

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
OCTOBER 27, 2008**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, October 27, 2008, at 7:30 P.M. in the Municipal Building, 50 Woodland Avenue, Township of Morris.

Statement of Adequate Notice

Vice Chairman Kronk 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 October 20, 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. Timothy Kronk, Vice Chairman

Roll call of Board Members and Professionals

Members Present

Mr. Timothy Kronk, Vice Chairman
Mr. Thomas Luby
Mr. Rick Haan
Mr. Donnell Williams, Alternate #1
Mr. Paul Woodford, Alternate #2

Members Absent

Mr. Nelson Morales
Mr. Lawrence C. Vitale, Chairman
Ms. Norma Larkin
Mr. James C. Allison

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 September 22, 2008 meeting were approved as circulated and placed on file in the office of the Board of Adjustment.

Resolutions

BA-07-08

Thomas & Maria Vasold

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

Applicant proposes the reconstruction of a single family dwelling creating a side yard setback of 24.65 feet where 50 feet is required and construction of a 20 ft. x 40 ft. in-ground swimming pool and patio creating a rear yard setback of 67.5 feet where a minimum rear yard setback of 100 feet is required. This in-ground swimming pool and patio will also create a building coverage of 14.7% where a maximum building coverage of 10% is permitted. The application was amended to provide a maximum building coverage of 13.9 % and a rear yard setback of 87.3 feet to the pool and 77.3 feet to the pool decking.

Mr. Williams moved, seconded by Mr. Kronk, 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 September 22, 2008 meeting.

Roll Call: (Voting Members)

Mr. Kronk	YES
Mr. Williams	YES

BA-09-08

Grant & Helen Parr

Block 4202, Lot 3, 75 Picatinny Road, RA-130 zone. Section C.

Applicant proposes to construct a 24 ft. x 28 ft. x 23.5 high pole barn within the front yard setback of Old Mendham Road where accessory structures are not permitted within the front yard setback. Applicant also seeks relief for accessory structure height, 23.5 feet is proposed where 15 feet is permitted.

Mr. Williams 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 September 22, 2008 meeting.

Roll Call: (Voting Members)

Mr. Kronk	YES
Mr. Williams	YES
Mr. Woodford	YES

BA-12-08

John & Bianca Kolvacik

Block 9802, Lot 27, 26 Terry Drive. RA-25 zone. Section C.

Applicant proposes to construct a 24 ft. x 30 ft. two car garage addition creating a side yard setback of 8.8 feet where 25 feet is required and a combined side yard setback of 34.8 feet

where 60 feet is required. The proposed addition will also create a building coverage of 15.2% where 15% is permitted.

Mr. Williams 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 September 22, 2008 meeting.

Roll Call: (Voting Members)

Mr. Kronk	YES
Mr. Williams	YES
Mr. Woodford	YES

BA-13-08

W. Michael & Molly Servais

Block 8410, Lot 9, 17 Crescent Drive, RA-15 zone. Section C.

Applicant proposes to demolish existing one story garage and construction of a two story addition creating a front yard setback of 47.2 feet where a minimum of 50 feet is required. Construction of a front porch addition creating a front yard setback of 43.4 feet where 50 feet is required and to maintain the playground equipment creating a side yard setback of 4 feet and a combined side yard setback of 20.8 feet where a side yard setback of 20 feet and a combined side yard setback of 50 feet is required. Also this playground equipment will create a 15 feet rear yard setback where a minimum rear yard setback of 25 feet is required.

Mr. Williams 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 September 22, 2008 meeting.

Roll Call (Voting Members):

Mr. Woodford	YES
Mr. Kronk	YES
Mr. Williams	YES

BA-03-03

Verizon Wireless at St. Mary's

Block 4501, Lot 1, 230 Mendham Avenue, OSGU zone.

Applicant is requesting extension of approval.

Mr. Williams 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 September 22, 2008 meeting.

Roll Call: (Voting Members)

Mr. Kronk	YES
Mr. Williams	YES
Mr. Woodford	YES

BA-05-06

Sprint Spectrum, LP

Block 8608, Lot 15, 11 Old Turnpike Road, OL-40 zone.

Applicant is requesting extension of approval.

Mr. Williams 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 September 22, 2008 meeting.

Roll Call: (Voting Members)

Mr. Kronk	YES
Mr. Williams	YES
Mr. Woodford	YES

Regular Meeting

Mr. Luby recused himself from the following application

BA-15-08

Linda Marcantonio

Block 206, Lot 5, 3 Willow Spring Drive, RA-15, zone. Section C.

