

Minutes of the Board of Adjustment of the
Township Of Hanover
October 19, 2017

Chairman Stanziale called the Meeting to order at 7:32PM 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, Chairman Stanziale and Walsh.

Absent were Members: Neidhardt

Chairman Stanziale took a moment of silence for Carmine Campanile.

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

Public Business Presented

I. RESOLUTION TO BE MEMORIALIZED

1)	CASE NO.	1812
	APPLICANT/OWNER	PATRICK & PATRICIA BURKE
	LOCATION:	8 LLEWELLYN CT. WHIPPANY
	BLOCK: 3704	LOT: 24
		ZONE: R-15

Applicant is sought "C" variances for a side yard violation. Application approved September 21, 2017.

This case has been deferred to a later date- November 7, 2017.

II. MINUTES SEPTEMBER 21, 2017

A motion was made to approve the Minutes for September 21, 2017 as written. Moved by Member Walsh and seconded by Member Fomchenko.

A voice vote was taken, all present Members were in favor.

- Reviewed the surrounding uses to show that the proposed uses are particularly suited to this area and this site in particular.
- The proximity to the site from several major highways also makes this site suited for the storage containers.
- They would not have to utilize the local roads for transporting the COW storage containers.
- He reviewed the two prong rest for granted variances.
- He feels that there will be no negative impact to the surrounding area such as storm water, environmental issues, odor, noise and light.
- At the west side of South Jefferson Road, storage is common on about five to seven developed lots.
- The *Use* is not unique to the neighborhood even though it is a *mixed use* neighborhood.
- The *Uses* are low traffic generators and the parking on this site is adequate.
- Buffered which isn't unique to this neighborhood would be allowed if it were an accessory to principal use. There is no zone in town that allows for this use.
- He touched briefly on the Limousine Service and gave special reasons why this service should be granted.
- The Applicant is willing to work with the Board regarding the buffering.
- Discussed Realin Trucking and why it needs plows, tires and backhoes on site due to the fact that he is delivering US mail.

Mr. Bernstein

- Questioned, what statistics back the fact that the COWS are in demand?

Mr. Hamilton

- He responded that he was going on the word of the Applicant.

Mr. Bernstein

- He questioned the railroad storage which is exempt and is not governed by local ordinances.
- He cross-examined Mr. Hamilton on his testimony.

Mr. Hamilton

- The asphalt that the COWS are stored on encroaches into the wetlands buffer.
- Referred to Exhibit A-5 and reviewed that the limos are being parked directly behind the building.

Mr. Brancheau

- Reviewed what his understanding of Mr. Hamilton's outline and particularly the suitability of this site.

Mr. Newmark

- Reviewed the two cases and both do not need to be uniquely suited.
- Discussed the Price vs Hingie and Omnipoint vs. Board of Adjustment (Clarify case law sited)

Chairman Stanziale questioned the overuse of the site.

Mr. Hamilton

- He gave reasons why he does not feel the site is overused.

Mr. Donaldson

- Questioned the maintenance of the vehicles on the site.

Mr. Newmark

- The maintenance of the vehicles that are on site is limited to Realin Trucking.

Ms. Iradi

- Questioned the snow removal equipment for the Mail business.

Mr. Newmark

- If the Postal Service trucking vacated the site then the snow removal equipment would be removed.

Mr. Brancheau

- He outlined the uses on the site and there are seven to eight uses.
- Dartcor and Ome Caterers might be considered one use.

Mr. Linfante referred to the April 2016 Planners Report.

Mr. Brancheau

- The limo dispatch service and limo service is not permitted in this zone.

David Leo – Assistant Township Engineer

- Sworn in by the Board Attorney.

Mr. Brancheau

- He summarized the April 16, 2016 Planners Report.
- This application comes from the enforcement action by the Township Zoning Officer.
- He reviewed all the violations on the property and the scope of the requested approvals.
- Gave an interpretation of industrial uses.

Mr. Brancheau and the Board had an open discussion regarding what the ordinance allows and does not allow throughout the Township.

Mr. Brancheau

- He continued with his testimony.
- NAICS- reviewed limousines and storage- reviewed Moskowitz definitions and what is allowed in Hanover Townships Industrial Zones.
- We have been working on the Route 10 Ordinance which will allow for some of the proposed uses.
- The crux of this is that the site is particularly suited for this use. If there was a need for a limo service or a portable storage container then the public would benefit from it being there because this site is exceptional from the norm.
- Outdoor storage is violated but that is no longer an issue, it's off the table.
- Storage of vehicles larger than passenger vehicles requires a variance.
- Parking setback in the side yard was mentioned previously.
- Access isle width which is not a variance but an exception from the design standards.
- Reviewed the site plan comments regarding demonstrating that the parking needs be met because there were previous questions about the parking needs based on the application. Isle width for truck parking - are isles and space adequate?

