

Minutes of the Board of Adjustment of the
Township Of Hanover
SEPTEMBER 15, 2016

Chairman Stanziale called the Meeting to order at 7:38PM 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

| | |
|------------------------|---------------------------------|
| 1) CASE NO. | 1798 |
| APPLICANT/OWNER | DAVID AND CHUN-YI SAVASTANO |
| LOCATION | 23 FIELDSTONE DRIVE WHIPPANY |
| BLOCK: 4508 | LOT: 17 |
| | ZONE: R-15 |

Applicant sought permission to construct a second story addition including three bedrooms, two bathrooms and laundry space along with modifications of the first floor layout including expanding the kitchen and living space and removal of two bedrooms. The new front porch would be covered by the second story. A third garage is also being proposed along with the installation of the partial new foundation.

Applicant sought relief of section 166-173A(2) front yard setback as well as any and all other variances that may be deemed necessary. APPLICATION APPROVED AUGUST 18, 2016

The resolution for the above case was approved as written and a motion was made to memorialize the resolution as written.

Moved by Vice-Chair Walsh and seconded by Member Fomchenko

Voting in favor were members Caruso, Fomchenko, Linfante, Neidhardt, Iradi and Vice-Chair Walsh

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

Applicant sought Amended Preliminary and Final Site Plan, modifications of conditions for final approval concerning filing of finalized plans and such other Variance approvals and waivers from the requirements of the Zoning Ordinance as may be deemed necessary or required. APPLICATION APPROVED AUGUST 18, 2016

A motion was made to approve the above resolution as written.

Moved by Member Fomchenko and seconded by Vice-Chair Walsh

Voting in favor were Members Caruso, Fomchenko, Linfante, Neidhardt, Iradi and Vice-Chair Walsh

3) CASE NO. 1797
APPLICANT SALAAM SHRINERS
OWNER INSYNC REALTY, LLC
LOCATION 114 ALGONQUIN PARKWAY
 WHIPPANY
BLOCK: 6701 **LOT:** 4 **ZONE:** I

Applicant is a charitable fraternal organization intending to utilize the subject property for both administrative office use and organizational meetings and activities. The proposed use as a fraternal organization is not listed as specifically permitted use in the I-Zone or any other zone within the municipality therefore a Use Variance is required. Applicant sought seeking relief from sections 166-124, 166-124A(3), 166-124A(5), 166-141.L(1), 166-141L(3), 166-141L(4) as well as any and all other variances that may be required. APPLICATION APPROVED AUGUST 18, 2016

The resolution for the above case was approved as written and a motion was made to memorialize the resolution as written.

Moved by Member Neidhardt and seconded by Vice-Chair Walsh

Voting in favor were members Caruso, Fomchenko, Linfante, Neidhardt, Iradi and Vice-Chair Walsh

II. MINUTES AUGUST 18, 2016

A motion was mad to approve the minutes as written

Voice Vote, Moved by Vice-Chair Walsh and seconded by Member Fomchenko and all present members were in favor of adopting the minutes as written

III. PUBLIC HEARINGS

| | | |
|----|------------------------|--|
| 1) | 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). **PARTIALLY HEARD AND CARRIED FROM JUNE 16, 2016**

Board decision due by: MAY 19, 2016

Vice-Chair Walsh recused himself from this case due to conflict of interest

Martin Newmark- Attorney for the Applicant

Chairman Stanziale

- Suggested straw pole at the end to see how the 5 present eligible members feel and if it will be necessary to come back for two additional members to vote

Mr. Brancheau- Township Planner was sworn in by Board Attorney

Gerardo Maceira- Township Engineer was sworn in by Board Attorney

William Hamilton- Planner for the Applicant

- Still under oath from the meeting June 16, 2016
- Reviewed his prior testimony
- Reviewed the Township Planners report dated April 21, 2016
- Discussed the number of Realin Trucking vehicles allowed on the site
- Feels the Cow Storage containers are an outdoor storage use and not an onsite parking variance, believes this is a permitted use
- Presise Limousine Service has 4 limousines and feels this is a permitted use
- Demntional Dynamics – part of the 2004 approval- existing condition since the site plan was approved in 2004

- There are five to six larger parking spots to accommodate Eagle Tow Trucks

Ms. Iradi questioned the storage of impounded vehicles on the site

Mr. Linfante

- Just because in 1998 they testified that there was impounded vehicles being store on the site doesn't mean the board gave permission to park the impounded vehicles

Mr. Newmark

- The board was aware that the impounded cars were being parked on the site

Mr. Linfante

- Again questioned, who gave permission to allow impounded vehicles on the site?
- While the history is interesting the storage of impounded vehicles has never been approved on this site.
- Questioned Cow Containers, is business operated from an indoor use and are the Cows stored outside
- Outdoor storage is allowed as an accessory use to a permitted principle use in the building

Mr. Hamilton

- Described accessory and principal uses in the building

Mr. Brancheau

- Does the office serve the cow containers or do the cow containers serve the office?

Mr. Hamilton

- Does not see a difference

Board and Applicant for Attorney had a discussion regarding what is an industrial use.

Mr. Linfante reviewed notice of violations.

Mr. Hamilton

- All of the outdoor storage on the lot has an office on the site

Mr. Linfante questioned the side yard storage and how it got approved and how the lot areas got paved without approvals. Confused as to what is being asked for because there is such a mishmash of uses and outdoor storage.

Chairman Stanziale questioned if storage is within 20 feet of the property line.

