

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
MAY 19, 2008**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, May 19, 2008, at 7:30 P.M. in the Municipal Building, 50 Woodland Avenue, Township of Morris.

Statement of Adequate Notice

Chairman Allison 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 May 12, 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 Mr. James Allison, Acting Chairman

Roll call of Board Members and Professionals

Members Present

Mr. Thomas Luby
Mr. James C. Allison
Ms. Norma Larkin
Mr. Nelson Morales
Mr. Donnell Williams, Alternate #1
Mr. Paul Woodford, Alternate #2

Members Absent

Mr. Lawrence C. Vitale
Mr. Rick Haan
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

On motion duly made, seconded, and unanimously carried, the minutes of the April 28, 2008 meeting were approved as amended and placed on file in the office of the Board of Adjustment.

Resolutions

BA-11-06

Paul Gamerdinger

Block 8409, Lot 21, 63 Canfield Road, RA-15 zone

Applicant is requesting an extension of approval.

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 April 28, 2008 meeting.

Roll Call: (Voting Members)

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

BA-17-07

William & Dyanna McGuire

Block 2102, Lot 1, 47 Buckley Hill Road, RA-35 zone. Section C.

Application amended to reduce the size of the pool house to 20 ft x 16 ft x 14.2 ft creating a front yard setback on Ketch Road of 57.4 feet where 75 feet is required and a height of 16.8 feet where 15 feet is permitted for accessory buildings.

Mr. Luby moved, seconded by Mr. Woodford, 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 April 28, 2008 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Woodford	YES

Regular Meeting

BA-22-07

John Dillon

Block 803, Lot 1, 15 Summit Road, RA-35 zone.

Applicant proposes to construct a 22'6" x 14" open deck which creates a Deer Chase Road front yard setback of 53.5 feet where a minimum front yard set back of 75 feet is required.

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

Mr. Dillon entered his appearance and being duly sworn in by the Board Attorney presented the application.

No exhibits were submitted as evidence during testimony.

Summary of Testimony

Mr. Dillon stated that the purpose for accomplishing this variance is because they moved their 85 year old aunt with them and it is very difficult for her to move around. There is a basement which we had to install a chair lift to get her up and down the stairs. The extension of the deck will give her extra space outside that she normally doesn't get because of the stairs getting in and out of the house and alone she cannot do that. The extension of the deck will be over the car port. I have looked into other areas to place the deck, if we extended the existing deck along the 26 foot area there is some older dogwood trees that would have to be removed and I did not want to remove the trees. We are also installing a gate at the top of the stairs for security purposes. I have discussed this plan with my neighbors from Deer Chase and they have agreed with the proposal.

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

Mr. Luby moved, seconded by Mr. Morales that approval be granted to the application of John Dillon thereby permitting on Block 803, Lot 15 the construction of open deck 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 June 23, 2008 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Ms. Larkin	YES
Mr. Morales	YES
Mr. Woodford	YES
Mr. Williams	YES

Certified Shorthand Reporter (CSR) was present for the following application.

BA-02-08

John McFadyen

Block 107, Lot 14, 49 Burnham Road, RA-7 zone. Section D

Applicant seeks a use variance to do a major demolition and reconstruction of an existing two family dwelling and construct a 4 ft. x 24 ft. two story addition. This is a pre-existing two family dwelling in a single family zone.

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

Mr. McFadyen entered his appearance and being duly sworn in by the Board Attorney presented the application.

Mr. Oller, Board attorney informed Mr. McFadyen that we have six members present that can hear and vote on the application as a use variance you will need five affirmative votes. It is my opinion that an applicant is entitled to a full Board you may do your presentation tonight and then asked to be adjourned until we have a full Board at which time our seventh Board member

will read the transcript and will be able to vote on the application. We will give you the opportunity to have all seven members.

Mr. McFadyen stated that he would like to proceed with the application.

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

Mr. John VanLenten, Professional Architect

Ms. Tirrell Loftin, Township Zoning Official

The following exhibits were submitted as evidence.

