

**Minutes of the Board of Adjustment of the  
Township Of Hanover  
DECEMBER 17, 2015**

Chairman, Benjamin Stanziale, 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: Caruso, Fomchenko, Iradi, Linfante, Neidhardt, Stanziale, and Walsh.

Absent were Members: Donaldson and Hingos.

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

Public Business Presented

**I. RESOLUTION TO BE MEMORIALIZED**

- |           |                        |                              |
|-----------|------------------------|------------------------------|
| <b>1)</b> | <b>CASE NO.</b>        | 1779                         |
|           | <b>APPLICANT/OWNER</b> | NEVA M. CARNEVALE            |
|           | <b>LOCATION:</b>       | 249 JOHNSON ROAD             |
|           |                        | MORRIS PLAINS (CEDAR KNOLLS) |
|           | <b>BLOCK: 201</b>      | <b>LOT: 1</b>                |
|           |                        | <b>ZONE: R-25</b>            |

Applicant sought permission to construct a deck in the rear of the home extending over the existing cement patio and to install a hot tub on the proposed deck. Applicant sought relief from sections 166-165F and 166-136 C and D. Application approved October 15, 2015.

Motion to memorialize the above resolution as written.

Moved by Member Fomchenko.

Seconded by Member Caruso.

Members Caruso, Linfante, Neidhardt, Fomchenko, and Stanziale all voted in favor of the application and no members were opposed.

**II. MINUTES**

OCTOBER 15, 2015

Motion to approve the October 15<sup>th</sup>, 2015 Minutes as written.

Moved by Member Linfante.

Seconded by Member Fomchenko.

Voice Vote – All present in favor.

**III. PUBLIC HEARINGS**

- |           |                    |                               |
|-----------|--------------------|-------------------------------|
| <b>1)</b> | <b>CASE NO.</b>    | 1765                          |
|           | <b>APPLICANT</b>   | LESLIE SKURLA                 |
|           | <b>OWNER</b>       | SKURLA PROPERTY COMPANY, INC. |
|           | <b>LOCATION:</b>   | 12 TROY HILLS ROAD            |
|           |                    | WHIPPANY                      |
|           | <b>BLOCK:</b> 7301 | <b>LOT:</b> 2                 |
|           |                    | <b>ZONE:</b> I                |

Applicant is seeking “C” & “D” Variances. Applicant is proposing to renovate the garage so that the second floor becomes a one bedroom apartment of about 860 square feet. The first floor will contain the utilities/mechanicals for the apartment and the three bay garage.

***Board decision due by: JANUARY 29, 2015***

David Burton Brady, attorney for the applicant.

Chairman Stanziale recused himself due to a conflict. Vice Chairwoman Fomchenko took over chairing the meeting.

Mr. Brady

- Requested to speak with his client to explain to her about the number of eligible voters. It is not a full 7 member Board tonight.

Back on record.

Mr. Bernstein and Mr. Brady discussed hearing all of the testimony and putting it on the record and possibly deferring to a later date.

Mr. Brady – elected to go forward with the hearing

Mr. Brady

- Requested to convert the area over the garage to a one bedroom apartment.

- Requesting a Use Variance for residential use in an industrial zone.
- There will be two principal uses on one lot.
- The lot is very undersized. It is less than 20K, and 60K is required.
- They would like to hang an air-conditioning unit from the back of the garage.
- Will be addressing the floor area ratio and area inside the first floor garage area.

Leslie Skurla, sworn by the Board Attorney.

Gerardo Maceira, sworn by the Board Attorney.

Blais Brancheau, Board Planner, was sworn by the Board Attorney.

Ms. Skurla

- Gave an overview of her years of ownership, and approvals on the site.

Exhibit A-1- Report of Blais Brancheau dated 7/19/93.

- Mr. Brancheau
- Took a moment to review the report.

Mr. Brady

- 3,272 sq. feet is what was approved in 1993 and that is what is where we are now.

Mr. Brancheau

- Addressed that the area used for calculations on FAR has changed since 1993.

