

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
DECEMBER 8, 2008**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, December 8, 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 December 2, 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. James C. Allison
Mr. Thomas J. Luby
Ms. Norma Larkin
Mr. Timothy Kronk
Mr. Rick Haan
Mr. Nelson Morales
Mr. Paul Woodford, Alternate #2

Members Absent

Mr. Donnell Williams, Alternate #1,

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 October 27, 2008 and November 24, 2008 regular meetings were approved as circulated and placed on file in the office of the Board of Adjustment.

Resolutions

BA-21-08

Gary & Merle Johnson

Block 9805, Lot 3, 73 Whippany Road, RA-25 zone. Section C.

Applicant proposes to construct a 428 square foot detached garage creating a side yard setback of 6.5 feet where a minimum side yard setback of 25 feet is required and creating a combined side yard setback of 22.6 feet where a combined side yard setback of 60 feet is required

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 June 26, 2006 meeting.

Roll Call: (Voting Members)

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

Other Matters

BA-06-06, Madison Gas Mart, Block 8301, Lot 5, 219 Madison Avenue, B-11 zone.

A new hearing date to be announced for the continuation of the public hearing on this application.

Mr. Douglas Henshaw, attorney for the applicant entered his appearance and informed the Board that the plans were not ready for the application to be heard and for that reason he was requesting a new hearing date from the Board. Mr. Humbert is to provide a report to the Board. The application is carried to January 26, 2009 Board of Adjustment meeting without further notice.

**A Certified Shorthand Reporter (CSR) was present for the following application
(see attached transcript)**

Regular Meeting

BA-14-08

Jerry Winston

Block 10300, Lot 3, 7 Monroe Street, RA-7 zone. Section C.

Applicant proposes a minor subdivision to create two lots. Existing stucco garage to remain creating a side yard setback of 3 feet and a rear yard setback of 23.7 feet where a side yard set back of 10 feet is required and a rear yard setback of 25 feet is required.

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

Mr. Carleton Kempf, attorney for the applicant entered his appearance, and presented the application to the Board members.

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

Raymond C. Liotta, Professional Planner
John Vogel, Land Surveyor
Helen Arnold, Asst. Zoning Officer for the Town of Morristown

The following exhibits were submitted as evidence.

A-1 Rendering of site plan
A-2 Aerial Photograph taken from NJDEP

Summary of Testimony – Raymond Liotta, Professional Planner

Mr. Liotta stated that this application is for a minor subdivision. Mr. Liotta, proceeded to review exhibit A-1 a site plan of the property with the Board. Mr. Liotta further testified that the applicant proposes to re draw the property line for purposes of establishing a new building lot at the rear of lot 3. Mr. Liotta proceeded to review exhibit A-1 which consists of a property site plan. He further testified that the property has two frontages one on Monroe Street and the other on Walker Street which is in Morristown. The total lot area is 34,411 square feet. The proposal is to subdivide the property into two lots. The parcel will be divided into two parcels lot 3 will consist of 12,493 square feet and the proposed lot 3.01 will consist 20, 672 square feet. The proposal is to construct a single family dwelling on the Morristown side of the municipal boundary line. All lots in the area are smaller than what we are proposing. The newly created property lot line will place the stucco garage 3 feet off the property line. The side yard setback requirements for an accessory structure are 10 feet where we are proposing 3 feet for this reason we are requesting a rear and side yard setback variance. Mr. Liotta further testified that part of Condit Street in the Town of Morristown will be vacated. The proposed lot will have a 40 foot frontage on Walker Street, the ordinance requires that building lot frontage be on an improved street. Walker Street is a gravel driveway that is accessed from Martin Luther King Avenue and extends into the property. A gravel access driveway is approximately 15 to 18 feet wide. Currently, Walker Street services existing lot 2 and provides vehicle access to the rear of lot 1401 and vehicle access into lot 1 and rear portion of lot 3. I was able to make 180 degree turn with my vehicle; there seem to be a small cul de sac at the end of Walker Street. The following variances are being requested; a rear and side yard setback, construction of a dwelling on a unimproved street, a "D" use variance for a non habitable accessory structure, once the family dwelling is constructed the stucco garage will then become an accessory

structure. The stucco garage is to be utilized by the owner it has no other utility service other than electricity and it will not be used as a principal structure. The building is in good condition and the applicant wishes to maintain it. Mr. Liotta further testified that the application has no negative impact to the neighborhood it will enhance the neighborhood. There will be no detriment to the public good or the zoning plan. No substantial impairment to the zone or zoning ordinance. A lengthy discussion was carried regarding the turn around on a private property, who will be responding to an emergency calls and the maintenance of the unimproved street.

Summary of Testimony – Helen Arnold, Asst. Zoning Officer, Town of Morristown

Ms. Arnold stated that she came in to support the application. We are waiting for the Township decision on the application in order to submit it to the Town Council for consideration on the vacation of Condit Street.

Mr. Oller asked the applicant's professional for the vacation of Condit Street in Morris Township the question is what happened to the property after it was vacated. Before the application is acted upon, we need a title search to see where the property went. We would like confirmation of the 50/50 split or did it go to its original owner.

Summary of Testimony – John Vogel, Land Surveyor

Mr. Vogel reviewed exhibit A-1 with the Board. Mr. Vogel described the center line on Condit Street to be vacated. A discussion was carried regarding ownership of the Condit street vacation. He further testified that when the vacation occurs 20 feet will go to Mr. Fernandez and the other 20 feet will be conveyed to Mr. Winston. A discussion was carried regarding the vacation of Condit Street on the Township side and who it was conveyed to. A clarification of dedication was requested by the Board.

The meeting was opened to the public; for question to the planner, no one appeared to be heard.

Applicant is to obtain a report from Morristown Fire Department with respect to accessing the property from Walker Street, which municipality will respond to emergency call, an opinion on the turn around on private property, cul de sac within Walker or Condit Street. Modification to the lot line on lot 4 needs to be noticed if it's going to be part of the application. A title search is to be done on the vacation of Condit Street. Application is carried to February 23, 2009 Board of Adjustment meeting without further notice unless lot 4 is to be included.

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 9:07 P.M.

Respectfully submitted,

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