

Minutes of the Board of Adjustment of the
Township Of Hanover
March 15, 2018

Chairman Stanziale called the Meeting to order at 7:34 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: Alwell, Caruso, Fomchenko, Hingos, Iradi, Neidhardt, Vice Chairman Walsh, and Chairman Stanziale

Absent was Member: Donaldson

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

Public Business Presented

I. RESOLUTIONS

1) **CASE NO.** 1818
APPLICANT/OWNER DOMINIC & ANNETTE PALMIERI
LOCATION: 25 SOUTH BEAUMONT PL.
WHIPPANY
BLOCK: 7002 **LOT:** 13 **ZONE:** R-25

Applicant sought a "C" variance relief in order to permit a six-foot fence located in the second front yard along Griffith Drive. Application approved with modifications and conditions on February 15, 2018.

Motion to approve the above resolution with amendments was moved by Member Walsh and seconded by Member Hingos.

Members Alwell, Caruso, Hingos, Neidhardt, Walsh, and Chairman Stanziale voted in favor.

2) **CASE NO.** 1795
APPLICANT COBRA AUTO PARTS
OWNER JOE LAROSA & SONS, INC
LOCATION: 156 PARSIPPANY ROAD
WHIPPANY
BLOCK: 8503 **LOT:** 4 **ZONE:** R-40

Board decision due by: March 31, 2018

Chairman Stanziale recused himself from the case due to conflict.

Mr. Walsh Chaired the meeting at this time.

Robert Rudy – Attorney for the Applicant

Mr. Bernstein reminded the applicant that five votes were required to approve the variance.

Doug Asral – Architect for the Applicant

- Sworn in at the last meeting.
- Made revisions to the application.
- Reduced the size and intensity of the project.
- Previous submission was for two a two story addition that sat further into the rear yard.
- It was previously 3 ft. off of the rear yard and they are now proposing 11 ft. clearance from the rear yard.
- Majority of the addition on the second story will be over the existing footprint except for an additional 6 ft. towards the rear yard.
- Gave an overview of the lot shape.
- This is one of the smallest lots within the town.
- Originally there was a two car garage proposed.
- Consolidated the shed and the garage and is now proposing an oversized one car garage, the previous garage was two stories and this one mostly is not.
- The living spaces proposed above the garage are predominantly over the existing footprint.
- Gave an overview of the prior requested size of the addition and the current proposed size of the addition.
- The rear setback was increased from 3 ft. to 11 ft.
- The total sq. footage proposed is 2,369 sq. ft. for the home.
- The Floor Area Ratio is 46.54%.
- A 2,300 sq. ft. home on a regular R-15 zone lot would be 15.8% where 30% is allowable.
- The percentage number is so high because the lot is so undersized.
- The existing lot is 5,000 sq. ft. where 15,000 sq. ft. is required.
- A lot width of 100 ft. is required and 51 ft. is existing.
- The site will now be occupied by one building as the shed will be removed.
- The house as it stands now violates the rear yard setback.
- They are expanding the footprint with the garage but the living spaces are primarily on the existing home footprint except for a 132 sq. ft. new addition which will contain the garage.
- The proposed porch is to stay the same size but it will be open.

Ms. Fomchenko

- Questioned if they can purchase additional property from the neighbor.

Ms. Chimento

- Previously sworn in.
- They did ask and the neighbors are not interested in selling property.

Mr. Asral

- The 13.6 feet front yard setback is not changing.

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

Mr. Brancheau

- The second floor is encroaching into the existing front yard setback.

Mr. Asral

- The building cover is going to be 1,514 sq. ft. and the maximum percentage requested is 29.74%.
- The improvement coverage is 2,004 sq. ft. or 39.37% and is no longer non-conforming.

Mr. Caruso

- Clarified that the total square footage proposed included the garage.

Opened to questions from the public.

Seeing and hearing none.

Closed to the public.

Mr. Brancheau

- Addressed a violation of the tree ordinance.
- Asked if the Applicant is willing to plant a tree to fix the violation.

Mr. Rudy

- Yes they will plant a tree.

