

**TOWNSHIP OF MORRIS  
BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
MAY 21, 2007**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, May 21, 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 May 14, 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  
Mr. Thomas Luby  
Ms. Norma Larkin  
Mr. Nelson Morales  
Donnell Williams, Alternate #1  
Paul Woodford, Alternate #2

Members Absent

Mr. Rick Haan  
Mr. James C. Allison  
Mr. Timothy Kronk

Also Present

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

On motion duly made, seconded, and unanimously carried, the minutes of the April 23, 2007 meeting were approved as circulated and placed on file in the office of the Board of Adjustment.

**Resolutions**

BA-03-07

James Koons & Janice Smiell

Block 7301, Lot 1, 22 Prospect Place, RA-15 zone. Section C.

Construction of a 28.22 ft. x 46.67 ft. attached garage with a family room addition above creating a front yard setback on Pear Street of 24.5 ft. where 50 feet is required. Also to maintain 225 linear feet of 5 ft. high chain link fence creating a front yard setback on Pear Street of 14 ft. where a minimum of 50 feet is required and 5 feet from an existing stream embankment where a minimum setback distance of 25 feet is required. In addition a 12 ft. x 20 ft. existing shed is located 12 feet from the Whitney Avenue property line where a minimum setback of 25 feet 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 April 23, 2007 meeting.

Roll Call: (Voting Members)

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

BA-05-07

Daniel & Nicole Lacz

Block 8104, Lot 55, 10 Braidburn Way, RA15 zone. Section C.

Applicant proposes construction of a 4.8 ft. x 8 ft. front entrance portico creating a front yard setback of 47 feet where 50 feet is required.

Mr. Morales 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 23, 2007 meeting.

Roll Call: (Voting Members)

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

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

**Regular Meeting**

BA-18-06

Giovanni Robertelli

Block 10308, Lot 18, 253 Martin Luther King Avenue, RB-7 zone. Section C & D.

Continuation from the March 26, 2007 and April 23, 2007 public hearing, applicant seeks a "D-5" density variance for multi-family dwellings. The proposal is to convert the first floor of the front building

to a one-bedroom and three bed-room apartment. A "C" variance is also being requested for parking requirements.

Mr. Richard Traynor, attorney for the applicant entered his appearance and presented the application to the Board. He stated that we are here for a D-5 variance and it is my understanding that there have been several conversations with the fire chief between and my client in regard to the fire sprinkler for the buildings. Since Chief Goss is here tonight we would like to start with chief Goss.

Mr. Oller informed the counsel that there are six members present but only five are eligible to vote on the application and that it was the applicants choice to request the vote or to be adjourned to the next available meeting.

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

Mr. Craig Goss, Township Fire Chief  
Mr. Giovanni Robertelli, Applicant

The following exhibits were submitted as evidence.

A-6 Colored rendering of tax map

**Summary of Testimony** – Craig Goss, Fire Chief for the Township of Morris

Mr. Goss was crossed examined by applicant's attorney. Mr. Goss stated that the proposed sprinkler system is called National Fire Protection Association 13-R or 13-D which allows a special plastic piping and can be connected to the domestic water line and the water connection will be in the individual building and not in the street. The buildings will have a fire department connection allocated on both buildings individually. Mr. Goss stated that a commercial sprinkler system requires steel piping and connection to the city water line and is more costly. The 13-R systems are placed in the rooms and can be run through a common wall, tee's off at the top into each room and has a larger range than a commercial system and faster reacting system than the commercial system would be. It will sprinkler all living spaces when the sprinkler system react it's the one head that heat activates a temperature a link on it that breaks and lets the water out. This system is acceptable by the fire department. Having a sprinkler system on the building, sprinklers can react within two minutes of the fire. A sprinkler system can knock the fire down prior to the arrival of the fire department. I can't rely on the alley way that is owned by the Town as an access point because I don't know what is going to happen five to ten years from now. This can be sold and become private property. A lengthy discussion was carried in regard to access to the property by the fire department. Mr. Goss stated he would rather have the buildings sprinkled because the back building presents a problem with access with the parking and the sprinkler is a trade for the back building. The access point to the rescuer is not there because of the parking blocking ladder access. The front building is a problem also being that you are dealing with a shared driveway.

