

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
FEBRUARY 26, 2007**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, February 26, 2007, 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 February 20, 2007 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. Lawrence C. Vitale, Chairman

Roll call of Board Members and Professionals

Members Present

Mr. Lawrence C. Vitale, Chairman
Mr. Thomas Luby
Mr. James C. Allison
Mr. Rick Haan
Mr. Nelson Morales
Mr. Paul A. Woodford, Alternate #2

Members Absent

Mr. Donnell Williams, Alternate #1
Ms. Norma Larkin
Mr. Timothy Kronk

Also Present

Mr. Rich Oller, Board Attorney
Mr. James R. Slate, Township Engineer, 8:10 pm
Ms. Tirrell Loftin, Zoning Officer
Mr. Ronald Graiff, Township Radio Frequency Consultant
Ms. Sonia Santiago, Board Secretary

On motion duly made, seconded, and unanimously carried, the minutes of the January 22, 2007 re-organization and regular meeting were approved as circulated and placed on file in the office of the Board of Adjustment.

Regular Meeting

BA-17-06

Chris Volinsky

Block 8906, Lot 2, 50 Olmstead Road, RA-11 zone. Section C.

Construction of a 150 sq. ft. mudroom addition creating a front yard setback on Woodside Road of 11.32 feet where 35 feet is required and 18.49 feet is the existing setback. A variance is also being request to maintain the shed at the existing location.

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

Mr. Michael Moschella, Architect for the applicant, Mr. & Mrs. Volinsky entered their appearance, being duly sworn in by the Board Attorney presented the application to the Board.

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

Mr. Michael Moschella, Architect

The following exhibits were submitted as evidence.

None

Summary of Testimony – Michael Moschella, Architect

Mr. Moschella stated that the purpose of the application was to request a variance for the front yard setback. In the RA-11 zone the front yard setback is 35 feet since this property is a corner lot it has two front yards. The side porch will be removed, it is useless at this time. We are proposing a new addition of 10 ft. x 10 ft., 11.32 feet from the property line at a distance of 23.68 in the front yard setback. The rear addition will have a new open porch 4 ft. x 10 ft. with steps down to grade to make a connection from this addition to the driveway. We have considered alternatives in planning for the location of this structure to not trigger variances unfortunately they did not work. What we are asking is most typical in homes. The addition will blend in with the rest of the neighborhood.

Summary of Testimony – Chris and Christine Volinsky, Homeowners

Mr. Volinsky stated that the reason they are considering this location for the addition is because that is the closer entrance to the driveway and the one that is used most of the time. The current porch on that side of the house is very narrow and in the winter and during inclement weather it's dangerous. There is no closet for storage space near the kitchen and it is very inconvenient for the family, mainly this is the heaviest traffic area of the house. Mrs. Volinsky stated that in the months that they have been working with Mr. Moschella on this plan we being trying to figure out other alternatives within the home in terms of free standing shoe cubbies hanging coats behind the door and hanging coats behind the basement door which makes it difficult to open the basement door. What I find with the children is that again is a safety concern for the family. What we are trying to do is to make the house most livable for the family.

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

Patricia Roehrer	5 Woodside Road
Andrew Broome	40 Olmstead Road

Comments from the Board: If the applicant was proposing a full size addition, the whole width of the house that close to the property line, we would be more concerned. We are concerned with the shed being located close to the property line and we would like to see the shed moved 5 feet from the property line as a condition of approval.

Mr. Haan moved, seconded by Mr. Luby that approval be granted to the application of Chris Volinsky thereby permitting on Block 8906, Lot 2 the addition of a mudroom with stipulations 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 March 26, 2007 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Morales	YES
Mr. Haan	YES
Mr. Woodford	YES
Mr. Vitale	YES

BA-19-06

Jenna Smith

Block 4401, Lot 21, 17 Wood Road, RA-130 zone. Section C.

Construction of a 10'4" x 8' covered front porch portico creating a front yard setback of 56 feet where 100 foot front yard setback is required.

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

Mr. Larry Winer, attorney for the applicant entered his appearance and presented the application to the Board members. Mr. and Mrs. Smith were sworn in by the Board attorney

No exhibits were submitted as evidence.

Summary of Testimony – Mr. Winer, Attorney for the applicant

Mr. Winer stated that the purpose of the application was to request relief from the Township ordinance for the front yard setback to add a front porch portico to protect the front entrance of the house from inclement weather. This will be an esthetic and pleasing upgrade to the home and will not have any negative impact to the neighborhood.

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

James Barrette 16 Wood Road

Mr. Luby moved, seconded by Mr. Woodford that approval be granted to the application of Jenna Smith thereby permitting on Block 4401, Lot 21 the construction of a covered front porch portico 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 March 26, 2007 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Morales	YES
Mr. Haan	YES
Mr. Woodford	YES
Mr. Vitale	YES

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

BA-05-06

Sprint Spectrum LP

Block 8608, Lot 15, 11 Old Turnpike Road, OL-40 zone Section C & D.

