

Minutes of the Board of Adjustment of the  
Township Of Hanover  
September 4, 2018

Acting-Chairman Walsh called the Meeting to order at 7:32 PM and The Open Public Meetings Act statement was read into the record:

Board Secretary, Kimberly A. Bongiorno, LUA, took the Roll Call.

In attendance were Members: Alwell, Caruso, Donaldson, Fomchenko, Giorgio, Hingos, Neidhardt, and Walsh

Absent was Member: Chairman Stanziale

Also present were Board Attorney, Daniel Bernstein, Township Planner Blais Brancheau and Township Engineer, Gerardo Maceira, PE.

**Public Business Presented**

**I. RESOLUTIONS**

1) **CASE NO.** 1830  
**APPLICANT/OWNER** MATTHEW STEINMEYER  
**LOCATION:** 31 LOCUST DRIVE  
MORRIS PLAINS (CEDAR KNOLLS)  
**BLOCK:** 102 **LOT:** 4 **ZONE:** R-15

Applicant sought "C" variance relief in order to construct a front addition and add a second floor to an existing home. Applicant sought relief from sections 166-173A(3) and 166-113B(2)(c). Application approved August 7, 2018.

An amendment was added to the conditions – the plans must be amended to update the zoning table.

A motion to approve the resolution with conditions was moved by Member Fomchenko and seconded by Member Alwell.

Members Alwell, Caruso, Fomchenko, Neidhardt, and Walsh voted in favor of approving the resolution with conditions.

**II. MINUTES – AUGUST 7, 2018**



- Went over the permitted and prohibited uses in the industrial zones.
- Went over minimum setback requirements and addressed chimneys.
- Discussed that retaining walls cannot exceed four feet in height.
- Went over side yard requirements in the residential zones.

Mr. Caruso

- Questioned the front yard setback and averaging.

Mr. Brancheau

- Explained the neighborhood pattern and the dual front yard requirement.
- Has been addressed in the Planning Board re-exam report and should be addressed shortly but it can be added to the Annual Report to make sure it is on their record.
- The neighborhood pattern is difficult to calculate.

Member Fomchenko made a motion to include language from last year's report discussion of front yard setback recommendations to be carried to the 2017 Annual Report and it was seconded by Member Caruso.

Members Caruso, Fomchenko, Hingos, Neidhardt, Donaldson, and Walsh all voted in favor.

A motion to approve the 2017 Annual Report was made by Member Neidhardt and seconded by Member Fomchenko.

Members Caruso, Fomchenko, Hingos, Neidhardt, Donaldson, and Walsh all voted in favor of approving the 2017 Annual Report.

## V. PUBLIC HEARINGS (continued)

2)	<b>CASE NO.</b>	1827
	<b>APPLICANT</b>	GAMAR, LLC
	<b>OWNER LOT 28</b>	GAMAR, LLC
	<b>OWNER LOT 30</b>	ANTHONY AND LOIS DECARO
	<b>LOCATION:</b>	299 WHIPPANY ROAD
		WHIPPANY
	<b>BLOCK:</b> 4701	<b>LOT:</b> 28 & 30 <b>ZONE:</b> R-15

Applicant is seeking to amend a previously approved Final Major Subdivision. Together with approved bulk variances. Said approval is to be extended and amended to reflect a shortening of the constructed road development, resulting in a slight reconfiguration of the five (5), one (1) family residential lots established by the Major Subdivision.

**Board decision due by: OCTOBER 18, 2018**

Stacy Santola – Attorney for the Applicant

- Gave an overview of the history of this lot and the subdivision.
- The drainage easement is done.
- They are only requesting “C” variances on a few lots.
- A lot of modifications need to be made to the plans and the applicant understands that.

Fred Meola – Engineer for the Applicant

- Sworn in by the Board Attorney.

Mr. Brancheau and Mr. Maceira were sworn in by the Board Attorney.

Mr. Meola

- Licenses are all still active.
- Referred to the plan sets that the Board had.
- The cul-de-sac has been shortened.
- The plans will be modified to address the lot size discrepancies.
- Addressed the sanitary sewer line that goes out to Knollwood.
- Will tie into the existing manhole and come up 200 ft. in order to add sewer to the lots.
- Referred to page 6 to show how the drainage will be handled.
- Homes will have a dry well.
- Addressed the swale along the southerly property line.
- The detention basin will be moved closer to the cul-de-sac to allow for the 6” swale.
- Discussed sewer line elevations.
- All of the elevations are in NGVD 1988 which is what they are supposed to be in.
- Referred to the site triangle on page 3.
- Reviewed the Planners Report Section B item 1.

Mr. Brancheau

- Reviewed the lots 28.03 and 28.04 and what he feels should be the side and rear lots.
- Pointing to the parcels on the top of page 3 of the plans.

Mr. Meola

- Described how he determined the front side and rear yards for the lots at the cul-de-sac bulb.
- If they are moved from side yards to rear yards then a variance needs to be requested.