The meeting was opened to the public; for questions to Mr. Goss no one appeared to be heard.

**Summary of Testimony** – Giovanni Robertelli, Applicant

Mr. Robertelli reviewed exhibit A-6 colored rendering of tax map with the Board. Mr. Robertelli informed the Board that all that is highlighted on the map with yellow indicates that parking is permitted and all that is highlighted in orange indicates that no parking is permitted. He stated that Erin Avenue and Cory Road is the closest streets to the property in question. A lengthy discussion was carried regarding parking in the surrounding area. Mr. Robertelli stated that the total number of apartment proposed is three of one bedroom and three, three bedrooms. As a condition of approval I will assign parking for the units as 1 parking for the one bedroom apartment and two parking spaces for the three bedroom apartments. Total proposed parking is ten spaces for the units where 12 parking spaces are required. A

discussion was carried in regard to the proposed parking spaces on site. Mr. Robertelli was also asked regarding the garbage pick up and if it was possible to place a dumpster on site. He stated that he could not find any ordinance regarding garbage pick up. He also stated that it was not possible to place a dumpster on site due to the space limits and that there is no parking or storage on the easement. A lengthy discussion was carried regarding garbage pick up and maintenance.

The meeting was opened to the public; for questions of Mr. Robertelli no one appeared to be heard.

Mr. Traynor stated that they were applying for a D-5 variance which is for a higher density than what is permitted. Six units are not permitted for this zone we are not making exterior changes, all work is being completed inside the building. What we are proposing is to eliminate the tavern and convert it to residential units. A lengthy discussion was carried in regard to the D-1, D-2 and D-5 variances. Mr. Traynor stated that the applicant is willing to sprinkler the rear building only.

Mr. Humbert stated that the planning issues that he sees relates to the suitability of the site. The Board needs to be convinced despite the variance relief the Board feels the site will work. With a D-2 variance as Mr. Traynor indicated, the Board can take into consideration the esthetic improvements to the site the elimination of commercial use or mixed use building. With respect to the other two variances, the question would be is the site going to work well or sufficiently well enough for the Board to grant this relief.

**Recess taken at 8:37pm  
Meeting reconvened at 8:50pm.**

Applicant's attorney requested the application be carried to the June 25, 2007 Board meeting without further notice. Extension of time is granted to the Board until July 31, 2007.

BA-01-07

Dean & Annamarie Janeway

Block 1805, Lot 16, 4 Homewood Drive, RA-25 zone. Section A.

Applicant is appealing the determination and / or decision of the Zoning Officer made on December 13, 2006 for the recreational equipment. Applicant feels that this type of playground equipment should not be categorized as a recreational facility and should not be required to meet the setbacks as required for the principal structure as stipulated in the section 95-36(B) of the Zoning Ordinance.

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

Mr. David Brady, attorney for the applicant entered his appearance and presented the application to the Board.

The following professional appeared to be heard.

Tirrell Loftin, Township Zoning Officer

The following exhibits were submitted as evidence.

- A-1 Swing set with a slide (picture taken Aug. 2005)
- A-2 Play equipment at the time of purchase (picture taken Aug. 2005)
- A-3 Existing Swing Set
- A-4 Existing Trampoline
- A-5 Existing Play House
- A-6 Tree planting along the property line

- A-7 Play house at new location
- A-8 Closer picture of tree planting along the side property line adjoining lot 15
- A-9 Trampoline with additional pine trees
- A-10 tape pictures
- A-11 Front house looking towards the back
- A-12 Picture from the front looking toward the back
- A-13 Survey of the Property
- B-1 Pine trees
- B-2 Additional Landscaping
- B-3 Play house relocated
- B-4 Play ground equipment
- B-5 Landscaping that was placed
- B-6 Playground equipment and play house
- B-7 Additional Landscaping
- B-8 Playground equipment and trampoline
- B-9 Trampoline with landscaping
- B-10 Memo from the zoning officer

