

Minutes of the Board of Adjustment of the
Township Of Hanover
February 21, 2019

Chairman Stanziale called the Meeting to order at 7:36 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, Giorgio, Hingos, Neidhardt, Chairman Stanziale, and Walsh

Absent was Member: Donaldson

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

Public Business Presented

I. RESOLUTION TO BE MEMORIALIZED

1)	CASE NO.	1806
	APPLICANT/OWNER	26 PARSIPPANY ROAD, LLC
	LOCATION:	26 PARSIPPANY ROAD WHIPPANY
	BLOCK: 4204	LOT: 1
		ZONE: BP-2

Applicant sought bifurcated “D” variance relief from density and height to allow for 129 single family dwelling units consisting of 84 apartments and 45 townhomes. Application approved January 17, 2019.

A motion to memorialize the resolution was moved by Member Fomchenko and seconded by Member Hingos.

Members Caruso, Fomchenko, Hingos, Neidhardt, Walsh, and Chairman Stanziale all voted in favor of memorializing the resolution as written.

II. MINUTES – JANUARY 17, 2019

A motion to adopt the minutes as written was moved by Member Walsh and seconded by Member Alwell. A voice vote was held and all members present voted in favor of adopting the minutes.

III. PUBLIC HEARINGS

1) **CASE NO.** 1792
 APPLICANT/OWNER MAR-KIDS PROPERTIES INC.
 LOCATION: 116 WHIPPANY ROAD
 WHIPPANY
 BLOCK: 4402 **LOT:** 6 **ZONE:** R-25

Applicant is currently seeking extension of approvals for the following. Applicant sought “D” variance approval to expand a non-conforming use. The existing structure is to remain and an addition of a one (1) story partial structure to existing residential portion and attached two (2) car garage at rear of existing structure. Applicant sought relief from sections 166-168 and 166-169. Application approved March 16, 2017.

Anthony Marucci – Applicant

- Sworn in by the Board Attorney.
- Requesting an extension.
- The attorney working on this case passed away and it resulted in a setback for them.
- He also lived in the apartment next to the office.
- Would like to continue with the project.
- Needs a one year extension because they need DEP approvals and that takes time.

Opened to the public

Seeing and hearing none

Closed to the public

A motion to grant an extension to April of 2020 was moved by Member Walsh and seconded by Member Hingos.

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

2) **CASE NO.** 1803-R1
 APPLICANT/OWNER DONALD C. GODFREY
 LOCATION: 120 AND 122 RIDGEDALE AVENUE
 CEDAR KNOLLS
 BLOCK: 1404 **LOT:** 21 **ZONE:** R-10

Applicant sought preliminary and final site plan, “C” & “D” variances and a certification of a nonconforming use/structure. Application approved with conditions July 20, 2017. Applicant is currently seeking to amend approvals to expand the scope of allowable uses.

Board decision due by: April 9, 2019

John Wyciskala – Attorney for the Applicant

- Gave an overview of the site and the surrounding area.
- It is a garage/workshop area with a small office and a single family structure.
- The approved tenant never took occupancy and the lease was terminated.
- Discussed how the site has complied with the conditions of the resolution from the previous site plan.
- They had trouble getting a new tenant approved by Mr. Donlon so they are before the Board requesting an amendment to the previous approval to allow general trade services to act as tenants on the site.
- Would like to allow commercial vehicles to be parked on the site.

Donald Godfrey was sworn in by the Board Attorney.

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

Mr. Godfrey

- Confirmed that everything Mr. Wyciskala said they were asking for is accurate.
- Confirmed that he is still okay with all of the previous conditions of approval.
- Confirmed that all required conditions of the prior resolution have been met.

Mr. Brancheau

- Wants clarification on what can be done in the building, especially for the purpose of the zoning officer being able to approve a tenant in the building.
- Asked about what kind of work they want allowed to be done inside the building because it could cause noise issues.

Mr. Wyciskala

- Whatever business is here would largely be providing services off-site.
- Prior approval did not allow for work to be done on the outside of the building.
- All work was to be done inside the confines of the building.

Mr. Walsh

- Commented that some businesses and uses are not conducive to being located so close to residential properties.

Mr. Wyciskala

- We understand that and would not ask for tenants that would not be suited for the area.

Chairman Stanziale

- Questioned how the Township would police something like that.

Mr. Brancheau

- Every change of use must come before the site plan exemption committee so that is where they determine if the use is acceptable.

Mr. Wyciskala

- They know that they must go to the site plan exemption committee whenever a tenant change is made but they are requesting this because they haven't even been able to get to the plate with them because the original resolution was drafted so narrowly.

