

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
MARCH 22, 2010**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, March 22, 2010, at 7:36 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 March 19, 2010 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 Mr. Timothy Kronk, Chairman

Roll call of Board Members and Professionals

Members Present

Mr. Timothy Kronk
Mr. James C. Allison
Mr. Thomas Luby
Mr. Donnell Williams
Mr. Paul Woodford
Mr. Rick Haan
Mr. John Christensen
Ms. Kathleen Kalaher, Alternate #1

Members Absent

Ms. Joen Luy Ferrari, Alternate #2

Also Present

Mr. Rich Oller, Board Attorney
Mr. James R. Slate, Twp. Engineer
Mr. Adrian Humbert, Twp. Planner
Ms. Sonia Santiago, Board Secretary

Professionals Absent

Ms. Tirrell Loftin, Zoning Officer

Resolutions

BA-14-09 NYSMSA Limited Partnership d/b/a/ Verizon Wireless
Block 9805, Lot 1, 77 Whippany Road, OSGU zone.

Applicant proposes to co-locate a total of (6) wireless communication antennas at a center line of 108 feet on the existing monopole, and to install equipment cabinets at the base of the tower.

Mr. Haan 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 February 22, 2010 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Williams	YES
Mr. Woodford	YES
Ms. Kalaher	YES
Mr. Haan	YES

Public Hearing

BA-20-07 Jeffrey Hind
Block 10315, Lot 1, 26 Emmet Avenue, RB-7 zone. Section C & D.

Continuation from the October 26, 2009, November 23, 2009 and January 25, 2010 public hearings, applicant is seeking a "d (2)" use variance to expand the existing non conforming commercial use of the premises which is involved in the sales, service and repair of outdoor power equipment; a "c" bulk variance for a building addition creating a side yard setback of 10 feet where 15 feet is required; a building coverage of 31.9% where 30% is permitted and other related improvements.

Mr. Oller made an announcement that as per the applicant's attorney's request the application will not be heard tonight due to plan revisions and it will be carried to the April 26, 2010 Board meeting without further notice. The applicant has granted the Board an extension of time until April 30, 2010.

BA-01-10 Luis Rangel
Block 1101, Lot 3, 5 Manchester Court, RA-35 zone. Section C.

Applicant proposes to maintain the existing front yard setback of 69.34 feet where 75 feet is required.

Proof of Publication and Affidavit of Service filed and approved by the Board Secretary and Board Attorney.

The following person being sworn in by the Board Attorney appeared to be heard.
Luis Rangel, Homeowner

Mr. Martin Liberman, Attorney for the applicant entered his appearance and presented the application to the Board.

Mr. Liberman stated that it appears to be an oversight of a setback that occurred 22 years ago and this issue arose as a result of the sale of the property within the last 45 days. We brought this to the attention of the Township Committee and an administrative variance was granted but the attorney for the buyer would not accept it as binding. This is the reason why we are in front of the Board for the variance request.

No exhibits were submitted as evidence during testimony.

Summary of Testimony – Luis Rangel, Homeowner

Mr. Rangel stated that he presently lives at 5 Manchester and recently entered into a real estate contract to sell his property. He has owned the property for the past 5 years, no changes have been made to house and he was not aware of the existing violation. As a result of the pending sale he discovered within the last 30 days the front yard setback problem. He immediately contacted the attorney (Mr. Liberman) to apply for an administrative variance, which was immediately done and submitted to the Township Committee. A resolution was then adopted by the Township Committee and submitted to the buyer's attorney.

The buyer's attorney declined the administrative variance and requested that I proceed to acquire a formal variance on the property and for this reason I am requesting a variance for the front yard setback. Granting the variance will not have any impact on the neighborhood, public and or the zoning ordinance. A discussion was carried regarding the properties odd shape and the setbacks.