**Summary of Testimony** – Dean Janeway, Homeowner

Mr. Janeway stated that he lives at this site with his wife and three children. Mr. Janeway proceeded to review A-13 which is the survey of the property in question. Mr. Janeway stated that when he purchased the property there was a swing set in placed along the property line. We have now replaced the swing set in the same location of the previous swing set. But we have found out that we are not in compliance with the play house. We have now moved the play house 6 and half feet towards the back of the property. We have also spent approximately ten thousand dollars in landscaping to block the view. Mr. Janeway stated that he was unable to move the equipment closer due to the nature of the steep slope within the property. Mr. Janeway stated he was willing to add additional landscaping to buffer the equipment from the neighbors.

**Summary of Testimony** – Tirrell Loftin, Township Zoning Officer

Ms. Loftin stated that she is being involved as a result of a complaint was filed by the neighbors. They were complaining that the equipment was a source of a nuance element as far as noise generated from the playground equipment and they wanted to know if something could be done about it. As you are aware over the years playground equipment has become very elaborate and large and very substantial and it's common for me to get complaints from adjoining properties about the location of the equipment and the noise they generate. As a result of that I try to accommodate all the neighbors and I felt that the playground equipment has become a recreational facility or accessory uses. I do a notice of violation and at no time I request to remove the equipment but to relocate it to conform to the setback of the principal structure. Ms. Loftin proceeded to review the pictures taken on February 2007 and submitted to the Board. Whenever an applicant comes in with an application and they happen to have playground equipment I ask them to relocate it or if not to seek variance relief to keep the equipment at its current location which the Board has entertained over the years. To alleviate the confusion with what is defined as a recreational facility when we amended the accessory uses ordinance I did ask the Board to add playground equipment as a recreational facility. I also have a series of pictures that were taken on May 21, 2007 of the site as it currently exists a couple of weeks ago the applicant placed substantial landscaping and they also did some relocation of the equipment, the equipment still violates the setbacks the impact is less on the neighbors but it still violates the zoning ordinance. Ms. Loftin then reviewed B-1 through B-9 a series of photographs regarding the landscaping that was planted. Ms. Loftin was then questioned by the applicant's attorney regarding the playhouse and ordinance 95-36. Ms. Loftin also stated that a violation notice was also issue to the neighbor for their swing set and the neighbor decide to remove the swing set completely.

Accessory structure ordinance 95-36 was read into the record by Mr. Rich Oller, Board Attorney.

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

Carole Felsenstein	8 Manor Drive
Chris Barrett	1 Manor Drive

Mr. Brady argued that this equipment shouldn't be considered a structure because it is removable equipment.

A motion by the Board was made weather or not the equipment is considered as an accessory structure as per 95-36 was made as follows:

Mr. Williams moved, seconded by Mr. Luby that playground equipment be considered accessory structure.

Roll Call: (Voting Members)

Mr. Luby	YES
Ms. Larkin	YES
Mr. Woodford	NO
Mr. Williams	YES
Mr. Morales	YES
Mr. Vitale	YES

Ms. Larkin moved second by Mr. Williams that the swing set be considered an accessory structure.

Roll Call: (Voting Members)

Mr. Luby	YES
Ms. Larkin	YES
Mr. Woodford	NO
Mr. Williams	YES
Mr. Morales	YES
Mr. Vitale	YES

Mr. Williams moved, seconded by Mr. Luby that the play house be considered an accessory structure.

Roll Call: (Voting Members)

Mr. Luby	YES
Ms. Larkin	YES
Mr. Woodford	NO
Mr. Williams	YES
Mr. Morales	YES
Mr. Vitale	YES

Ms. Larkin moved, seconded by Mr. Williams that the trampoline not be considered an accessory structure.