Ms. Skurla

- Runs a general dentistry practice with a part-time dentist who is there two days a week.
- Gave an overview of her hours of operation.
- There is one full time dentist, and a part –time dentist, totaling a staff of 4.
- There is a parking lot. It is never filled to capacity.
- She uses the garage for parking and the storage of excess home items.
- There is nothing in the garage that has to do with the practice.
- The purpose of asking for the apartment approval is that Mrs. Skurla has a son with Down syndrome who is trying to establish independence.
- There would be a parking spot available for the apartment and also a garage spot would be available for the apartment.

Ms. Fomchenko

- Questioned the type of security on the property.

Ms. Neidhardt

- Questioned when the garage was built.

Ms. Skurla

- There is a part-time orthodontist upstairs.
- He does not reside on the property.

Ms. Fomchenko

- Concerned Dr. Skurla's special needs son would be residing in an apartment over a garage in an industrial area alone.

Ms. Skurla

- Instead of a group home setting, he wants to be independent.
- My son is currently 26.

8:02PM - Opened to the Public for Questions.  
Seeing and hearing none.  
Closed to the Public.

Peter Dorne, architect for the applicant, was sworn by the Board Attorney.

- Peter gave an overview of his educational background. The Board accepted his credentials.
- Prepared the architectural plans for the property.
- Explained what is on the property now.
- Described the site plan and the front of the building. It is a two story dental office. The garage is a two story structure with a carriage house look.
- The first floor is a 3 car garage with a staircase to the second floor.
- The second floor of the garage is currently open space and is unfinished.
- The proposal for downstairs will not change. We will just change the sheetrock to fire rated.
- The second floor will be divided up to create a bathroom and kitchen area.
- The total width of the garage is 36 feet.
- The hot water heater will be an on demand unit. It will be in the lower level of the garage area.
- The air condensor unit will be hung from the rear of the garage approximately 3' X 2' painted in a beige color. The space will be very compact and will not be highly visible.
- A hot air system will be put into the attic area.

8:13PM            Opened to the Public  
Seeing and hearing none.  
Closed to the Public.

Richard Schommer, licensed professional engineer and planner in the State Of New Jersey. Mr. Schommer gave an overview of his professional and educational background.

- Exhibit A-2 – A colored site plan variance and site plan exhibit dated 12/17/15.
- Reviewed the exhibit overview of the property and surrounding area history and zoning.
- The setbacks on the property do not conform to the I Zone criteria.

- Gave an overview of the proposed use.
- One tree will be removed and it will be replaced with another tree somewhere else on the property.
- Due to the size of this property, there are limits to what the uses on this site could be.
- There is a history of residential use on this property.
- The request is limited to the 878 square foot apartment on the property.
- This property has a more residential use and look rather than industrial.
- The negative criteria were addressed.
- Mr. Schommer does not feel there is any substantial impact on the surrounding properties.
- He feels this can be approved without detriment to the zone plan.
- Providing housing for a variety of citizens is the intent here.
- The applicant is using the garage for parking, and it seems to be working.
- We will not be expanding the dental office or the garage building.
- We will not be changing the floor area on the property.
- A change will not be noticed on this property.

Mr. Linfante

- Referred to page 4 of the 1993 resolution of approval for Planning Board case 93-10-14.
- Condition #1 – The second floor space of the garage shall be used for storage only.
- The conditions in this area are not significantly different than in 1993.
- The very first condition of PB Case 93-10-14 was that the garage shall be used for storage only.

8:43 – Break.

Secretary needs to find the minutes from the August 24, 1993 and the November 23, 1993 PB meetings.

9:13 – Back on the record.

Mr. Linfante

- BA-1 August 24, 1993 PB Minutes.
- BA-2 November 23, 1993 PB Minutes.
- A section was read from the minutes from August 24, 1993 indicating that Dr. Skurla in the future would not be able to add any heat or any other conveniences to make the space habitable.

Ms. Skurla

- 20 years ago was looking for a professional space and I didn't think I would need a residential space also.
- Son Ben has Down Syndrome and he wants his independence. He does not drive and there is no transportation in the current area.

Mr. Dorne

- Ms. Skurla's son Ben would be here tonight but he had a prior social event to attend. Ben is a very high functioning adult.

Mr. Linfante

- This is an issue for the Board to decide. All approvals travel with the property. This use in the building is something the town never wanted. We all feel for Ms. Skurla's situation but we have to decide on what is right for the town long term.