Mr. Hamilton

- Variance only associated with two spots on the side lot for realin trucks
- Cows are not within 20 feet of the side yard

Mr. Brancheau

- The construction code official and the township engineer cannot grant variance relief with the issuance of a permit, only the board can grant variance

Mr. Linfante

- The plan showed 18.5 feet setback from the sideline for the COW containers
- Referred to sheet 2 of 3

Mr. Hamilton

- 1.5 feet short for the COWs

Mr. Linfante

- Cows of Morristown has two issues the side yard setback and use

Ms. Fomchenko questioned where the impounded vehicles are parked and the tenancy of the building.

Mr. Hamilton

- 6 tenants onsite
- Believes the COWS are accessory to the office onsite
- There is a physical presence in the building

Mr. Linfante

- When is the principal use shifted to the outside?
- Where do you draw the line if you have a 100ft office, but are storing 100 vehicles/containers outside- which is the principle use?

Mr. Hamilton

- As long as you have employees in the building that is the principle use.

Mr. Brancheau

- Zoning Officer cited as violation- officer indicated in notice of violation that “read the zoning Officers notice violation” dated March 19, 2015 and May 26, 2015
- Why would the zoning officer send the applicant to the Board of Adjustment if he didn’t feel it was a Use Variance, he would of sent it to the Planning Board

Mr. Brancheau and Mr. Newmark discussed Conditional Use variances and why Mr. Newmark believes that the uses being requested are conditional uses

Mr. Newmark applied for a D1 Variance

15 minute Break

Mr. Bernstein questioned if the uses on the site in 2004 were approved by the board

Mr. Stanziale

- Just because the businesses are discussed during a hearing does not mean that they are allowed

Mr. Hamilton

- Reviewed the resolution of 2004
- Read to the board from the 2004 application under applicant requests what the applicant was requesting in 2004
- Under Part II Item G- described the current uses on the site from 2004
- The application from 2004 only asked for approval for the Realin Trucking maintenance garage

Mr. Newmark questioned Mr. Hamilton regarding uses needing D1 relief.

Mr. Hamilton

- Gave opinion on the storage units and how the operation works
- Described why he feels this site is suitable for this use
- The site is suitable due to its proximity to major highways and access to those highways
- Described the limousine service
- Quick access to the highway and do not have to utilize local roads
- Towing and impounded cars
- This site is well suited due to the fact that this is the areas that the towing operation has most of its pickups
- Realin Trucking
- 100% US MAIL oriented- pick up mail from major distributors and then distribute it to local distribution centers

- Realin Trucking- the public purpose is it furthers the general welfare because they support the postal service which is an essential service
- The Eagle Towing impounded vehicle removes impounded cars from dangerous situations.
- Limousine service promotes free flow of traffic
- Cows Containers promotes general welfare by allowing people to use containers without having to move materials off site
- Feels that the mail trucks are an inherently beneficial use
- Addressed the negative criteria
- COWS containers identified where they are located on the site.
- Described what views the COWS will be visible to the public
- Referred to A-8
- Discussed the surrounding areas and the wetlands and the required buffers
- May have to cut back the pavement where the COWS are parked in order to give the wetlands the buffer required
- Everything will require DEP approval
- Went through the negative criteria for the towing company
- Referred to A-5
- Described where they are requesting the impounded vehicles be towed that are parked on the site

Mr. Linfante

- Parking in the side yard is clearly not in the zoning ordinance

Mr. Hamilton

- Realin had 10-12 trucks they now have 14, they need more storage
- Taking away one space from the Eagle Towing trucks to use for 3 impounded vehicles
- The only expansion on this site are the two new spaces for Realin Truckin

Mr. Stanziale questioned how the tenant who just built a million dollar plus building on the South feels now having to look at two tractor trailers parked right on his property line after he has spent money and beautified his site

Mr. Hamilton will add more vegetative buffering to that side of the property

Opened to Public
Seeing and hearing None
Closed to Public

Chairman Stanziale requested the contracts for the towing company.

Mr. Newmark granted board extension of time until October 31, 2016

Case carried to October 20, 2016

Mr. Linfante questioned cease and desist for the COWS located in the wetlands

Mr. Bernstein

- While it is before the Board of Adjustments it is in a stay situation.

2) **CASE NO.** 1660R-2
APPLICANT 101 Whippany Road, LLC
OWNER 101 Whippany Real Estate Company, LLC
LOCATION: 101 Whippany Road
Whippany
BLOCK: 5801 **LOT:** 6 **ZONE** R-25

Applicant filed an application for Amended Final Site Plan for Phase 1 and Amended Preliminary and Final Site Plan approval and variance approval for Phase II additions to its existing health care facility. Applicant sought relief from sections 166-113.1, 166-153M, 166-153D(4) as well as any and all other variances that may have been required. Application approved October 20, 2011. **Applicant sought an Extension of Approval. Extension granted until September 15, 2016 with conditions**

Donna Erem- Attorney for Applicant

Addressed the conditions

Gerardo Maciera- Township Engineer

- Sworn in by Board Attorney
- Is satisfied with the work that was done on the site
- The recharge basin – there needs to be a remediation because the recharge basin is not recharging correctly, otherwise the site is safe and has been brought up to an acceptable level

Donna Erem

- Requesting extension to June 30, 2017
- Applicant will be filing an application for Phase II within the next few months

Chairman Stanziale

- Suggested extending to October 1, 2017

Mr. Brancheau

- Questioned if 3 one year extensions are allowable and this extension to October 1, 2017 would be greater than one year

Mr. Bernstein

- Believes it was okay to give a little more than one year, but the third extension would only be for 9 months

Approved until October 1, 2017

Moved by Vice-Chair Walsh and seconded by Member Neidhardt

Members Caruso, Fomchenko, Linfante, Neidhardt, Iradi, Vice-Chair Walsh and Chairman Stanziale were all in favor

IV. ADJOURNMENT

Meeting Adjourned at 10:35P.M.

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