

**Minutes of the Board of Adjustment of the
Township Of Hanover
January 19, 2012**

Chairman Benjamin Stanziale called the Meeting to order at 7:31 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: Filipescu, Fomchenko, Hingos, Linfante, Lupo, Olsen, and Stanziale

Absent was Member: Vigilante

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

I. APPOINTMENTS/RE-APPOINTMENTS

Peter Lupo Regular Member Four (4) Year Term Ending 12/31/15
Richard Hingos Jr. Regular Member Four (4) Year Term Ending 12/31/15

II. REORGANIZATION

1. ELECTION OF CHAIRPERSON

Motion to elect Members Stanziale
Moved by Member Fomchenko, Seconded by Member Linfante
Members Voting "AYE" Fomchenko, Filipescu, Hingos, Lupo, Olsen, Linfante
and Stanziale
Members Voting "NO" None

2. ELECTION OF VICE CHAIRPERSON

Motion to elect Member Linfante
Moved by Member Olsen, Seconded by Member Fomchenko
Members Voting "AYE" Fomchenko, Filipescu, Hingos, Lupo, Olsen, Linfante
and Stanziale
Members Voting "NO" None

3. RESOLUTIONS

- a. Designation of Official Newspaper, Daily Record
- b. Designation of Board Attorney, Daniel Bernstein
- c. Appointment of Board Secretary, Kimberly A. Bongiorno, LUA

- d. Adoption of Schedule of Meeting Dates for the Year 2012
- e. NJ Federation of Planning Officials Membership

Moved by Member Olsen, Seconded by Member Linfante
Members Voting "AYE" Fomchenko, Filipescu, Hingos, Lupo, Olsen, Linfante and Stanziale
Members Voting "NO" None

Cases Presented

I. NEW BUSINESS

- 1) **CASE NO.** 1708
APPLICANT/OWNER Peter Gethins
LOCATION: 54 Woodland Avenue Whippany
BLOCK: 9202 **LOT:** 12 **ZONE** R-40

Applicant is seeking to construct a second floor addition over the existing first floor of a one story residence. Applicant is seeking relief from sections 166-167B (1) and 166-167D. **Board decision due by: March 10, 2012**

Case carried by letter to February 16, 2012 due to defective notice - Letter read into the record by Board Secretary

- 2) **CASE NO.** 1600
APPLICANT/OWNER Mike & Ivana Thierwechter
LOCATION: 114 Whippany Road
Whippany
BLOCK: 4402 **LOT:** 7 **ZONE** R-25

Applicant is proposing to construct a deck at the subject premises. Applicant is acquiring and easement from the adjacent property owner, Mar-Kids Properties, Inc. to accommodate the existing driveway encroachment. Applicant is seeking relief from sections 166-170C, 166-170B AND 166-154.

Board decision due by: March 9, 2012

Carmine Campanile - Attorney for the applicant- Gave overview of the application and the violations - existing and proposed
- The pre-existing violations will not receive relief - they are only asking for relief from the side yard variance for the deck

Mike Thierwechter-sworn by board attorney - Gave overview of the history/background of the house and the deck and the easement

Blais Brancheau- Township Planner- Questioned the easement

Board-Questioned Mr. Thierwechter

Opened to the public

Closed to public

Anthony Marucci-Sworn by Board attorney and qualified by Mr. Campanile

- Gave overview of educational and professional background
- Accepted as expert witness for the applicant
- Described the subject property with existing and proposed conditions

Exhibit A-1- Three sheets of photos of subject property

- Described the photos provided
- Described the proposed easement and the need for the easement
- Gave criteria for the C1 variance

Blais Brancheau- Township Planner - Questioned the set back of the deck from the easement line

Opened to the public

Closed to the public

Motion to approve subject to easement and conditions

Moved by Member Linfante, Seconded by Member Filipescu

Members Voting "AYE" Fomchenko, Filipescu, Hingos, Lupo, Olsen, Linfante and Stanziale

Members Voting "NO" None

- 2) **CASE NO.** **1711**
 APPLICANT/OWNER Robert & Kathleen Sircovitch
 LOCATION: 268 Malapardis Rd.
 Morris Plains
 BLOCK: 301 **LOT:** 24.01 **ZONE** R-25
 Applicant is seeking to convert and existing garage into a shed. No improvements are proposed. Applicant is seeking relief from section 166-114B (8) (d).
 Board decision due by: March 9, 2012

Robert & Kathleen Sircovitch sworn by Board attorney

Kathleen Sircovitch-gave the reasons for requesting keeping the detached garage for use as a shed

- Read statement of request into the record

Exhibit A-1-Photo of detached garage that applicant is requesting to keep as shed

Blais Brancheau – Township Planner - Gave overview of the variances that would be needed for keeping the building as a shed

- Variance for size and height needed

Gerardo Maceira – Township Engineer - building scales 22 X 43 =s 503

Member Stanziale - Questioned changing the door size so that it looks like a shed and not a garage
- Suggested an 8 foot wide by 8 foot high door.

