

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
SEPTEMBER 24, 2007**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, September 24, 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 September 18, 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. Timothy Kronk
Mr. Thomas Luby
Mr. James C. Allison
Ms. Norma Larkin
Mr. Rich Haan
Mr. Nelson Morales
Mr. Donell Williams, Alternate #1
Mr. Paul Woodford, Alternate #2

Also Present

Mr. Rich Oller, Board Attorney
Mr. James R. 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 August 27, 2007 meeting were approved as circulated and placed on file in the office of the Board of Adjustment.

Resolutions

BA-15-07

Patrick Dowd

Block 8302, Lot 6, 18 Catalpa Road, RA-15 zone. Section C.

Applicant proposes the construction of a 1,466 sq. ft. enclosed in-ground pool addition creating a rear yard setback of 11 feet where 25 feet is required and it will also create a building coverage of 22.35% where 20% is required.

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 August 27, 2007 meeting.

Roll Call: (Voting Members)

Mr. Luby	YES
Mr. Williams	YES
Mr. Morales	YES
Mr. Vitale	YES

BA-13-07

Anne & Robert Essner

Block 7602, Lot 4, 2 Van Beuren Road, RA-35 zone. Section C.

Applicant proposes to convert an existing shed into a 15.6 x 9.9 x 10.3 high pool house.

Ms. Larkin 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 August 27, 2007 meeting.

Roll Call: (Voting Members)

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

Regular Meeting

BA-14-07

Kristen & Matthew Byrne

Block 8403, Lot 7, 50 Old Turnpike Road, RA-15 zone. Section C.

Applicant proposes the construction of a 25' x 3'4" covered front porch with 7'3" x 2'6" uncovered stairs creating a front yard setback for the porch of 47.08 feet where 50 feet is required and the uncovered stairs creates a front yard setback of 44.58 feet where a front yard setback of 48 feet is permitted for uncovered stairs.

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

Mr. Matthew Byrne & Ms. Kristen Byrne entered their appearance, being duly sworn in by the Board Attorney.

No exhibits were submitted as evidence during testimony.

Summary of Testimony – Ms. Kristen Byrne, Homeowner

Ms. Byrne stated that the proposed construction of a 25' x 3'4" covered front porch with uncovered stairs was to cover the front entrance from inclement weather and safety conditions. This will be a more aesthetic improvement to the house and the neighborhood and it will have no detriment to the public good.

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

Mr. Allison moved, seconded by Ms. Larkin that approval be granted with conditions to the application of Kristen & Matthew Byrne thereby permitting on Block 8403, Lot 7 the construction of a front covered porch 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 October 22, 2007 meeting.

Roll Call: (Voting Members)

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

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 public hearing, 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.

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

Mr. Dennis McConnell, attorney for the applicant entered his appearance and presented the application to the Board Members.

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

William Farley, Developer

Chris Wiss, Real Estate Representative for the Northern NJ CBS

Richard Schommer, Professional Engineer

The following exhibits were submitted as evidence.

A-1 Copy of building permit dated February 1956

A-2 Site Plan

A-3 CBS sign plan

Summary of Testimony – William Farley, Developer

Mr. Farley stated that he had purchased the property back in 2004 and applied for a building permit in 2005 to build a modular home. After the houses were built I became aware of the two uses on the property. I contacted CBS signs and I found out that the billboard on lot 50 was not allowed on the property and since they had no documentation they immediately removed the billboard. The billboard on lot 51 has an easement and this is recorded on the property deed and gave the sign company the rights to maintain the billboard. I then contacted CBS sign representative and talked about making the sign smaller and moving it to the left of the property. The sign will not be seen from the houses across the street and will be less intrusive to the neighborhood. CBS has agreed to relocate the sign at their expense in regard to the cost of construction and it is my obligation under a verbal agreement that I would pay for the application process to get the permission to get the sign relocated. Since then I have sold property 50 but because of the sign in lot 51 I have not be able to sell the property. I have approached CBS to purchase the easement rights and they have refused to sell their rights in regard to the billboard. I am unable to sell the house until I get a certificate of occupancy from the town. A lengthy discussion was carried regarding the billboard on lot 51 between the Board members and the applicant.

