show the sidewalk in front of the building, evergreens are to be shown to provide a buffer to the bathrooms and additional evergreens to the rear between the residential properties.

At the request of the applicant's attorney the application is carried to March 24, 2008 meeting without further notice. Applicant also granted the Board an extension of time until April 30, 2008.

Other Matters

Mr. Slate informed the Board that Verizon Wireless at Delbarton submitted a revised plan and that Stealth Solutions was the company who was doing the tree on the Delbarton site. We have being going back and forth with some revisions. I have issued a letter to the applicant with various items that they need to address. One critical issue is the distance of the antennas off the monopole and making sure that the tree is going to look like a tree and extending the branches out further. They also put larger branches on the tree. A lengthy discussion was carried regarding the branch placement on the monopole. The Board concluded that the applicant should return to the Board with an amended application. Mr. Oller was instructed to contact the attorney for the applicant and informed him of the Board decision.

With no further business for consideration by the Township of Morris Board of Adjustment, on motion duly made, seconded and unanimously carried, the meeting was adjourned at 11:06 P.M.

Respectfully submitted,

Sonia M. Santiago, Secretary
Township of Morris Board of Adjustment