

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
AUGUST 25, 2008**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, August 25, 2008, 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 August 19, 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. Lawrence C. Vitale, Chairman

Roll call of Board Members and Professionals

Members Present

Mr. Lawrence C. Vitale
Mr. Thomas Luby
Ms. Norma Larkin
Mr. Rick Haan
Mr. Nelson Morales
Mr. Donnell Williams, Alternate #1
Mr. Paul Woodford, Alternate #2

Members Absent

Mr. Timothy Kronk
Mr. James C. Allison

Also Present

Mr. Rich Oller, Board Attorney
Mr. James R. Slate, Township Engineer
Mr. Adrian Humbert, Township Planner
Mr. Gordon Meth, Township Traffic Consultant
Ms. Sonia Santiago, Board Secretary

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

Resolutions

BA-04-08

Matthew & Laura Davis

Block 2103, Lot 10, 27 Stonehedge Road, RA-35 zone. Section C.

Applicant proposes to construct an 8 ft. x 5 ft. front entrance portico creating a front yard setback of 55.9 feet where a minimum front yard setback of 60 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 July 28, 2008 meeting.

Roll Call: (Voting Members)

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

BA-06-08

David & Kathleen Weeks

Block 5303, Lot 15, 98 Skyline Drive, RA-15 zone. Section C.

Applicant proposes to construct a 10 ft. x 6 ft. front entrance portico creating a front yard setback of 46.88 feet where a minimum front yard setback of 50 feet is required.

Mr. Williams moved, seconded by Mr. Luby, 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 July 28, 2008 meeting.

Roll Call: (Voting Members)

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

BA-05-08

Craig & Connie Hagelin

Block 2304, Lot 16, 38 North Star Drive, RA-35 zone. Section C.

Applicant proposes pool patio expansion for the construction of a 23 ft. x 3 ft. outdoor kitchen creating a rear yard setback of 22.20 feet where 50 feet is required. Also to maintain an existing 300 sq. ft. cabana creating a rear yard setback of 28.6 feet where 50 feet is required and to maintain an existing 120 sq. ft. shed creating a side yard setback of 19.2 feet where a minimum of 30 feet is required and creating combined side yard setback of 33.2 feet where 75 feet is required. Application amended to increase rear yard setback to 25 feet.

The application was bifurcated for approval as follows:

Construction of the outdoor kitchen and to maintain the 300 sq. ft. cabana with the conditions stipulated.

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 July 28, 2008 meeting.

Roll Call: (Voting Members)

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

To maintain the location of the shed as proposed.

Mr. Williams moved, seconded by Ms. Larkin, 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 July 28, 2008 meeting.

Roll Call: (Voting Members)

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

**Certified Shorthand Reported (CSR) was present for the following application
See attached transcript.**

Regular Meeting

BA-06-06

Madison Gas Mart

Block 8301, Lot 5, 219 Madison Avenue, B-11 zone. Section C & D.

Continuation of the May 21, 2007, June 25, 2007, August 27, 2007, October 22, 2007, January 28, 2008, March 24, 2008, April 28, 2008 and June 23, 2008 public hearings, applicant proposes to convert three existing mechanical bays into a convenience store which includes a Dunkin Donut franchise.

Mr. Douglas Henshaw, Esq. entered his appearance, and presented the application to the Board.

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

Michael Tobia, Professional Planner
Gordon Meth, Traffic Expert

The following exhibits were submitted as evidence.

A-14 Colored Site Plan revised 7-14-08
O-1 Photograph of gas delivery (pump station)

Summary of Testimony – Michael Tobia, Professional Planner

Mr. Tobia stated that they had revised the plan as per the Board concerns and that they were now proposing on the easterly side of the property a 24 foot two way aisle. Parking spaces are now being reduced to 12 parking spaces and we still are meeting the parking requirements for this location. The back of the parking lot will be a two way aisle with a 24 foot aisle as well. We are proposing a 15 foot wide driveway one way in-bound only on Madison Court with a “do not enter” sign posted at that driveway so folks would not leave via Madison Court. On the south east corner some trees have died, we will be adding additional planting on this area. We have also added a 6 foot high fence with buffering along the Madison Court driveway to block the view of the parking lot from near by homes. Trash/recycle bins will be placed at the pump island. At the last hearing it was stated that the handicap parking was too

wide we have now reduced it from 24 foot wide to 16 foot wide. Mr. Tobia further testified that with the new revisions this will bring down the coverage percentage below the 75 percent requirement.