Summary of Testimony - Ms. Tirrell Loftin, Township Zoning Officer

Ms. Loftin stated that a building permit was issue on or about May 2005 and that she was involved with the site plan approval. On the site plan the billboards were indicated on the plans. As a result of my misinterpretation of the ordinance I felt that the existing billboard was not proposed to be moved or touched in any manner and the use that they were proposing was totaling in conformance with the zoning ordinance and based on that I thought I had the administrative authority to grant the site plan approval for the building permit. It was after the permit was issued that I then realized that it was an error. When I spoke to Mr. Farley several months afterwards he agreed that the billboards didn't look good and it didn't work out as he had planned and he was working on having both signs removed. I understand that one of the signs shouldn't have been there and it was removed immediately but he was unable to get out of the sign agreement for this particular property and for this reason that's why we are here and I cannot sign off for a certificate of occupancy until Mr. Farley came in front of the Board and the Board grants a variance to maintain the billboard.

Summary of Testimony – Mr. Chris Wiss, Real Estate Representative for CBS sign Company

Mr. Wiss stated that he had spoken to Mr. Farley and that after doing some research they had realized that they had no permit for the billboard located on lot 50 and they immediately removed the billboard on or about June 2006 but they did have a permit for the billboard on lot

51 dated February 1956 (A-1). We continued our conversation with Mr. Farley and he asked if we could remove the sign from lot 51 and I stated we couldn't do that. That I would work with him in another way such as updating the structure and moving it to another location on the site. Mr. Wiss reviewed exhibit A-2 site plan with the Board. We have agreed to relocate the billboard on the Westerly portion of the property and reduce the size of the structure from 267 sq. ft. to 236 sq. ft. Mr. Wiss also stated that at one time the company owned the property and sold it but obtained an easement to maintain the billboard on the property. We are willing to reduce our easement area to only the area containing the sign; we will also maintain the sign area in good condition.

Summary of Testimony – Richard Schommer, Professional Engineer

Mr. Schommer stated that the maximum height on the billboard will be approximately 17.3 feet. The relocation of the sign is to the west. This property was owned by the sign company and it was sold with an easement to keep the sign. This property is in the RA-25 zone, further to the west continues RA-25 and across the street is RA-11 zone. This property is in the RA-25 and is larger than what the zone requires. The intention is to use the property for residential use. In trying to minimize the impact on the sign CBS has agreed to relocate the sign 85 feet to the west across from the park. Mr. Farley does not benefit from the sign. The sign is 236 sq. ft. the setback will be 5 feet from the right of way. By changing and relocating the sign it will look much better. This is not a hardship that the applicant has created. The applicant is unable to get rid of the sign and for this reason he is asking the Board to allow what the property is not intend for. A lengthy discussion was carried regarding the negative and positive impact on the application and landscaping surrounding the billboard.

Recess taken at 9:08 pm
Meeting reconvened at 9:23 pm

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

Scott Rosenbush	5 Bettin Drive
Jeff Turner	51 Mendham Avenue
Joseph Attamante	52 Fairmont Avenue
Jeff Grayzel	1 Indian Head Road

The Board has requested the applicant update the plans to show the proper sign dimensions. A landscape plan to show the number of trees to be removed and any disturbance. Tirrell is to look into other areas within the town were the sign can be relocated. The application is carried to November 26, 2007 Board meeting without further notice.

BA-15-05

Omnipoint Communications

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

Applicant seeks 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 property of the Collinsville Fire House.

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

Mr. Robert Garafalo, 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.

Archie Dickson, Radio Frequency Expert
Dave Collins, Radio Frequency Exposure Compliance Expert
Peter Tardy, Professional Engineer (Sworn Only)
Chris Nevill, Professional Planner (Sworn Only)

The following exhibits were submitted as evidence.