A-1 Photo Board with six photos

A-2 Tax Map

Summary of Testimony

Mr. McFadyen stated that he became the owner in November 2007. I talked to Ms. Loftin who informed me that because it is an existing non conforming two family what ever I did to the structure would need a variance. This is presently a two family home. I have confirmed with the Town that it has been a two family home for the past two property evaluations. The first floor has one bedroom and the second floor consist of one and a half bedrooms a very small second room to be used as a bedroom. Mr. VanLenten and I agreed that four feet will be sufficient in order to achieve two bedrooms on each floor. We submitted all the drawings to Ms. Loftin and were denied. In the process I met with the TCC where it was determined that I would need four off the street parking spaces. Currently right now the garage in the back is in such disrepair that the tenants didn't use it. One tenant parked on the driveway and two tenants parked on the street. After my meeting with the TCC I had my site engineer draw the site plan to show three parking spaces in the rear yard and I will also rehabilitate the one car garage which will allow off street parking for four cars. The Residential Site Improvement Standard calls for one and a half parking spaces for a two bedroom apartment so three parking spaces will be required for a two family with two bedroom apartments. I was also under the impression that Burnham Road is to have sidewalks placed on one side of the street. Mr. McFadyen stated that he will be placing vinyl siding, new roof and new windows with today's standards. Each unit will also have their own heating and cooling system.

Summary of Testimony – Mr. John VanLenten, Architect

Mr. VanLenten stated that Mr. McFadyen intension is to restore the interior of the house bringing it to today standards and making it more energy efficient by fully insulating the home and replacing the windows with energy efficient windows. The project consists of a small expansion and total renovation of the building. The intension is to achieve a two family dwelling with two bedrooms each. What we plan on doing is capturing part of the existing front porch for an expansion on the first floor to allow us two bedrooms, new bathroom, eat-in kitchen and a family gathering space. The existing unit has a large living room, a moderate sized bedroom, a small kitchen and a bathroom that is not accessible other than walking through the bedroom. We are increasing the density of the unit by one bedroom. The expansion is four feet towards the rear which allows us more common space. The second floor has a shed dormer and what we are planning to do is to build out over the footprint of the first floor adding a second bedroom to the second floor. Overall the front of the house will remain the same with only part of the front porch. Mr. VanLenten reviewed exhibit one which consisted of six photographs of the existing conditions of the property and what is proposed. The net increase in livable area is 531 square

feet. Mr. VanLenten stated that by Mr. McFadyen bringing the house up to standards it will improve the area. A lengthy discussion was carried among the Board members and the professionals.

Summary of Testimony – Tirrell Loftin, Township Zoning Official

Ms. Loftin stated that Fairchild is one of the oldest sections of the Township. This house was built in 1930 and in 1974 it was listed as a two family dwelling. It has existed for a very long time and I'm not aware of any problems that existed as result of this dwelling in the area being two families. I have one comment Mr. McFadyen stated he will rehab the garage I am concerned of the extent of the rehab because if he decides to tear it down completely he would have to build it in conformance with zoning. Mr. McFadyen stated that currently the garage has vinyl siding in the front and on one side the left side and the rear of the garage are in total disrepair and I would like to repair it and bring it all back to suitable conditions. There will not be any demolishing of the garage.

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

The chairman asked the Board if they felt that we needed planning testimony from the applicant or our Planning Consultant Mr. Humbert.

Mr. Woodford stated that in listening to the testimony including Ms. Loftin it appears that this house has been in existence as a two family for quite some time it's not that they are proposing the use; the use exists already it is a very minor expansion of the use and therefore I don't think we really need testimony from a professional planner because it really is not changing the use of the property.

Mr. Oller stated that the Board needs to find that the applicant has satisfied one of the purposes of the MLUL in order to satisfy the positive criteria. In this type of case he doesn't need to establish particular suitability. He can establish that he has satisfied one of the purposes of the MLUL by showing that he is improving the general welfare, health and safety which perhaps this improvement will do and he can also establish it by showing that he is promoting a desirable visual environment in the neighborhood. If the Board where to make those specific findings he would satisfy the positive criteria.

**Recess is taken at 8:35 pm
Meeting reconvened at 8:42 pm.**

Mr. Oller reviewed with the Board ordinance 24:05 occupancy standard for dwelling units section 110-1-3 titled occupancy standards dwelling units which lists the amount of floor area allowed per person. A discussion was carried regarding the square footage proposed and what the ordinance requires.

Mr. Morales moved, seconded by Ms. Larkin that approval be granted to the application of John McFadyen thereby permitting on Block 107, Lot 14 the major demolition and reconstruction of existing two family dwelling and construct a two story addition with conditions stipulated 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 June 23, 2008 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Ms. Larkin	YES
Mr. Morales	YES
Mr. Woodford	YES
Mr. Williams	YES

BA-08-08

Omnipoint Communications, Inc.

