

Minutes of the Board of Adjustment of the
Township Of Hanover
APRIL 21, 2016

Chairman, Benjamin Stanziale, called the Meeting to order at 7:42PM 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, Donaldson, Fomchenko, Hingos, Iradi, Linfante, Neidhardt, Stanziale, and Walsh.

Absent were Members: None

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

1) CASE NO.	1785
APPLICANT	BRIAN GONSAR
OWNER	BRIAN GONSAR AND DINA DELEASA
LOCATION:	15 JEFFRIE TRAIL WHIPPANY
BLOCK: 5407	LOT: 15
	ZONE: R-15

Applicant sought "C" Variances for relief from section 166-173 A (3). In order to construct a second story addition to the existing single family home. Application approved March 1, 2016.

Motion to memorialize the resolution as written.

Moved by Member Walsh.

Seconded by Member Neidhardt.

Members Caruso, Fomchenko, Neidhardt, Iradi, Walsh, and Stanziale all voted in favor of memorializing the above resolution, and no members voting against.

II. MINUTES - MARCH 1, 2016

Motion to approve the above Minutes, for March 1, 2016 as written.

Moved by Member Walsh.

Seconded by Member Caruso.

Voice Vote – All present in favor.

III. PUBLIC HEARINGS

- | | | |
|----|--------------------|--------------------------------|
| 1) | CASE NO. | 1724-R1 |
| | APPLICANT | WHIPPANY LODGING, LLC |
| | OWNER | HANOVER ASSOCIATES |
| | LOCATION: | 1255 ROUTE 10 EAST
WHIPPANY |
| | BLOCK: 1102 | LOT: 2 |
| | | ZONE: I-B |

Applicant is seeking amended final site plan approval to modify requirements relating to filing of complete plans. Case partially heard and carried from March 19, 2015

Board decision due by: APRIL 21, 2016

Carried by letter and attorney appearance to May 19, 2016.

Mr. O’Neil, attorney for the applicant.

- We must revert back to prior approval because the landlord would like this applicant to extend their lease for another 20 years.
- The applicant does not want to extend the lease.
- The application that they are reverting back to was described.
- We cannot get the consent of the Landlord on the DOT application.
- We will renote the certified list.

Mr. Brancheau

- They have 3 applications for this application, a use variance, a preliminary and final site plan, and a revised preliminary and final.

Mr. O’Neil

- Reverting back to the original driveway configuration.
- Case # 1724 does not need to come back unless there are changes being made.

Mr. Brancheau and Ms. Bongiorno

- This case will now become 1724-R-2

Mr. O'Neil

- We will submit a revised plan and application.

Chairman

- Would like this meeting to be carried to June. He would also like it if this applicant met with Gerry Maceira and Blais Brancheau prior to the meeting.

Mr. O'Neil

- This will be carried to the June 16th meeting and gave an extension of time through June 30, 2016.

2)	CASE NO.	1783
	APPLICANT/OWNER	JEFFERSON PROPERTIES MANAGEMENT & DEVELOPMENT LLC
	LOCATION:	40 SOUTH JEFFERSON ROAD WHIPPANY
	BLOCK: 2904	LOT: 4
		ZONE: I

Applicant is requesting permission to use this site to park "Eagle" tow trucks as well as impounded vehicles, to park "Realin" trucks, to park "Cow" storage containers, to park limousines, to provide dead storage for Stephen Gould and to park Dimensional Dynamics vehicles. Applicant is seeking relief from sections 166-124 A 1-7, 166-15.3K(2), 166-15.3K(3), 166-155, 166-120.4A(5), 166-124A(3).

Board decision due by: MAY 19, 2016

Mr. Walsh recused himself from the hearing.

Martin Newmark, attorney for the applicant, requested that the meeting be carried to May 19, 2016.

Chairman

- Would like to go forward with the case tonight.

Mr. Newmark

- Does not want to go forward tonight. He would like this case to be carried to the May 19, 2016 meeting.