A-1 Existing Coverage Map with overlay

Summary of Testimony – Archie Dickson, Radio Frequency Expert

Mr. Dickson stated that his job is to assess network requirements, find ways of expanding our network coverage. When there is a gap identified in the network I have to find a location for our cell site to fill that coverage gap, and that involves working with property acquisition, people and zoning specialists.

Mr. Dickson reviewed exhibit A-1 existing coverage map with overlay. Route 24 is a heavy traffic route we have a particular need of coverage. We have identified the Firehouse on Whippany Road which is in the OS-GU zone and we would like to place a site there which will give us a new area of coverage, and hopefully fill in as much as possible of the gap in the area with a new site. Mr. Dickson stated that Omnipoint is licensed to use a 1900 megahertz frequency which the coverage from each cell site is limited to a one mile, mile and half radius. After that distance the signal starts to fade away and becomes unreliable. The proposed 120 foot monopole is to cover the gap in the area and we will also have sufficient signal propagation. If we reduce the height of the pole we will get less and less coverage from a site. A lengthy discussion was carried regarding the coverage of the antenna on this site. The design of the pole is a stealth pole antenna which means that it's a pole that has the antennas completely concealed inside it and the appearance of a structure will be completely circular. There will not be visible antennas of any kind on that pole. We have designed the pole to accommodate five levels of antennas, but we need to use two of those levels, and we would like to use the two top levels. That means that there will be three levels of antennas below us, which should serve other operators. Mr. Dickson also stated that this is an unmanned station, it is remotely monitored by a network operation center that monitors sites 24-hours-a-day, seven-days-a-week. I will allow someone else to elaborate on it, but we do have a service schedule where every four to six weeks there is a visit done by an engineer to monitor the site.

Summary of Testimony – Dave Collins, Radio Frequency Exposure Expert

Mr. Collins stated that the Federal government sets standards for maximum permissible exposure levels for radio frequency energy around the antenna sites at ground level. Omnipoint has provided us with the operating parameters for the proposed site. Everything that has electricity running in it will, by nature, law of physics, emit radio waves. We have been asked as a firm what does this do when it enters peoples' homes. They're concerned about radio energy levels. They might feel themselves exposed more than they need to be. We have measured these homes, and in variably the highest level is where there's the highest preponderance of electrical things in the house, which is always the kitchen. Kitchens run three to seven percent of the limit. And even at its maximum of seven percent you're still 14 times below the limit. There's nothing to worry about.

But considering that's what we deal with on an every-day basis with no effect on our health, imagine with 0.0662 percent, it's completely de minimus. We have taken the operating parameters and input their parameters into the variables of the mathematical formula. In doing so you choose the value for each parameter that would affect the solution, in the worst-case way, so that the final number would be the maximum possible level that this site could produce. And in doing so we have determined that this site would, at its maximum, produce based on 100 percent being the maximum allowed, and then expressing anything less than that is being compliant in terms of a percentage, the final number was 0.0662 percent, less than seven hundredths of one percent of the limit that's equivalent to 1,500 times below the level that the FCC allows.

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

Due to the late hour the application for Omnipoint Communications, Inc. is carried to the November 26, 2007 Board meeting without further notice. The applicant has agreed to grant the Board an extension of time until December 31, 2007.

Other Matters

Ms. Loftin informed the Board that the Sister of Charity would like to place a 32 sq. ft. sign on the railroad side of their property; the sign will not meet the front yard setback. The Board informed Ms. Loftin that the Sisters of Charity need to come in front of the Board for variance relief.

The Board was also informed that the Sisters of Carmelites had submitted a plan to replace the existing 5 foot fence to a 6 foot solid fence. The Board also request that the Sisters of Carmelites to come in front of the Board for variance relief.

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 11:01 P.M.

Respectfully submitted,

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