Mr. Brancheau

- The revised plan is a significant improvement.
- The Board should try to balance the hardship that is on the property with the proposed violations.
- Raising the roof 1 foot has violated the height setback ratio that was not there with the first proposed addition.

- Suggests widening the driveway as he does not feel that 16 feet is wide enough considering two typical parking spaces are 18 feet wide.
- Doing that would increase the improvement coverage about 45-50 sq. ft.
- Suggests giving a dedication to the township of a triangular piece of property to put the entire roadway in the right-of-way.
- Highlighted minor deviations in calculations from the architects numbers.
- Mr. Asral had building coverage as 1,514 sq. ft. and Mr. Brancheau had it at 1,517 sq. ft.
- Mr. Asral had the FAR at 2,369 sq. ft. and Mr. Brancheau had it at 2,310 sq. ft.

Mr. Neidhardt

- Questioned Mr. Brancheau on items 4, 5, and 6 in his report.

Opened to the public

Joseph Nally – 92 Reynolds Ave.

- Lives next door and his property surrounds this property.
- This improvement will make the neighborhood better.
- The current house is dated and he would like to see the home upgraded.

Closed to the public

The Board deliberated and believes this plan is much better than the plan that was initially brought before them.

Ms. Iradi

- Feels the applicant came back with a significantly better plan and feels that this will improve the neighborhood.

Mr. Hingos

- Feels that the client came back with a much better plan.

Ms. Fomchenko

- The property has significant hardship and this would be a good improvement.

Mr. Alwell

- Feels the applicant has done their best and it would be for it but he is ineligible to vote.

Mr. Neidhardt

- This particular property has significant limitations and only because this is a very unique property would he go along with approving.

Mr. Brancheau

- Calculations show that increasing the pavement for the driveway would require a small variance for the coverage, suggests an 18 ft. driveway.

The Board feels that a wider driveway would be best.

Mr. Caruso

- Feels this will be a great improvement to the neighborhood.

Mr. Bernstein

- Outlined the conditions if the application is approved.
- The shed is to be removed.
- The driveway should be 18 ft. not 16 ft.
- The tree that is being removed is to be replaced.
- The garage light should be shielded.
- All of the architecture and materials is to match.

Mr. Brancheau

- Added conditions into the record.
- The right-of-way dedication is a condition.
- Reconcile the discrepancies between Mr. Asral's numbers and his.

Motion to approve with conditions was moved by Member Fomchenko and seconded by Member Iradi.

Members Caruso, Fomchenko, Hingos, Neidhardt, Iradi, and Walsh all voted in favor.

The Board took a 10 minute break.

The Board is back on the record.

2)	CASE NO.	1821
	APPLICANT/OWNER	ANTHONY USAVAGE
	LOCATION:	51 LOCUST DRIVE
		MORRIS PLAINS (CEDAR KNOLLS)
	BLOCK: 501	LOT: 7
		ZONE: R-15

Applicant is seeking “C” variance relief in order to construct a solid six-foot vinyl fence that is located in the second front yard on a corner lot along Poplar Drive. When the maximum permitted height is 3.5 feet and at least 50% openings are required in the fence.

Board decision due by: May 8, 2018

Ms. Iradi recused herself from the application.

Mr. Usavage was sworn in by the Board Attorney.

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

Mr. Usavage

- Requesting a 6 ft. vinyl fence.
- He has small children.
- Described how the fence would be laid out and what the setbacks would be.
- There is an existing fence on Poplar and they would tie into it.

Mr. Hingos

- Clarified the fence would have to come in 20 ft. from the curb line to be 10 ft. in from the right of way.

Mr. Maceira

- The right-of-way is usually 10 ft. from the curb.

Mr. Walsh

- Questioned if there are sidewalks along Poplar.

Mr. Usavage

- Yes there are.
- Exhibit A-1: aerial view of property
- Exhibit A-2: larger view of the intersection
- Exhibit A-3: shows where they are proposing the fence
- Exhibit A-4: artist rendering from manufacturers catalog
- Exhibit A-5: artist rendering from manufacturers catalog

The Board discussed setbacks and requested there be landscaping in front of the fence to lessen its impact.