This case will be heard on May 19, 2016.

Mr. Meola

- The second gable near the front does not affect the ridge height.

Mr. Bernstein

- Explained case law as to why the applicant is back before the Board of Adjustment.

Mr. Brancheau

- The approved plan shows a HIP roof.
- The majority of the homes in this neighborhood have gable roofs.

Chairman

- Wanted to know why the applicant felt that he could build whatever he wanted. The board granted him one thing and he went and built another.

Mr. Meola

- The driveway was made wider than what was approved. The board saw a conforming driveway and now the driveway does not conform.
- The patio in the rear was discussed.
- The deck up above was approved.

Mr. Linfante

- They had an approval and did not build what was approved.

Mr. Brancheau

- The approved deck was 12 feet on both sides and dimensions are 10X26.
- The approved deck dimensions were reviewed.

Mr. Brancheau and Mr. Bernstein

- Discussed improvement coverage.

Mr. Brancheau

- The rear setback for the deck is still intact, different in shape but not in setbacks and sideline.

Mr. Meola

- The patio was not on the original plan.

Ms. Ehergot

- Explained that Mr. Brukh thought because he had a setback approval of 10 feet that he could build anything within the 10 foot setback.

Mr. Brancheau

- Seems to believe that the coverage numbers are still OK but has not calculated the numbers.

Mr. Meola

- The plans do not show a roof over the front porch.

Mr. Brukh

- He got a permit based on approvals, not on the changes.

Chairman

- Would like to know what else was built without approvals.

Mr. Brancheau

- The roof needs a variance because it adds to the building coverage.

8:49PM Opened to the Public for questions and concerns.

Paul Stam, 42 Washington Ave., was sworn in by the Board Attorney.

- Mr. Stam's side yard faces the applicant's home.
- Asked that the Board vote favorably. He feels the home contributes to the community and the deviations are minimal.

John Scagliozi, 8 Lionel Place, was sworn by the Board Attorney.

- Feels the home in question has improved the look of the neighborhood.

Nancy Hosler, Washington Avenue.

- Her side yard faces the applicant's side yard.
- States that everything the applicant has done to his home has enhanced the neighborhood.

8:57PM Closed to the Public for questions and concerns.

Mr. Meola

- The width of the driveway is 21 ft.

8:58PM The Board deliberated.

Mr. Linfante

- Does not have a problem with the deck, patio or roof. He has an issue with the driveway being only 3 feet off the side yard.

Mr. Neidhardt

- What do the driveways in the rest of the neighborhood look like?

Ms. Erghot

- Summarized why this application should be approved.

Mr. Maceira

- For a one car garage your driveway can be 22 feet.

Mr. Walsh

- Is having a very difficult time with this board approving plans and the approval not being followed.
- Very troubled that the applicant ignored what was permitted and built whatever the applicant wanted.

The Board attorney and professionals discussed the plans and approvals that will be needed for approvals.

The variances were amended.

A new set of plans will be drawn up as an “as built.”

Mr. Meola

- Will draw the Board of Adjustment plans and submit for resolution compliance.

Motion to approve this application with conditions.

Moved by Member Walsh.

Seconded by Member Linfante.

Members Hingos, Linfante, Neidhardt, Donaldson, Iradi, Walsh, and Stanziale all voted in favor of this application with conditions, and no member voted against this application.

9:18PM Break
9:33PM Back on Record

- 4) **CASE NO.** 1791
APPLICANT/OWNER HANOVER AND HORSEHILL
DEVELOPMENT, LLC
LOCATION: 178 E. HANOVER AVE
CEDAR KNOLLS
BLOCK: 701 **LOT:** 1.01 **ZONE:** I-B3

The applicant has entered into a lease with C2 Educational Systems Inc. (“C2”) to provide one on one tutoring in an office environment.. The Zoning Officer determined that the use was not permitted in the IB-3 zoning district. Applicant is seeking an interpretation of the Zoning Regulations. If the Board determines that C2’s use is not permitted, the applicant has also applied for a use variance under N.J.S.A 40:55D70(d)(1).