Applicant seeks a variance relief to allow the pool equipment to remain at its current location creating a side yard setback of 13.5 feet where 20 feet is required.

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

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

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

Linda Marcantonio, Homeowner

The following exhibits were submitted as evidence.

A-1 Two pages consisting of five photographs

Summary of Testimony – Linda Marcantonio, Homeowner

Ms. Marcantonio stated that she and her husband have been the owners of the property since 1990. She further testified that she and her husband constructed an in-ground swimming pool in 2004. She received a permit to construct the in-ground swimming pool with plans that indicated the pool equipment would be located in the rear yard, directly behind the house. The contractor informed Ms. Marcantonio that he would obtain any necessary permits to relocate the pool equipment to the side yard, however no such permit was ever obtained. It wasn't until the zoning officer informed her that she needed to obtain a variance if she wanted to maintain the pool equipment at the existing location. Ms. Marcantonio stated that due to other matters she was unable to apply for the variance until now. Applicant has agreed to provide additional landscaping to buffer the equipment from the adjacent neighbor.

Summary of Testimony – Tirrell Loftin, Zoning Official

Ms. Loftin testified that she has not received any complaints from the neighbors with respect to any noise emanating from the swimming pool equipment.

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

Mr. Bergman stated that the applicant's mother/neighbor has no objection to the location of the swimming pool equipment; that the mother's home is approximately 30 feet from the property line, and that the equipment is approximately 13 feet from the property line, with a driveway located in between. Mr. Bergman further testified that by allowing the pool equipment to remain in the side yard will not create any substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

The Board requested that the applicant install a fence and landscaping to the satisfaction of the Township Engineer and provide a report from an acoustical engineer that any noise emanating from the pool equipment is in accordance with the requirements set forth in the Morris Township Zoning Ordinance.

Mr. Woodford moved, seconded by Mr. Williams that approval be granted to the application of Linda Marcatonio thereby permitting on Block 206, Lot 5 for the pool equipment to remain at its current location 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 November 24, 2008 meeting.

Roll Call: (Voting Members)

Mr. Woodford	YES
Mr. Haan	NO
Mr. Williams	YES
Mr. Kronk	YES

Mr. Luby is seated for the following applications

BA-16-08

Conor & Kathleen Tully

Block 8104, Lot 32, 11 Cambridge Road, RA-15, zone. Section C.

Applicant proposes to construct an 8 foot x 6.5 foot front entrance portico with a 1.25 foot x 8 foot uncovered front stairs creating a front yard setback of 46 feet where 50 feet is required.

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

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

No exhibits were submitted as evidence.

Summary of Testimony – Conor Tully, Homeowner

Mr. Tully stated that he and his wife are the owner of the property. The property is an irregular shaped lot at the end of the cul-de-sac. The home is constructed on the front setback line and their desire is to construct a front entrance portico in order to shield the family and visitors from inclement weather, to provide for additional safety, and to increase the aesthetics of the property. This improvement is consistent with the neighborhood and it will not have any substantial detriment to the public good or impair the zone plan and zoning ordinance of the Township.

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

Mr. Haan moved, seconded by Mr. Luby that approval be granted to the application of Conor & Kathleen Tully thereby permitting on Block 8104, Lot 32 the construction of a front entrance 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 November 24, 2008 meeting.

Roll Call: (Voting Members)

Mr. Luby	YES
Mr. Woodford	YES
Mr. Haan	YES
Mr. Williams	YES
Mr. Kronk	YES

BA-17-08

James & Elizabeth Brown

Block 6402, Lot 1, 56 Spring Brook Road, RA-15 zone. Section C.

Applicant proposes to enclose existing open space under a 14 ft. x 16 ft. porch which was previously approved by the Board of Adjustment.

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

Mr. James Brown entered his appearance, being duly sworn in by the Board Attorney and presented the application to the Board.

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

Jim Murtagh, Contractor

No exhibits were submitted as evidence.

Summary of Testimony – Jim Murtagh, Contractor

Mr. Murtagh stated that on May 24, 1993 the Board had granted approval to the applicant to construct three additions to their existing single family dwelling. One addition consisted of a 14' x 16' porch area to be located within the required front yard setback creating a front yard setback of 46 feet where a minimum front yard setback of 50 feet is required. The applicant now proposes to enclose the area beneath the porch to create a finished basement for personal

storage. The applicant's property has severe slopes resulting in two ground floor areas and resulting in limited area within which the applicant could create such a proposed addition. The enclosed addition materials will be matched with the existing dwelling.

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 James & Elizabeth Brown thereby permitting on Block 6402, Lot 1 the enclosure of existing open space under the 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 November 24, 2008 meeting.