Continuation of the November 27, 2006 and January 8, 2007 public hearings where the applicant proposes to construct a wireless telecommunications facility consisting of a 120 foot monopole tower with 12 antennas and a 10 x 20 equipment shelter to be located at the base of the tower. A "d" conditional use variance is required from the requirement for a 40-acre lot in the OL-40 zone. A front, rear and side yard setback is also being requested due to the OL-40 setback requirements.

Ms. Diane Constantine, Attorney for the applicant entered her appearance, and presented the application to the Board.

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

Mr. Joseph Mineo, Radio Frequency Expert

Mr. David Karlebach, Professional Planner

The following exhibits were submitted as evidence.

A-12 Copy of Letter requesting to locate monopole at St. Elizabeth

A-13 Reply from Sister Arias

A-14 Omnipoint Letter requesting to co-locate on Sprint Monopole

A-15 Aerial Site Photo

A-16 Easement Agreement

Summary of Testimony – Joseph Mineo, Radio Frequency Expert

Mr. Mineo reviewed previously submitted exhibit A-7 proposed height and antenna mounts dated 1-8-07. Mr. Mineo stated that basically what they were proposing is four options the first one that is what we are proposing which are two sets of cluster mounted antennas with a center line at elevation at approximately 117 and 110 feet which basically allows three co-locations. The next one is labeled as a flush mount this would be if Sprint was required to flush mount all the antennas which will require four stacks of antennas at a center line of 117, 111, 104 and 96 feet allowing for one future co-location; third would be a flush mount at 110 feet which would also require four stacks of antennas and possible one future co-locator. The last one labeled as cluster mount is basically a give and take we have come to a conclusion that approximately what we need is 110 feet allowing us to have our two cluster mounts centered around 110 feet which would put the top cluster mount at a center line of 113 feet and our bottom cluster mount at 106 feet allowing for two future co-locators with approximately 116 foot overall pole height.

Summary of Testimony – Ronald Graiff, Board Radio Frequency Consultant

Mr. Graiff stated that the application is on behalf of Sprint which operates at 1900 Mega hertz which is a band that is challenged. The higher frequency is more challenged in propagating in particular areas. All the evidence submitted was PCS or 1900 MZ propagation which is Sprints not Nextels. Only after we talked about this on the phone with Glenn and Mr. Mineo did I determine they are a co-locator of those carriers which they have every right to do because they are licensed to provide service to both. In trying to mediate impact one looks to different methods of mounting the antennas and those could be cluster mount or flush mounted. There are antennas today that do the function of two antennas which are called dual pole and quall pole antennas. The reason why the carrier uses two levels of antennas is that they are trying to achieve spatial diversity where they have two different receiving antennas and that helps to receive the weak signals. A lengthy discussion was carried with respect to the impact of the antennas and the height of the pole. Mr. Graiff stated that it was best to have a taller structure than a smaller structure.

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

The applicant has agreed to place the GPS on the base shelter and if they do not receive the required signal the second option will be on the pole as close as possible. They also agreed to lower the overall height of the pole to 110 feet with the 2 foot beacon light.

Mr. Allison moved, seconded by Mr. Haan that approval be granted to the application of Sprint Spectrum LP thereby permitting on Block 8608, Lot 15 the placement of a 112 foot monopole with 12 antennas and equipment shelter with stipulations as discussed during the meeting 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 March 26, 2007 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Morales	YES
Mr. Haan	YES
Mr. Vitale	YES

**Recess is taken at 9:40 pm.
Meeting reconvened at 9:51 pm.**

BA-16-06

AHS Hospital Corp.

Block 5605, Lot 7, 102 Mt. Kemble Avenue, RA-15 zone. Section C & D.

Applicant proposes expansion of the existing parking area to add nine additional spaces at the rear of the site in a residential zone. A variance is requested to permit parking space size of 9 x 18 where a minimum of 9 x 20 is required and a aisle width of 22 feet where 25 is required. Also a variance is being requested to permit continuation of an existing non-conforming two-way driveway of 14 feet to the rear parking area where a minimum width of 25 feet is required.

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

Mr. Willard Bergman, 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.

Ms. Ann Sobine, President of the Women's Association
Mr. Phillip A. Smith, Licensed Engineer
Mr. Daniel McSweeney, Professional Planner

The following exhibits were submitted as evidence.