Mr. Brancheau

- Gave his opinion on how he determined the front and rear yard setbacks.
- Based on the position of the house in relation to the cul-de-sac and the road he determined side yards and rear yards.

Mr. Meola

- Is otherwise agreeable with the items in the Planners Report.
- Wanted to comment on item 11.
- If the chimney exceeds 26 ft. they will move its location or move it inside the house, they will not request a variance for it.
- Talked to the applicant today about item 13.
- Addressed item 14 on the Engineers Report, they will clean up the property.
- Does not know if the well has been abandoned as per the health report but they applicant will have to find out.
- Talked to Chief Cortright about the curb radius and it will be fine.

Mr. Maceira

- Wants to make sure the easement is to the benefit of the Township.

Mr. Meola

- It will be turned over to the town once everything is finished as per the subdivision approval.

Mr. Maceira

- Addressed item 20 regarding the tree replacement on the DeCaro property.
- Asked for clarification of the intent of the tree replacement.

Mr. Meola

- They are not sure that the DeCaro's will allow them back on their property to plant trees for them.

Mr. Brancheau

- The ordinance currently does not allow for offsite tree replacement, the must be replaced on the same property from which the trees are removed.
- Since they were removed from the DeCaro property they must be replaced on the DeCaro property.

Mr. Santola

- The DeCaro's originally agreed to 10 trees and that is part of the agreement and will need to be done on their property.
- The drainage has only been in for 3-5 months.
- The plantings should be done now in the fall.

Mr. Bernstein

- Asked if we should have a cleaner plan submitted and have the applicant come back.
- Asked Mr. Brancheau to discuss key issues.

Mr. Brancheau

- A lot of these are technical items that the Board does not need to be a part of.
- However some of these things could rise to Board level.

Mr. Maceira

- Item 7 addressed the plantings on block 4701 lots 12 & 13 and is that still in effect?
- Has the same question about the DeCaro's and the trees on their property.

Mr. Brancheau

- These are real home plans and given the layout, on the west sides of the homes the ordinance requires the patio and decks to be 25 ft.
- The problem is that it is a self-created hardship and this issue needs to be addressed.
- Lot 28.05 cannot meet those requirements.
- The same question might apply if a rear yard variance was granted.
- One agreement was to change the drainage easement on lot 28.04 from 15 ft. to 20 ft.
- That may mean that the lot or home would need to be reconfigured again to avoid encroaching on the easement.
- Those are the main issues as far as substance go.

Mr. Meola

- We can tweak the plans to make it comply with the 20 ft. requirement.
- The corner lot is designed so the most southerly end of the home is the family room with sliding doors and there is plenty of room for a patio or deck.

Mr. Santola

- The Board has had the opportunity to look at the subdivision and the houses that would go on the property.
- This is a unique situation and an advantage for the Board but it should not necessarily be a penalty to the applicant.
- Because it is September the project is on the cusp of whether or not it can start.
- If it is pushed off much longer the project may have to be postponed to the spring.
- They just ask that they take into consideration that the problems brought up will most likely be relatively small.

Mr. Meola

- They also had to work around the county repaving Whippany Road and they had to put in some utilities to prevent them from having to dig up the road later on.

Mr. Santola

- The easy thing for the applicant to have done would have been to go forward with what was originally approved but he wanted to make the lots a bit bigger and make it more aesthetically pleasing.

Chairman Walsh

- Can we get Me. Brancheau's opinion on putting a deck on the side of the house rather than the rear of the house?

Mr. Brancheau

- If it is in the side yard it needs to meet the side yard setback.
- In the rear yard it can encroach into the 40 ft. requirement but it must 25 ft. from the rear lot line.
- It can be done on this property but in his experience most people do not want to access the deck from their family room.
- The family that lives there would need to be ok with that limitation.
- His concern is down the line they would want to change it.
- Would like clear language about the layout in the resolution that this is a self-created hardship for the deck if the home is built the way it is designed.
- Suggests that the Board does not bind the designs to the applicant.

Mr. Santola

- The applicant would be fine with adding this restriction to the resolution.
- The rear-yard deck would be considered a self-imposed hardship.
- The deck or patio will be built to the side not the rear yard.

Chairman Walsh

- Noticed that they said they plan to break ground before the winter and referenced page 3 of 3 from the Engineers Report.
- Referenced the administrative requirements and asked if it was a realistic timeframe given these requirements.

Mr. Santola

- Believes that they will be able to do it.
- They are unsure if they will break ground before winter.

Mr. Maceira

- The advantage they have is that they already have a developer's agreement from the first application and a lot of the language in it will not change.
- Realistically, if it were approved tonight, it would not be ready until November.

Chairman Walsh

- There is also the issue with the neighbors and the trees.

Ms. Bongiorno

- Reminded the Township Planner and Township Engineer they are about a month out for scheduling plan reviews.

Mr. Santola

- You could approve this with the condition that we get approval from the DeCaro's and if we get it then we are fine and if not we might have to come back here.