Mr. Henshaw read into the record a memo from Lieutenant Thomas Manning to Chief Tim Quinn dated August 21, 2008 regarding traffic impact assessment for Madison Gas Mart.

Mr. Slate asked the applicant if they were willing to extend the side walk to the east side of the building. Applicant's attorney agreed to place the side walk along the east side of the building and still be below the impervious coverage.

The meeting was opened to the public for questions to Mr. Tobia and Mr. Meth; the following persons appeared to be heard.

Lee Goldberg	10 Arrowhead Road
Stephen Brunskill	518 Pitney Place
Keith Merl	3 Old Glen Road
Roberta Desimone	5 Beechwood Road
Dr. Leticia Gonzalez	5 Barberry Road
Brian McDonald	11 Easley Terrace
Maureen Rhatigan	504 Pitney Place
Barbara Shively	5 Old Glen Road
John Picone	1 Madison Court
Eileen Witkowski	11 Crescent Drive

Meeting Recess at 9:05 pm
Meeting Reconvened at 9:18 pm

Mr. Henshaw stated that he would like to have Mr. Tobia detail the variances that remain on the plan and talk about the planning justification. Then he and Mr. Tobia will both have the opportunity to sum up after the Board and the public have asked any questions they may have.

Summary of Testimony – Michael Tobia, Professional Planner

Mr. Tobia stated that with all the changes they have made to the plan, none of them have created any more variances. The variances being requested are; service station property must be 25 feet from a residential zone, in this case is 23 feet from the residential zone which happens to be the center line of Madison Court. Pump setbacks must be 30 feet and the nearest pump from Madison Avenue is 19 feet. Driveways must be setback 50 feet from intersections, and the proposed condition right at the intersection of Madison Court and Madison Avenue for the two driveways is eleven feet. All these are conditional use standards, because service stations are only permitted in this zone as conditional use. The applicant has also proposed a "Dunkin Donuts" sign panel that will be added to the existing free standing sign. The proposed sign will add 25 square feet in size to the existing sign where 30 feet is permitted and the overall sign as proposed would be 80 square feet for the Exxon Station. The only new variance is the additional 25 square feet to the current sign all other are pre existing conditions. Mr. Tobia further testified that this is a very simple application. The zone were it is located is known as the B-11 zone, and it permits stores. The idea of a convenience store at this location is permitted by zoning. It replaces a service station use, and the convenience store takes this site into a more conforming condition than the service station. The combination of convenience store and service station is widely accepted in the planning community. The applicant has stipulated to a number of conditions such as hours of operations, sign lighting, limits of delivery to the site to off peak hours, no signs on awnings, no baking on site, employees to park in the back, sidewalk to be placed all the way around the front of the building, electric sliding doors, no sit down service, trash receptacles, landscaping, board on board fence and a sign to be mounted on the existing pylon sign. There has been a reduction in the wall mounting sign on the building which is 21 square feet. The negative impact to this facility is the repair facility

because they come with tow trucks, long term storage of vehicles and others. It creates far more noise than the permitted retail use. The convenience store that is proposed which is permitted in the B-11 zone is better for this neighborhood than a service station. A discussion was carried among the board members and the professionals regarding the traffic circulation on site.

The applicant amended the application to reflect the proposed 6 foot board on board fence and the overall sign chart to reflect 108 square feet instead of 105 square feet.

The meeting was opened to the public for questions and comments; the following persons appeared to be heard.

Lee Goldberg	10 Arrowhead Road
Richard Smith	33 Crescent Drive
Keith Merl	3 Old Glen Road
Eileen Witkowski	11 Crescent Drive
Roberta Desimone	5 Beechwood Drive
Stephen Brunskill	518 Pitney Place
Brian McDonald	11 Easley Terrace
Barbara Shively	5 Old Glen Road
Gail Reuben	9 Barberry Road
Peter Desimone	5 Beechwood Drive

Mr. Henshaw stated that he will issue the Board a memo to address certain questions and concerns that the Board has and that he would like to explore the possibility of a traffic officer and other case law in New Jersey. My reference is to make sure you have up to date law and citations you need to make the right decisions of the case in front of you.

The Board has request that the applicant revise the buffer near the restroom and to explore the possibility of having a meeting with the neighbors to compromise on the proposal.

The application is carried to the October 27, 2008 meeting without further notice. Applicant's attorney granted the Board an extension of time until November 30, 2008.

Other Matters

None to be heard.

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 10:45 P.M.

Respectfully submitted,

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