Mr. Brancheau

- The fence should be 15 ft. back from the property line.
- The house is 41.5 ft. from the property line at Poplar.
- The fence should be 26.5 ft. away from the house heading towards Poplar.
- The screening should be deer resistant shrubbery.
- Will be picked by him.

Mr. Usavage

- Agrees to the landscaping.

Mr. Brancheau

- The number required will depend on the spread of the plants.
- It must go the length of the fence for coverage.
- Discussed what triggered the front yard setback.
- When this has been approved in the past the Board required the top 1 ft. of the fence should be open.

Mr. Alwell

- Questioned the length of the fence along Poplar.

Mr. Usavage

- It will be 110 ft.

Mr. Neidhardt

- Has a bit of a problem with these types of applications.
- The character of the neighborhood changes when a resident puts up a fence like this.
- He has a big problem with this as it goes against what is allowed.
- Believes that this goes against what the ordinance intended.

Chairman Stanziale

- The applicant shows hardship because it is a corner lot.
- The ordinance is in place so that people do not show up with a permit ready to build a solid six foot fence right on the property line.

Mr. Walsh

- The applicant said that they would line up their fence with the neighbors existing post, does that neighbor have a fence going along Poplar or is it just the post.

Mr. Usavage

- Their fence does not run along Poplar, it's just along their side and back yard.

Mr. Walsh

- Asked if the applicant would consider using a chain linked fence that matches the neighbors.

Mr. Usavage

- They would not be interested in doing a chain linked fence.

Ms. Fomchenko

- Questioned if they would consider a shorter solid fence.
- The property does not appear to have any hardships, so what are the hardships that applicant feels they have to go against the ordinance?

Mr. Usavage

- Would be happy to look into a 4-5 foot fence.
- Does not have a specific hardship but after living there for 2-3 months they realized they needed a fence due to safety and personal preference.

Ms. Fomchenko

- Questioned the setback of the existing shed.
- Reminded the applicant that if he ever replaces the shed he needs a permit.

Mr. Usavage

- Believes the shed is setback 10 ft.

Mr. Maceira

- Even though the plan is skewed he believes the shed is approximately 4ft. off of the property line.

Mr. Walsh

- What other issue is there that would require you to have a fence because so far the only answer has been personal preference?

Mr. Usavage

- There aren't any extreme issues that would require us to have the fence.
- There are issues with deer as a lot do live in the neighborhood.

Opened to the public

Seeing and hearing none

Closed to the public

Mr. Brancheau

- Raised the sightline issue.
- Asked that if approved this issue be addressed in the field by the Township Attorney.

The Board Deliberated.

Mr. Walsh

- The zoning is in place for a reason and he has not heard anything would warrant what was asked for.
- Changing the height or type of fence might help them be more inclined to grant the variance.

Mr. Neidhardt

- Should this not be approved, suggests that the applicant come back with a different type of fence.

Mr. Brancheau

- Explained where the applicant could legally put the fence.

Ms. Fomchenko

- As it stands right now she does not see any way that this fence should be approved as it does not show any sort of physical hardship that would make them more inclined to grant the variance.

Mr. Usavage

- Asked if a 4 ft. high picket fence would be allowed.
- Will come back on April 3, 2018 with a new plan.

Mr. Walsh

- Explained what the issues were they were having with granting the variance and the picket fence would be closer to what the Board is looking for.

Case will be carried to April 3, 2018.

4)	CASE NO.	1820
	APPLICANT/OWNER	GREGORY HUBBARD
	LOCATION:	32 CRESCENT DR. WHIPPANY
	BLOCK: 5604	LOT: 6 ZONE: R-15

Applicant is seeking a “C” variance relief in order to construct a one-story addition and deck at the rear of an existing single-family dwelling. Applicant is seeking relief from the side yard requirements.

Board decision due by: May 30, 2018

Gregory Hubbard was sworn in by the Board Attorney.