A-1 Approval of minutes
A-2 Agenda for 12-9-85 Board of Adjustment meeting
A-3 Aerial Photo

Summary of Testimony – Ann Sobine, President of Women's Association

Ms. Sobine stated that the Bargain Box has been operation as a thrift store for the past twenty plus years. The Women's Association runs the Bargain Box in an effort to raise money for various projects for Morristown Memorial Hospital. We commit to pledges and we have an ongoing commitment to 250 thousand dollars to the Morristown Memorial Health Foundation. We make pledges to the children's

hospital and the new Gagnon Heart hospital. The Bargain Box allows us to raise monies in an effort to support Morristown Memorial Hospital. On an annual basis this is our largest business. The day to day operation, the business depends on donations we have cars coming in to drop off and cars to shop. All donations that are not sold are donated to the Market Street Mission. Our hours of operation are Monday 12-4 pm, Tuesday through Friday 10-4 pm and Saturday 10-3 pm. There are no trucks coming in to drop off any merchandise. The Bargain Box staffs are volunteers. The numbers of parking spaces are insufficient; the parking in the front is limited. Adjacent to the parking in the front is the fire zone. If we don't provide adequate parking for our customers and for our donators, that is definite a hindrance to our business to raise money. I feel that the additional parking will improve our business.

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

Summary of Testimony – Phillip Smith, Licensed Engineer

Mr. Smith reviewed the existing conditions of the site with the Board. Mr. Smith stated that if all parking spaces are occupied customers park in the fire zone. The fire zone was not striped until recently and the Bargain Box lost those unofficial parking spaces. We were directed as the Engineers for the Atlantic Health System to take a look at the rear of the property to determine if we can pick up additional parking spaces. The Bargain Box wishes to be self sufficient they did not want to rely on the parking across the street. When we look at the parking area with this facility the impervious coverage is at 50% where 75 % impervious coverage is allowed. The additional nine parking stalls will be 9 x 18. There will be some tree removed however we will maintain a tree buffer to the north and south of the property. Additional trees will be planted to compensate for the trees that are being removed. The parking itself will be extended 35 feet. There is no additional lighting proposed based upon the normal hours of operation as testified, unless it is required by the Township Police Department. We have also incorporated a storm water trench drain to collect runoff from the parking lot. The existing driveway to the rear where the parking is located has a 22 foot wide driveway we are proposing that the new aisle to be constructed 24 foot wide. There is also a 14 foot aisle approximately 60 to 70 feet long, there is a good site line and we would like to keep the 14 foot aisle.

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

Summary of Testimony – Daniel McSweeney, Professional Planner

Mr. McSweeney reviewed the MLUL with the Board in regard to the variance requested. The site has received previous variance approvals. Mr. McSweeney reviewed the positive and negative criteria with the Board. This application requires a use variance, while we are not expanding the building we are in fact expanding the parking lot which services the building. This property is in the RA-15 zone and was subject to two previous use variance approvals. We are required to seek a use variance for the construction of nine additional parking spaces. From the planning stand point the development of nine parking spaces to the rear of the property will alleviate a potential safety and traffic problem in the front of the site. Currently individuals who are either purchasing goods or dropping off merchandise were parking in a circulation aisle in front of the site creating a safety hazard as identified by the Township Fire Inspector and certainly the construction of nine parking spaces in the rear of the property will alleviate the situation. The use of the Bargain Box in this location satisfies the purposes of the act. The construction of the additional nine parking spaces will provide a total of twenty eight parking (28) spaces for the site. Mr. McSweeney stated that there is no substantial detriment to the public good and the plan will not substantially impair the intent and purpose of the zone plan or zone ordinance. The requested variances will improve safety specifically on site circulation along the frontage and the additional parking will eliminate the illegal parking in front of the Bargain Box. By adding additional parking it will ensure that business and donations are not being lost due to a parking deficiency. This will not have a negative impact to the public good for this reason it is my opinion that this variance can be granted.

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

Mr. Bergman stated that the Bargain Box operates for a charitable purpose and it provides contributions to the Hospital for better health care. We request that the Board recognize that this is a special facility that provides many positive benefits to this community and that this application be approved.

Applicant is to provide a detail of the inlets on the plans. The Board had some concerns in regard to the lighting for the parking lot Mr. Slate stated he would have the Police Department check it out and if it is required the applicant will provide the additional lighting for the parking lot.

Mr. Allison moved, seconded by Mr. Haan that approval be granted to the application of AHS Corp. Bargain Box thereby permitting on Block 5605, Lot 7 the expansion of existing parking lot 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 March 26, 2007 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Morales	YES
Mr. Haan	YES
Mr. Woodford	YES
Mr. Vitale	YES

Other Matters

Draft Copy of the 2006 Annual Report was distributed and the Board had the opportunity to review and discuss the various issues. Some changes were suggested, another draft will be submitted for consideration at the next Board of Adjustment meeting.

Mr. Oller reviewed with the Board a letter that was received from Mr. Paragano's attorney Mr. Thomas Hall requesting that the Board reconsider the decision made at the February 12, 2007 Board of Adjustment meeting. Mr. Oller informed the Board that he had spoken to the attorney and informed him that the Board operates by statute and that there is nothing on the statute that states that you can reconsider the decision once you have taken a vote on a "D" variance. Mr. Oller recommended Mr. Hall to request a zone change to the Township Committee or the Planning Board for consideration.

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 11:10 P.M.

Respectfully submitted,

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