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

Mr. Woodford moved, seconded by Mr. Williams that approval be granted to the application of Luis Rangel thereby permitting on Block 1101, Lot 3 to maintain the existing front yard setback and that the Board Attorney be authorized to prepare a formal resolution memorializing the action taken by the Board, same to be presented following the approval.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Williams	YES
Mr. Christensen	YES
Mr. Woodford	YES
Mr. Haan	YES
Mr. Kronk	YES

Mr. Oller, Board attorney informed the Board members that Mr. Liberman had requested that a Resolution of approval be memorialized in result of the approval Mr. Oller proceeded to read the resolution into the record.

Mr. Williams moved, seconded by Mr. Allison, 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 March 22, 2010 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Williams	YES
Mr. Woodford	YES
Mr. Haan	YES
Mr. Christensen	YES
Mr. Kronk	YES

**Mr. Williams recused himself from the following application and
Ms. Kalaher is seated at this time.
A Certified Shorthand Reporter was present for the following application.
see attached transcript.**

BA-11-09

JCJR, LLC

Block 10502, Lot 38, 189 Speedwell Avenue, B-11 zone. Section C & D.

Continuation from the December 14, 2009 public hearing, applicant proposes the construction of a two story building with retail space on the first floor and two (2) two-bedroom apartments on the second floor. It is to be constructed on an undersized vacant lot which requires a number of bulk and parking variances.

Mr. David Soloway, Attorney for the applicant entered his appearance and presented the application to the Board.

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

Mr. Kevin Page, Professional Engineer
Ms. Carolyn Young, Architect
Mr. George Ritter, Professional Planner & Landscape Architect

The following exhibits were submitted as evidence.

A-11 Basement Sketch
A-12 Area Photographs
A-13 Site Photographs
A-14 Land Use & Zoning
A-15 Neighborhood Settings
A-16 Neighborhood existing conditions

Summary of Testimony – Mr. Kevin Page, Professional Engineer

Mr. Page proceeded to review the exhibits previously submitted with the Board. He stated that the variances that are being requested are mostly to keep up with the neighborhood; most of them are attached to the property. There was no additional land that we could purchase to solve the problem.

He further testified that looking at the development patterns through the neighborhood there is basically three options; one which is to have the building all the way forward on Speedwell Avenue with the parking to the rear and the access off of Kennedy Road. If we were to place the building back we would be placing the building closer to the residential houses with access from Speedwell Avenue which is a County Road. The NJDOT highway access manual has always preferred to have access points off of side roads. So that's why we have selected to place the building forward on Speedwell Avenue.

We are proposing a 6 foot high fence along the property line in the rear to provide some privacy for the parking. We are also proposing a sidewalk that goes along the municipal parking lot. We believe that the parking will be used by the second floor residential units. The tenants of the second floor will use the rear door to access the building. There is about a dozen trees that are going to have to come down, we are trying to save the big tree which is right along the property boundary. So of the various options that we have we believe that the proposed option is the best option for the site. A discussion was carried regarding tree removal and landscaping on site.

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

Arthur Huhn	10 Kennedy Road
Lee Goldberg	10 Arrowhead Road

Recess taken at 8:58 pm
Meeting reconvened at 9:10 pm

Summary of Testimony – Carolyn Young, Architect

Ms. Young reviewed exhibit A-8 and A-9 which consists of the proposed building. Ms. Young stated that the goal was to create a downtown two story building with retail use on the first floor and residential on the second floor.

In the design of the building we wanted to use substantial materials that would be appropriate to the downtown feeling of the building. We have a classic two-story architecture typical sort of downtown, small town, residentially oriented town streetscape. We are proposing brick exterior with a stone base on the building, crown molding all the way around and some cast stone detailing around the entrance. Ms. Young further reviewed the floor plan with the Board. A discussion was carried regarding the layout of the first and second floor, basement and the planters to be located in the front of the building.

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

Summary of Testimony – George Ritter, Professional Planner & Landscape Architect

Mr. Ritter reviewed the exhibits submitted A-12 through A-16 with the Board to get a sense of the character of the commercial district within which the property in question is located. Mr. Ritter proceeded to identify the character of the neighborhood he stated that most of the uses that are out there are commercial, office type uses, professional offices, restaurants and there are some that are oriented towards retail. Most of the structures are very much in keeping with the residential neighborhood within which they abut. They are relative small boxes they are one and two story structures and some of them are old homes.