Jacob Solomon – Architect for the Applicant

- Sworn in by the Board Attorney.
- Gave an overview of educational and professional background.
- Accepted by the Board.
- Gave an overview of the proposed addition.
- Gave an overview of the slight irregular lot shape.
- The home has been on this site since the 1960’s.
- They are trying to reduce the amount of yard disturbance.
- It will be a one story addition on a crawl space.
- Gave an overview of the surrounding properties.
- Gave setbacks from the neighbor’s properties.
- Gave an overview of the neighborhood.
- Other homes in the neighborhood have done similar additions.

Mr. Hubbard

- Will conform to the tree ordinance and will replace trees per the ordinance.

Mr. Brancheau

- There is not a height setback ratio issue with this application.

Mr. Solomon

- The addition will only have windows in the rear.

Opened to the public

Seeing and hearing none

Closed to the public

Mr. Brancheau

- There have not been any substantial changes to the home since the 1960's.

Mr. Bernstein

- Outlined conditions
- Architecture should all match.
- If trees are removed they need to be replaced.
- There will be no outside lights.

A motion to approve with conditions was moved by Member Walsh and seconded by Member Neidhardt.

Members Alwell, Caruso, Fomchenko, Hingos, Neidhardt, Walsh, and Chairman Stanziale all voted in favor.

Break

Back on the record

5)	CASE NO.	1813
	APPLICANT/OWNER LOT 25	SADDLELAKE REAL ESTATE LLC
	OWNER LOT 26.02	EUGENE AND CHRISTINE FRAZIER
	LOCATION:	41 & 39 RIDGEDALE AVE.
		CEDAR KNOLLS
	BLOCK: 2701	LOT: 25 & 26.02 ZONE: R-25

Applicant is seeking preliminary and final site plan approval and "C" & "D" variance relief to install additional parking on property located at 41 Ridgedale Ave. and 39 Ridgedale Ave. Currently lot 25 contains H2Ocean restaurant and associated improvements. Lot 26.02 which was created by a subdivision granted by the Planning Board in 2012 is covered primarily by grass with trees and contains part of a paved and gravel driveway for an adjacent residence on Lot 26.01. The applicant is proposing to install a new parking lot on Lot 26.02 containing an additional 60 parking spaces to expand the available on-site parking capacity for the restaurant located on Lot 25. Case partially heard and carried from February 15, 2018.

Board decision due by: March 30, 2018

Ms. Fomchenko recused herself from the case.

Craig Gianetti – Attorney for the Applicant

- Continued application from February 15, 2018.

- Gave a brief overview of the proposed application and testimony that was entered at the last meeting.
- No changes to the plan are proposed.
- Reviewed the hours of operation which will be Monday through Friday 11am to 11pm, Saturday 5pm to 11pm and Sunday 11am to 9pm.

Mr. Stanziale

- Questioned the liquor license and serving alcohol outside.

Mike Frodella

- Previously sworn in by the Board Attorney.
- They do serve liquor outside.
- With the extra parking all of the parking will be onsite.

John McDonough – Planner for the Applicant

- Sworn in by the Board Attorney.
- Reviewed the standard planning analysis.
- Gave an overview of their plan.
- Exhibit A-3: series of 4 stapled maps
- Reviewed the lots that are involved in this application.
- Reviewed the surrounding zoning and developments.
- Reviewed the varied land use mix in this area.
- Reviewed the colorized zoning map.
- Exhibit A-4: 5 sheets of photographs showing the existing property, interior of the restaurant, and the existing vacant lot.
- Reviewed the different sheets of the exhibit and what each page shows.
- There are 22 outdoor dining seats.
- Discussed the relief and the proofs that the applicant is requesting.
- They are requesting 3 variances: the use variance, the parking variance to allow for 137 spaces where 182 spaces are required based on the number of seats in the building, and a fence variance.
- There are 242 seats which is where the parking requirement came from.
- The applicant is looking to have connectivity to the existing lot to allow for more onsite parking.
- They currently have an offsite parking location at Employment Horizons with 66 spaces.
- There will not be a new curb-cut on Ridgedale Ave. as they will use the existing driveway access.
- There will be an 8 ft. fence between the proposed parking on lot 26.02 and the lot 26.01.
- There will be a landscaping system to help screen the lights from this site.
- There will be 20 employees at peak shift times.
- After 100 reservations they will have valet parking.
- They are requesting that the restaurant be opened on Sundays from 11am to 9pm.
- Requesting alcohol to be allowed outside subject to the liquor license.