Mr. Newmark cross-examined Mr. Brancheau.

- Clarified what the Municipal Land Use board is meant to do.
- Discussed the uses for the property based on the ordinance.
- Negative aspects of the uses proposed were discussed.
- If you are going to permit a use, you need to approve everything that goes with that use.

Ms. Fomchenko

- She asked Mr. Brancheau to read all the prohibited uses from section 166.

Ms. Iradi

- Questioned, what is exceptional to this site?

Mr. Newmark

- He gave the reasons why he feels that the site is exceptional.
- He does not feel this site is unique but that it is particularly suited.

Opened to the public
Seeing and hearing none
Closed to the public

Mr. Hamilton

- Reviewed the Engineers Review dated April 21, 2016.

Mr. Leo

- Questioned the items on the site plan.

Mr. Hamilton

- He reviewed the items that have already been completed and what site improvements still need to be completed.

Mr. Leo

- The COWS are located all over the site and in the parking lot at this time.

Mr. Linfante

- He questioned the outdoor screening requirements.

Mr. Brancheau

- He read the requirements from the code.
- If COWS are approved an 8ft. fence would be acceptable as part of the screening.

Mr. Linfante

- Questioned, why must the snow equipment be stored there?

Mr. Newmark

- The detachable plow, backhoe, sand spreader and spare tires are required to be there because the operator cannot wait for the contractor to come and clear the lot of snow.

Mr. Hamilton

- Clarified where the snow removal equipment would go within 8 ft. fenced in area.

Chairman Stanziale

- Looking for a motion regarding the COWS, limos and snow removal equipment.

Mr. Newmark

- Gave a synopsis of the case presented tonight.

The Board deliberated.

Ms. Iradi

- Discussed that the use is not allowed.
- She feels that the snow equipment has a beneficial *use*, but does not feel confident that the Applicant has shown positive criteria for the “D” variance for the limos and COWS.

Ms. Fomchenko

- Agrees with Mr. Brancheau and the interpretations that the COW and Limos are overcrowding.
- She has no objection to the snow removal equipment as it is only for the mail trucks.

Mr. Linfante

- He disagrees with Mr. Brancheau's definition of Industrial and feels that the ordinance needs to be rewritten.
- He feels that COWS can be approved under Industrial and he is not in favor of Limos as it is transportation and not an industrial use.
- As for the snow plowing equipment he does not understand why such large equipment is needed and would only approve because it is for the mail trucks.
- The areas for storage need to also be appropriately screened.

Mr. Donaldson

- He doesn't feel that the COWS are appropriate and that they should be stored indoors.

Carmine Fernaro Sr. - Owner

- The mail business, COWS and Limos are run by his sons and the office is onsite as well as at home.

A motion to approve variance as tied to mail delivery snow removal.

Roll Call Vote

Moved By: Member Iradi

Seconded By: Member Hingos

Voting in Favor: Members Caruso, Fomchenko, Hingos, Linfante, Iradi, Donaldson, and Chairman Stanziale

Voting Against: None

Members Recused: Vice-Chairman Walsh

A motion to deny limo service.

Roll Call Vote

Moved By: Member Linfante

Seconded By: Member Hingos

Voting in Favor: Members Fomchenko, Hingos, Linfante

Voting Against: Members Caruso, Iradi, Donaldson and Chairman Stanziale

Members Recused: Vice-Chairman Walsh

Motion to deny limo service was denied and then withdrawn.

Motion to approve limo service.

Roll Call Vote

Moved By: Member Fomchenko

Seconded By: Member Iradi

Voting in Favor: Members Caruso, Fomchenko, Hingos, Linfante, Iradi, Donaldson, and Chairman Stanziale

Voting Against: None

Members Recused: Vice-Chairman Walsh

A motion to deny COWs storage.

Roll Call Vote

Moved By: Member Fomchenko

Seconded By: Member Iradi

Voting in Favor: Members Fomchenko and Iradi

Voting Against: Members Caruso, Hingos, Linfante, Donaldson, and Chairman Stanziale

Members Recused: Vice-Chairman Walsh

Motion was denied.

Motion to approve COWs with conditions.

Roll Call Vote

Moved By: Member Linfante

Seconded By: Member Donaldson

Voting in Favor: Members Caruso, Hingos, Linfante, Donaldson, and Chairman Stanziale

Voting Against: Members Fomchenko and Iradi

Members Recused: Vice-Chairman Walsh

The Board

- Phase I for whole site excluding DEP and COW storage and Phase II subject to the DEP approval
- Phase I- 60 days from this evening
- Phase II – 6 months from this evening or are required to return to this Board to get and extension and give update

Mr. Leo

- According to the person from the DEP that he spoke with there is nothing on file.

IV. ADJOURNMENT

Meeting Adjourned at 11:02P.M.

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