Roll Call: (Voting Members)

Mr. Luby	YES
Mr. Woodford	YES
Mr. Haan	YES
Mr. Williams	YES
Mr. Kronk	YES

BA-20-08

Brian & Michelle Alexander

Block 10303, Lot 23 & 24, 18 Highland Avenue, RA-7 zone. Section C.

Applicant proposes to construct a 12 ft. x 4 ft. front entrance portico creating a front yard setback of 20.8 feet where 25 feet is required and a second story addition creating a front yard setback of 23.8 feet where 25 feet is required.

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

Mr. & Mrs. Alexander entered their appearance, being duly sworn in by the Board Attorney and presented the application to the Board.

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

Kenneth Szeles, Architect

The following exhibits were submitted as evidence.

A-1 Map Quest Aerial Photo

Summary of Testimony – Brian Alexander, Homeowner

Mr. Alexander stated that the house was originally built in the early 1930's by his grandmother and that he and his wife were the current owners. Due to the extended family size we would like to do an addition to the house which encroaches into the front yard setback.

Summary of Testimony – Kenneth Szeles, Architect

Mr. Szeles stated that the applicant would like to add a second story addition to the front of their home, which creates a front yard setback 23.8 feet where 25 feet is required. The proposed second story addition has a 2' cantilever which creates the side yard setback variance, since the house is built directly on the setback line. Mr. Szeles further testified that the applicants also

desire to construct a 12' x 4' front entrance portico creating a front yard setback of 20.8 feet where 25 feet is required. The purpose for the front entrance portico is to increase the safety of the family and visitors and to provide protection from inclement weather to the front entrance of the house.

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

Mr. Williams moved, seconded by Mr. Luby that approval be granted to the application of Brian & Michelle Alexander thereby permitting on Block 10303, Lot 23 & 24 the construction of a front portico and second story addition 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 November 24, 2008 meeting.

Roll Call: (Voting Members)

Mr. Luby	YES
Mr. Woodford	YES
Mr. Haan	YES
Mr. Williams	YES
Mr. Kronk	YES

BA-19-08

Paul Gamerdinger

Block 8409, Lot 21, 63 Canfield Avenue, RA-15 zone. Section C.

Applicant proposes to demolish and reconstruct a single family dwelling creating a combined side yard setback of 40.39 feet where 50 feet is required.

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

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

The following professional being sworn in by the Board Attorney appeared to be heard.
Laurence Appeal, Architect

The following exhibits were submitted as evidence.
A-1 Aerial Photo

Summary of Testimony – Paul Gamerdinger, Homeowner

Mr. Gamerdinger stated to have purchased the property on December 2007 and plans to build a new single family dwelling within the existing footprint of the property encroaching into the side yard setback.

Summary of Testimony – Laurence Appeal, Architect

Mr. Appeal stated that this property is a pie shaped lot and the street curves and intersects the lot lines in an irregular manner. Therefore, there is an unusual building envelope which creates a potentially long and narrow home. Such a home would be out of character with the neighborhood. Mr. Appeal further testified that the plan is to maintain a 20' setback on each

side rather than the 14' side yard setback granted with the Kubala application. Mr. Appeal further testified that the prevailing setbacks in the neighborhood are similar to what is being proposed by Mr. Gamerdinger. Furthermore the Gamerdinger proposal is for a single family home of approximately; 4,590 square feet with a two car garage creating a combined side yard setback of 40.39 feet where 50 feet is required. We are proposing drywells to be placed in the rear of the dwelling to address increases in runoff. Mr. Appeal further testified that the proposed house is in character with the neighborhood and will not have any impact to the neighborhood or the public good. A lengthy discussion was carried regarding the side yard setback among the Board members and the applicants professional.

The Board asked the applicant's architect if the house could be rotated to provide a combined side yard setback of 43 feet.

Recess taken at 9:11 pm
Meeting reconvened at 9:24 pm

Mr. Appeal stated that by rotating the house they were able to provide a combined side yard setback of 43 feet with a 23 foot set back to the northerly property line and a 20 foot set back to the southerly property line.

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

Mr. Luby moved, seconded by Mr. Woodford that approval be granted to the application of Paul Gamerdinger thereby permitting on Block 8409, Lot 21 the reconstruction of a single family dwelling as amended 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 November 24, 2008 meeting.

Roll Call: (Voting Members)

Mr. Luby	YES
Mr. Woodford	YES
Mr. Haan	YES
Mr. Williams	YES
Mr. Kronk	YES

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 9:42 P.M.

Respectfully submitted,

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