- Looking to be able to serve food at the bar.
- To allow maximum seating at 242 inside plus the 22 on the outside which would bring the seating total to 264, it would require an additional 17 parking spaces.
- The required parking would be 199 spots and they are proposing 154 but they can get to 197 with the valet and allowable stacking.
- This application would create a self-contained use with all parking onsite rather than offsite to Employment horizons.

Chairman Stanziale

- Can you keep the parking at Employment Horizons in case the restaurant is filled to capacity and there are more than 200 cars?

Mr. Frodella

- The restaurant does not get to the full number.
- He would not want it to reach that number so that they can give all customers a proper dining experience.

Mr. Brancheau

- Can Mr. McDonough clarify for the Board exactly what changes to the property's use are being made?

Mr. Gianetti

- Reviewed the testimony from the last application of the rooms within the restaurant and how they are used and what was changing.

The Board and the Professionals had an open dialog regarding the current operations.

Mr. McDonough

- This current business is catering to the business community.
- The applicant is looking for some flexibility in order to stay competitive with the similar businesses in the area.
- Discussed the formal proofs of the test to grant variances.
- Looked at another property in the area that is adjacent to a restaurant with a parking lot.
- Promotes general welfare in the neighborhood/
- Eliminates the conflict point on Ridgedale Ave.
- Will efficiently use the land.
- A negative is public impact but they believe that they have addressed all of the possible adverse impacts that there could be and they have fixed them.
- There are no substantially adverse impacts from this use.
- The statutory tests have been met.
- Reviewed the Board Professionals reports.

Opened to the public

Gene Fraizer – 39 Ridgedale Ave.

- Made an agreement with Mr. Frodella that the 8 ft. fence will be a solid vinyl fence.
- Requesting the fence is moved in 10 ft. so he can turn out of his garage per the agreement he made with Mr. Frodella.
- Wants a new fence installed as soon as possible after the old fence is taken down.

Closed to the public

The Board discussed their concerns with the use of the restaurant and possibly having over 200 cars there.

Mr. Frodella

- Has no interest in having regular seating in any area besides the dining room.
- The lower level is for banquets and the submarine room upstairs is for private dining.

The Board had an open discussion regarding the conditions of room usage.

Mr. Brancheau

- Addressed outdoor dining issues.

Opened to the public for statements

Seeing and hearing none

Closed to the public

Mr. Bernstein discussed what should happen with what was determined in previous resolutions.

Mr. Bernstein

- Outlined the conditions.
- Maximum seating: Outdoors – 22, Upstairs – 30, Downstairs – 80, Main Level – 132.
- At no time will the indoor capacity exceed 242.
- They are not required to keep the offsite parking at Employment Horizons.
- They will put in an 8 ft. fence along the residential properties line with approved landscaping.
- There will be a 6 ft. fence in front of the property with approved landscaping.
- The hours of operation will be Monday through Friday 10am to 11pm, Saturday 5pm to 11pm, and Sunday 11am to 9pm.
- They must comply with the liquor license.

- This is all subject to approval by the fire department.
- The lights in the parking lot will go off one hour after closing.
- No music is allowed outside.
- Must comply with the outdoor dining regulations.
- The Township Planner and Engineer will go out and determine if additional buffering is required for the outdoor dining.
- The fence facing residential properties will be solid vinyl fence with plantings.

Motion to approve with conditions was moved by Member Walsh and seconded by Member Hingos.

Members Alwell, Caruso, Hingos, Neidhardt, Iradi, Walsh, and Chairman Stanziale all voted in favor.

IV. ADJOURNMENT

Motion to Adjourn was made by Member Walsh and seconded by Member Iradi.

Meeting Adjourned at 11:35 P.M.

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