Roll Call: (Voting Members)

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

A motion to entertain the playhouse as being a shed and subject to the old ordinance was made by Ms. Larkin and seconded by Mr. Williams.

Roll Call: (Voting Members)

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

Mr. Brady attorney for the applicant amended the application requesting bulk variance relief due to the fact that the applicant is unable to place the equipment within the building envelope and that the applicant is willing to add additional landscaping to buffer the equipment from the neighbors.

Mr. Vitale, chairman of the Board suggested to the applicant to see if they can move the equipment closer to the house prior to adding additional landscaping. If this is not possible then the applicant is to submit a landscaping plan for the Board to review.

The attorney for the applicant requests that the application be carried to July 23, 2007 Board meeting without further notice. The applicant grants the Board an extension of time until July 31, 2007.

**Mr. Paul Woodford recused himself from the following application.**

BA-08-07

Thomas & Maria Vasold

Block 4301, Lot 6, 16 Old Mendham Road, RA-130 zone. Section C.

Applicant proposes construction of a first floor 16.8 x 17.8 foot bedroom, bath and closet addition creating a side yard setback of 28 feet and a combined side yard setback of 81.6 feet where as a combined side yard set back of 100 feet is required.

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

Mr. Thomas Vasold, Homeowner entered his appearance, being 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. David Denson, Licensed Architect

The following exhibits were submitted as evidence.

A-1 Colored rendering of Site Plan

**Summary of Testimony** – Mr. Thomas Vasold, Homeowner

Mr. Vasold stated that they had received a recent approval from the Board for an addition. My mother is an 88 year old women and my older sister who has cerebral palsy lives with her as we thought about it we thought a wise thing to do is to have this room on the first floor for them. As we look at it we thought it was within the setbacks and we added it to the plans and submitted it for the appropriate permits and found out that the additional room needed Board approval. The application is to get a variance for the additional room.

**Summary of Testimony** – Mr. David Denson, Licensed Architect

Mr. Denson stated that this is a one story room addition. We explored other portions of the property to place this room within the building envelope the applicants request was to keep the room somewhat isolated to give each member some privacy as well as convenience from the garage into the hall way directly adjacent to the bedroom. We are intending to construct the original approved variance addition just the way it was originally designed. This addition will add an esthetic improvement to the rear elevations. This is a significant improvement while it has little impact to the adjacent property owners. All materials will be matching the previously approved house.

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

Mr. Luby moved, seconded by Mr. Williams that approval be granted to the application of Thomas and Maria Vasold thereby permitting on Block 4301, Lot 16 the construction of a 16.8 x 17.8 addition creating a combined side yard setback of 81.6 feet 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 25, 2007 meeting.

**Roll Call: (Voting Members)**

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

**Other Matters**

Master Plan Discussion – Mr. Slate stated that copies of the Master Plan in a CD format were distributed the Board. We are in the process of updating the Township Master Plan which is due by October of this year. We would like for the Board to block some time during the month of July to discuss this matter. The Planning Board would like to get some input from all the Boards and Committees as soon as possible. One of the items that was discussed was the Board of Adjustment annual reports for the past six years. As I went through the reports some of the items to be considered for the Master Plan are changes to ordinances, house size and wireless ordinance for cell towers. We would like for the Board members to look at the language in the master plan and send Sonia or myself an email that we can discuss at the next meeting. A lengthy discussion was carried in regard to the Master Plan. Copy of the Zoning Map is to be distributed to the Board for review.

Brownstones – Mr. Slate, Township Engineer informed the Board that there are three different groupings of buildings and they came back with an application to separate some structures and revised architectural plans the group of three building were identical. We asked them if it was possible to mix them up. I would like for the Board to look at them and see that there is enough changes before we ask them to submit the plans for signature. There are some changes to garage doors, roof lines, windows changes there is some similarity to what was approved.

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 11:07 P.M.

Respectfully submitted,

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