Board decision due by: August 2, 2016

Damien DelDucca, Attorney for the applicant.

- Gave a brief overview of C2 Educational Inc.
- Gave an overview of the history of the approvals on the property.
- Provides tutoring for High School students.

Exhibit A-1 – Packet of documents.

- Retail B is the building where the tenant C2 is looking to occupy.
- Starbucks, Spavia, UPS, and Sports Cuts are also going to be tenants in this building.
- The Zoning Officer determined that C2 is not permitted.
- I applied for an interpretation. If the Board feels it is not permitted, I also requested a use variance.
- Permitted uses in the ordinances were reviewed.
- C2 looks like an office on the inside.
- Mr. DelDucca feels this use fits in the description of an administrative of business office.

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

Mr. Brancheau

- A very similar use was in the Pine Plaza, but it is in a different zone. Pine Plaza is in the DS Zone . Section 166-187 was reviewed.

John Thomas, Vice President, is a representative from C2 Education.

Creigh Rahenkamp, planner for the applicant, was sworn in by the Board Attorney.

Mr. Thomas

- Provides one on one tutoring to high school students.
- The area is set up like an office on the inside.
- Basically 75% of the clients are High School students.
- Most are dropped off by their parents.
- There is no area for the parents to wait.
- The parents come in once a month for progress updates.
- Student lessons are 1 hour and 50 minutes.
- We do not encourage parents to wait while students are learning.
- Most parents will go visit other retailers in the shopping center.
- We have 175 locations in 13 different states.
- Our home base is in Atlanta.
- Our hours are Monday – Thursday and Saturdays. An overview of the hours and schedules were provided.
- All but 7 locations are in the shopping centers.
- We like being in a shopping center environment due to high visibility.
- All competitors are also in shopping centers.
- Our hourly rate is \$50.

- Our tutoring is done in a group setting.
- The maximum amount of students at one time is 14-15 students per session, and there are 3 sessions per day.

10:03PM Opened to the Public.
Seeing none and hearing none.
Closed to the public.

Mr. Rahenkamp, planner for the applicant, gave an overview of how the public good is advanced by this purpose.

- There is no detriment or negative effects on the neighbors.
- Described different uses proposed for this site and how this use is complimentary to the other uses. Parents can drop their children off and then go get a haircut, or a coffee, or go grocery shopping.
- We do not feel the parking demand for this use will negatively affect this site.

Mr. Thomas

- The improvements in the students SAT score were described.

10:17PM Opened to the Public.
Seeing none and hearing none.
Closed to the public.

Mr. Brancheau

- Questioned the certification of the teachers.

Board

- Feels that the "D" variance should be granted.

Mr. Thomas

- There will be approximately 4-5 employees and 14-15 students.

Mr. Brancheau

- Reviewed section 1651.
- Feels this use fits on this site.
- He prefers that this be handled as an interpretation.
- He would like to see this approved by an interpretation.

Mr. Linfante

- Feels this is a clear cut classic retail use.

Motion that the request of HANOVER & HORSEHILL DEVELOPMENT, LLC be granted and the Board interprets the leasing by C2 Educational Systems, Inc. of 1,800 square feet in Building B of the ShopRite Shopping Center to be considered a conforming use as long as the following conditions are complied with.

1. Small size of leased space at 1,800 square feet is comparable with a small office.
2. Limited number of students at 14-15 and staff at 3-5 at peak period.
3. Individual instruction.
4. Students separated by partitions.
5. No classes or group instruction.
6. Equipment restricted to computers.
7. Limit of three (3) sessions per day in operation during typical office hours.

Moved by Member Linfante.

Seconded by Member Fomchenko.

Members Caruso, Fomchenko, Hingos, Linfante, Neidhardt, and Stanziale voted in favor of the application with conditions, and Member Walsh voted against the application.

IV. ADJOURNMENT

Meeting Adjourned at 10:43PM.

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