Mr. Ritter further testified that several single family homes have been converted into professional office space. The majority of these still maintain a streetscape in the sense that most do not have parking in the front. The majority does have parking to the rear, and have maintained limited area.

The site itself is a vacant lot; there are basically two zones in the area, the B-11 zone which is the business district and the residential zone. This is more like a downtown retail area, even though as we all know, Speedwell is a fairly major Street. In relation to parking there seems to be adequate parking during the normal business day in the area. There is the municipal parking lot with 24 parking stalls that seem to be underused most of the time.

Mr. Ritter proceeded to review the variances that are being requested, the site itself is a relatively small lot which contains 5,990 square feet where 11,250 is required, this is a pre-existing condition, the lot also has two existing conditions that are really nonconforming pre-existing conditions. There are nine variances that are being requested which are; front yard setback, no front yard is being proposed where 35 feet is required; side yard setback, proposed is 1 foot where 10 feet is required and combined side yard proposed is 6 feet where 25 feet is required; impervious coverage, proposed is 90% where 75% is required; parking spaces proposed are 6 where 14 are required; parking stall dimension proposed are 9 x 18 where 10 x 20 is required; 9 x 18 is a residential site improvement standard which is more than adequate for this but the ordinance requires a 10 x 20 parking space; parking aisle width, proposed is 24 feet where 25 feet is required; driveway width, proposed is 9 feet where 10 feet is required; and the last one is for the height of the fence which has been withdrawn. The proposed fence will meet Township requirements.

Mr. Ritter further testified that the B-11 zone requirements are very difficult to meet because the majority of the lots in the district are substandard as to area and as to width. What you really begin to see is that the district standards really don't match what is out there and it creates a hardship to any developer who is trying to develop his lot because they really don't have the lot area essentially to accommodate the size of the yards that are being required. If you apply the Township setbacks requirements you will be left with little space to be developed and this is the reason why the Board will see these applications requesting relief from the requirements. The majority of the relief we are seeking is side yard and front yard relief and it relates to the currently zoning standards which creates a situation because the lot is a small lot and it's a hardship for the applicant to meet the Township requirements. A discussion was carried regarding the parking, the D variance being requested and the architectural design proposed and the existing neighborhood. He stated that placing the building in the front yard is consistent with the neighborhood and would not be detrimental to the zone plan.

Mr. Ritter stated that by granting the variances listed under the Municipal Land Use Law 40:55 (d)2 " to promote the establishment, appropriate population densities and concentrations that will contribute to the well being of persons, neighborhood, communities and regions." It is consistent with what the Township is trying to accomplish out there. It will improve the overall sense of commercial development area. Bringing the residential in will help to provide a more vibrant and pedestrian oriented, person oriented type of neighborhood. Granting the relief will not have any substantial detriment to the public good, the zoning ordinance or the Master Plan. A lengthy discussion was carried regarding the mixed use, front parking, landscaping and off site planting.

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

Arthur Huhn	10 Kennedy Road
Joan Morgan	Sander Street owner of 10 Kennedy Road

Mr. Soloway stated that due to the late hour and the Board requesting additional information on tree replacement plan or landscaping, details on planters in the front and a lighting plan. He requested that the application be carried; the Board carried the application to the April 26, 2010 meeting without further notice. The applicant's attorney also granted the Board an extension of time until June 30, 2010. The applicant's attorney also amended the application to reflect a variance request for a 9 foot driveway where 10 feet is required and adding a variance for 1.5 foot candle lighting in the parking lot.

Other Matters

Draft Copy of the 2009 Annual Report – the report was reviewed by the Board minor changes were made.

On a motion duly made, seconded and unanimously carried the annual report is approved. The Board secretary was instructed to forward the report to the Township Planning Board and Township Committee.

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 11:08 P.M.

Respectfully submitted,

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