Mr. Walsh

- Questioned the surrounding properties and what is on the other side of the railroad.

Mr. Schommer

- Described the surrounding area and lots.

Blais Brancheau, Board Planner.

- Questioned Mr. Schommer about the changes that have taken place in the area over the years.
- Questioned Mr. Schommer's testimony on FAR.

Mr. Schommer

- Explained what he believed the purpose of FAR is.

Mr. Brancheau and Mr. Schommer had an open discussion regarding FAR.

Mr. Caruso

- Questioned if an accessory building is allowed and what is the height of the accessory building.

Mr. Brancheau

- An accessory to a non-residential used is 20 feet. The existing garage does not comply.
- If the residential is approved than it becomes a principal use in the zone and the height is 45 feet.
- Reviewed his report dated December 16, 2015 with the Board and the applicant.
- Concerned with the long term parking situation.
- Concerned with the residence being so close to the adjoining industrial uses.
- Addressed the additional comments and recommendations.
- The key issue here is the long term use of the property and what happens around the property.
- As part of the Rt. 10 corridor studies that the PB is conducting there will be zoning changes happening going in the non-residential direction.

9:48PM – Opened to the Public.

Seeing none.

Closed to the Public.

Mr. Brady

- Gave his summation on this unique piece of property.
- This building looks residential and the back of the property has a garage that looks like it belongs in a residential zone.
- The use issue was addressed.

Mr. Bernstein

- Questioned if the Board wanted to take a straw vote.

Mr. Brady

- Felt comfortable with letting the Board take a vote tonight.

The Board will deliberate and vote.

Mr. Linfante

- Had made his concerns noted earlier.

Mr. Walsh

- Hearing the restriction in the 1993 site plan approval, he was reluctant to grant this application. He is concerned with the long term impact on the property. The individuals needs do not satisfy the requirements.

Mr. Caruso

- Does not have a problem with this application. The space exists already and he does not feel this will have an impact on the property.

Mr. Neidhardt

- There are 3 "D" variances being requested. Did not hear anything tonight that supports special needs. Cannot support this application.

Ms. Iradi

- Variances run with the land. Does not feel this is an ideal location for a residence. Not inclined to approve.

Ms. Fomchenko

- Is not in favor of this application.

Motion to deny this application.

Moved by Member Neidhardt.

Seconded by Member Linfante

Members Walsh, Linfante, Neidhardt, Iradi, and Fomchenko all voted for this application to be denied and Member Caruso voted against the denial.

Chairman Stanziale returned to the dais and resumed chairing the meeting.

2)	<b>CASE NO.</b>	1781
	<b>APPLICANT</b>	NEW YORK SMSA LIMITED PARTNERSHIP d/b/a VERIZON WIRELESS
	<b>OWNER</b>	MORRISTOWN & ERIE RAILWAY, INC.
	<b>LOCATION:</b>	66 SOUTH JEFFERSON RD. CEDAR KNOLLS
	<b>BLOCK:</b> 2602	<b>LOT:</b> 2
		<b>ZONE:</b> I

Applicant is seeking Preliminary and Final Site Plan, “C” & “D” Variances and Interpretation of Zoning Regulations to install an antenna array consisting of 12 antennas at a height of ±113 feet on the existing ±160 foot communication tower. The proposed facility will also include supporting equipment cabinets and related appurtenances, including a natural gas generator.

**Board decision due by: FEBRUARY 2, 2016**

David Soloway, attorney for the applicant.

- Addressed the 2 part case.
- This past April the FCC adopted a new order, addressing co-location.
- The application was submitted to the zoning officer, but the Township Attorney determined that the application should go before the Board of Adjustment for an interpretation review to see if they meet the criteria of the FCC regulations and grant automatic approval.

Mr. Stanzile

- Has suggested the applicant’s attorney have the applicant address property maintenance issues with the landlord.

Mr. Brancheau

- Is concerned with the condition and the debris on this site.

Mr. Soloway

- Willing to screen Verizon’s equipment.

This application will be carried to the January 21, 2016 meeting.

Motion to adjourn the meeting.

#### **IV. ADJOURNMENT**

Meeting Adjourned at 10:29 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