Robert Sircovitch - Will change door and the materials of the shed will match the existing home
- There is no power running to this shed

Blais Brancheau – Township Planner - gave possible date for the detached garage/shed being built

Robert Sircovitch - the metal shed that is also on property will be removed

Motion to approve by changing door size to 8X8 Feet and conditions
Moved by Member Linfante, Seconded by Member Lupo
Members Voting “AYE” Fomchenko, Filipescu, Hingos, Lupo Olsen, Linfante and Stanziale
Members Voting “NO” None

Member Filipescu had to excuse himself from the meeting AT 8:42pm

- 4) **CASE NO.** 1696
APPLICANT Whippany Lodging, LLC
OWNER Hanover Associates
LOCATION: 1255 Route 10
Whippany
BLOCK: 1102 **LOT:** 2 **ZONE** IB

Applicant has submitted an “A” appeal of the Building Officials Determination of the violation of Section 166-150(F) (6). Applicant has submitted a “b” appeal requesting the board to interpret Section 166-150 (F) (6). Applicant is requesting a conditional Use variance pursuant to N.J.S.A40:55D-70 (d) (3). Applicant is also requesting amended site plan approval to include the changes of Conversion of one motel unit to an office for the motel and the previously installed canopy.

Board action due by: *January 31, 2012*

Daniel Bernstein – Board Attorney - The application is only for the "A" & "B" Appeal

Joseph O'Niel-attorney for the applicant

Mehul Naik - Principal owner - Gave overview of the 2 franchises on the site - Both franchises are run by one management team
- Reasons for having the 2 franchises
- Restaurant is currently vacant
- Unified operation on the site

Member Linfante - questioned the need for two offices
- Questioned unified operation- franchise fees

Member Fomchenko - Questioned the utility bills for the hotels

Mehul Naik – Principal owner - There is one bill for each utility, cable, phones, water, sewer etc. - Went from one hotel to two in 2009

Member Olsen - Questioned when and if they got the approvals to have two separate operations on site, questioned other violations on the site - canopies, signs

Daniel Bernstein – Board Attorney - Questioned the applicant regarding other properties he owns and how they did not know they needed to get approvals for the signage and site modifications

Blais Brancheau – Township Planner - Clarified what the applicant is here for this evening - Here for the issue of the two franchises on one site, violation of zoning standard

Member Linfante - Questioned the applicant regarding the operations and marketing of the site and others that the applicant owns

Member Linfante & Blais Brancheau – Township Planner - Discussed what constitutes a principal use - and two principal uses

Board and Planner - had lengthy discussion regarding uses and operations - accessory uses and principal uses

Daniel Bernstein – Board Attorney - Questioned occupancy of Americas Best - typical client - and asked the same for the Econo Lodge client

Opened to public

Closed to the public

David Karlebach - Sworn by board attorney - Planner for the applicant - Gave overview of educational and professional background

Break

David Karlebach Planner for the applicant - Gave operational characteristics of the site - and sites case law ML Plainsboro Limited Partnership Vs. Township of Plainsboro
- Land Use law does not regulate land by ownership
- Discussed how the site would function

Member Linfante - Asked Mr. Karlebach what changed would have to occur on this site for it to be two separate uses

David Karlebach – Planner of the applicant - Feels that when there are No shared common elements it may become two separate uses

Board and Mr. Karlebach and Mr. Brancheau - had a lengthy discussion on different scenarios of operations and uses

Daniel Bernstein – Board Attorney - Cross examined the applicant’s Planner Mr. Karlebach

Daniel Bernstein – Board Attorney - and Mr. O’Neil - Had a discussion regarding uses and tenants

Motion ordinance be interpreted is single use and does not violate the ordinance

Moved by Member Linfante, Seconded by Member Fomchenko

Members Voting “AYE” Fomchenko, Hingos, Lupo Olsen, Linfante and Stanziale

Members Voting “NO” Olsen

Meeting Adjourned at 10:07 P.M.

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