Block 9805, Lot 1, 77 Whippany Road, OS-GU zone.

Applicant proposes to modify the approved 120 foot stealth monopole with internal antennas to provide for a 120 foot monopole with flush mounted antennas as shown on the amended plans submitted. The modification brings the structure into conformance with the lease agreement with the Township.

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

Mr. Garofalo, attorney for the applicant entered his appearance and presented the application to the Board. Mr. Garofalo stated that they were before the Board and a resolution was adopted on January 28, 2008. The approval does not match the bid specification. We are here today to solely amend the site plan to provide for a monopole with the same height and all other conditions except for the antennas which will be low profile mount antennas or flush mount antennas. Mr. Peter Tardy is the engineer who testified at the last meeting who has an updated plan that he will present to the Board.

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

Mr. Peter J. Tardy, Professional Engineer

No exhibits were submitted as evidence during testimony.

Summary of Testimony – Peter J. Tardy, Professional Engineer

Mr. Tardy stated to have prepared the plans to reflect the changes to the monopole. He proceeded to review the plans submitted with the Board. The height stays the same, the height of the proposed light stays the same, what was previously proposed is what is called a stealth flag pole in which all the antennas are located within the pole. There is a RF transparent cover that covers the antennas and you cannot visually see the antennas. What we are proposing is a standard monopole of the same height which will be painted in the same color pattern as previously approved. The antennas will be mounted differently. Previously all the antennas were mounted inside the pole. There were three antennas at the top elevations and three antennas ten feet below. Omnipoint will install six antennas at the center line elevation of 118 feet above grade. Currently we are showing five levels of antennas that will allow five carriers to collocate on this pole if they are approved by the Board. The antennas will be located as close

to the pole as you would see on a standard mounted system. I would not call them flush mounted but cluster mounted for this proposal. The arm which extends out from the pole will be approximately two feet in length and there will be post pipe supporting each of the antennas from the two feet stand off. The antennas do not change. A lengthy discussion was carried regarding the mounting and extension of the antennas.

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

Ms. Larkin moved, seconded by Mr. Williams that approval be granted to the application of Omnipoint Communications, Inc thereby permitting on Block 9805, Lot 1 to modify the approved 120 foot stealth monopole 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 June 23, 2008 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Ms. Larkin	YES
Mr. Morales	YES
Mr. Woodford	YES
Mr. Williams	YES

Other Matters

Mr. Slate informed the Board that there is a property located at 20 Fairmount Avenue that was destroyed by a fire. The homeowner has to go before the Board because the property is undersized. We have received the plans on that particular property the existing home was basically a one story home and what is being proposed is a two story home. We are trying to help the homeowner as much as we can; he understands he needs to come to the Board. He is looking for some sort of help from the Board. We are scheduled far out and he really hates to lose the summer months. We didn't know what options to take and we would like to have the Boards opinion. The homeowner plans to build in the same footprint. A discussion was carried among the Board members. The Board decided to hold a special meeting on June 9, 2008 to hear the application.

Mr. Slate also informed the Board that Mr. Gamerdinger is now working with his architect and he is working on the design of the house and a couple of issues has come up that Tirrell and I are not comfortable with handling administratively and we would like to have the Boards opinion. Basically the plans are being designed to honor the setbacks that were previously approved by the Board. The first issue I would like to discuss is the foundation; they did a plan as part of the original approval to use the existing foundation. Apparently it does not work with this layout and the builder that they are working with has issues with providing a homeowner warranty on using the existing foundation and prefers to replace the foundation that also works with the architectural because the rooms and configuration changes. The other issue is the footprint of the house or the size of the house. We asked the architect to provide us with a comparison on the floor area that included the garage. One situation that the architect picked up was the third bay of the garage. The narrowness of the property created a hardship for the third bay on the garage so the owner, based on the architect's recommendation reduced the size of the garage

to a two car garage. Mr. Slate distributed copy of the proposed plan to the Board. The original approved plans called for 1864 for living space 705 square feet for the garage a total 2569 sq ft total footprint for the house and what is proposed by the new owner 2459 square feet of living space and 555 square feet for the garage area for a total of 3014 square feet or an increase of 450 square feet of footprint on the property. Tirrell and I were not comfortable handling it administratively. The Board stated that this looks like a tear down and rebuild, the applicant is to return to the Board unless footprint remains the same.

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 9:45 P.M.

Respectfully submitted,

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