Opened to the public

Joe Ficchi – 18 Knollwood Road, Whippany

- Questioned the shortening of the cul-de-sac and by how much.
- The drainage is still on the property line.
- Why can't they move the drainage closer to the cul-de-sac and plant trees on their own property?

Mr. Meola

- The problem with moving the drainage up is Mr. Maceira wants a swale to go in and there also needs to be a detention system put in so they are running out of space.
- There is also still a sanitary sewer easement that they need to deal with.
- The trees, in order for them to live, should be on the other side of the fence.
- Will you agree with the developer on the type of tree?

Mr. Ficchi

- Would like something there in case a car comes down the cul-de-sac.
- Would also like some sort of buffer to be there.

Mr. Meola

- They still have no problem putting the trees in.
- They will also be putting in a white vinyl fence between the properties.

Mr. Ficchi

- A white fence would not stop a car.
- Sworn in by the Board Attorney.
- When there was a construction site on that property a trailer came off of a car and rolled down the property.

- It knocked down a garage and if that garage had not been there it would have gone right into his back yard.
- Asked for some sort of guard rail and they said no.
- Would like the trees to be on the other side of the fence.

Mr. Meola

- With all of the things being put on that property if they put the trees there they will probably die.
- Explained why he cannot meet Mr. Ficchi's request.
- This road is way under the minimum grade requirement.

Mr. Ficchi

- Does not understand why the trees cannot go on the applicant's property since they are shortening the cul-de-sac 30 ft.
- Asked why they need a swale and why they cannot do a berm.

Mr. Meola

- There is a significant slope and there is different grading.
- There is no room or need for a berm.

Mr. Maceira

- Is willing to work with Mr. Meola to evaluate if the trees can be moved to the applicant's property or if they need to remain on Mr. Ficchi's property.

Mr. Brancheau

- The inspection of the rear of Mr. Ficchi's property showed that the planting of the trees there would be problematic.
- There is a drain pipe and a swale for the drain pipe back there.
- There are also deciduous trees back there that would be competing with any new trees planted there.
- Agrees that there is no way to put any more trees on the developers property as it is drawn but discussed with Mr. Maceira that its possible if it is redrawn they could figure out a way.

Mr. Maceira

- Agrees with Mr. Brancheau.
- Does believe that the green buffer along the properties is beneficial.

Mr. Neidhardt

- Asked Mr. Ficchi if they were unable to find another place for the trees and they had to be on his property would he be okay with that?

Mr. Ficchi

- It's not really okay but I guess if there is no other option. I would like the trees to be back there for buffering and to protect the property.
- Just wants to protect his property.

Mr. Meola

- Addressed the property topography.
- This is not flat property so trying to build a wall in there would be very difficult.
- The best option is still putting the trees on Mr. Ficchi's property.

Janis Catalo – 304 Whippany Road

- Questioned which ways the homes were facing.
- Questioned the corner homes and if buffering could be done for aesthetics.

Mr. Meola

- The side of the home is facing Whippany Road and the front of the home is facing the cul-de-sac.
- Nothing is being put there for aesthetics except most likely some bushes.

Ms. Catalo

- Asked if the decks and patios would be facing Whippany Road or if they would be in the rear.
- Questioned the setbacks from Whippany Road.

Mr. Meola

- They will be on the southerly side.
- They cannot build it in the rear.
- The setback from Whippany Road on lot 28.01 is a 40 ft. setback, lot 28.05 is a required 40 ft. setback but it shows 44 ft.

Janet Triggs – 20 Knollwood Road

- Questioned if the trees could possibly be extended to her property.

Mr. Meola

- Her property is 25 ft. past the applicant's property line.
- The application does not abut Mrs. Triggs property.

Closed to the public

Ms. Fomchenko

- The house on lot 28.05 is bigger than the one on lot 28.01, can't you put a home like 28.01 on lot 28.05 to get a better fit on 28.05 and people could get a decent deck on it?

Mr. Meola

- Most people could get a decent deck on it.
- The houses are pretty much the same size.
- The house shapes are different but the square footage is pretty much the same.
- Does not see a big issue with a patio on the side yard.

Mr. Brancheau

- Discussed the home and his reorientation recommendations on lot 28.05.
- It could be rotated and improve the street view as well as the privacy on the property.

The Board took a short break.

Back on the record.

Chairman Walsh

- The tree issues need to be resolved outside of here.

The Board had an open discussion regarding when to carry the case to.

Case carried to October 2, 2018.

## **VI. ADJOURNMENT**

A motion to adjourn was made by Member Fomchenko and seconded by Member Hingos.

Meeting Adjourned at 9:56 P.M.

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KIMBERLY A. BONGIORNO, LUA.  
BOARD SECRETARY  
BOARD OF ADJUSTMENT  
TOWNSHIP OF HANOVER  
COUNTY OF MORRIS  
STATE OF NEW JERSEY