Mr. Neidhardt

- Remembers the original resolution and believes it was made that way very deliberately.
- Feels this is an expanding non-conforming use.
- Feels it is going against the redevelopment they are trying to have on these roads.

Mr. Sullivan

- Explained what the applicant is arguing.
- The applicant is looking for the same type of tenant they just don't know who this would be at this point.
- The reason they are before the Board is because the resolution was so specific to the type of tenant allowed that they are having trouble finding one that fits the description.

Mr. Wyciskala

- There will be no outdoor storage; the main thing they are seeking is broadening the uses.

Mr. Walsh

- Clarified the storage of a trailer.

Mr. Wyciskala

- Yes, a commercial vehicle or trailer on the left side of the building that was already granted.

Mr. Sullivan

- Based on the conditions of the resolution a trailer was permitted to be stored on site.

Mr. Brancheau

- Clarified items he would like clarification on.
- What type of commercial vehicle would be there?

- Believes there are open questions about just saying commercial vehicles.
- Expressed concerns about what will happen with the parking.

Mr. Wyciskala

- Agreed that if there is a trailer it must be enclosed boxed trailer.
- Not changing any parking.
- Commercial vehicles will not be allowed to park in the residential spots.

Mr. Walsh

- Clarified the parking on the site.
- 4 spaces for residential use and 2 commercial spots, plus the trailer spot and the garage.

Mr. Godfrey

- During the day the contractors will also be out.
- That's what he is looking for in a tenant, will not be doing anything outside and will be out during the day most days.

Mr. Sullivan

- Clarified with the applicant that the hours of operation are Monday through Friday 7AM to 5PM and Saturday from 7AM to 2PM.

Mr. Stanziale

- Clarified the conditions as he understood them if approved.
- Limited to two employees plus the proprietor.
- Limited hours.
- Must go before SPEC.

Mr. Brancheau

- Concerned with tenants that the noise they create will disturb the neighbors.

Mr. Wyciskala

- Agrees to prohibit engine repair.
- Agrees to any work being done in the building cannot be heard outside.

Mr. Brancheau

- Wants a restriction on any engine repair on this site.
- Does not want there to be odors from the site either.
- Enforcement of noise must be done by a qualified noise technician and is required.

Mr. Sullivan

- Clarified how the condition of noise could be written and how the condition of smell could be written.

Mr. Brancheau

- Addressed hazardous material restrictions on this site.
- Hazardous, highly flammable material is to be restricted on the site except for in minor quantities.
- Visitation of customers to the site should be restricted.
- Only one vehicle is allowed overnight on the side of the building and/or inside.
- Suggested a height limit on vehicles on 10 ft.

Mr. Wyciskala

- Agreed to the 10 ft. vehicle height limit.
- Would like to allow two vehicles not to exceed 10 ft. in height but not to extend past the front or the rear of the building.
- Limited to the side of the building and the garage.
- Gave an overview of the types of uses – largely administrative and indoor storage.
- Would like to allow basic trades like plumbers, electricians, building contractors and similar trades that do not have regular customer visitations.

Mr. Brancheau

- Stipulate that the garage door must be closed except when vehicles are entering and exiting the building.

Mr. Walsh

- The site is to be used for “low intensity uses.”

The Board had an open discussion on what uses would be allowed – auto detailing and repairs will not be allowed due to the fact the car owners would be coming and going all day.

Mr. Brancheau

- Brought up shipments and deliveries on this site.

Mr. Wyciskala

- Would be limited to UPS, FEDEX and the like.

Mr. Brancheau

- Single unit trucks or larger are prohibited, limited to vans and step vans no larger than a 20 ft. wheel base.

Mr. Sullivan

- Reviewed the conditions if approved.
- The use is limited to tradesmen such as plumbers, electricians, and building contractors who do not have regular customer visits and services are preformed off-site.
- On-site will be primarily administrative and associated storage limited to the proprietor and two employees.
- No outdoor storage or use.
- Overnight commercial vehicles are restricted to two.
- They must be enclosed box trailers/vans that do not exceed 10 ft. tall.
- Hours of operation are limited to Monday through Friday 7AM to 5 PM and Saturday 7AM to 2PM.
- No retail sales.
- No gasoline, diesel, or motors on-site other than the vehicles.
- Noise and odors cannot be detected at the property line.
- No hazardous or highly flammable material should be on the site except for in minor quantities incidental to the tenant use.
- The vehicles cannot extend in front or behind the building.
- The garage door shall remain shut except for when vehicles are entering and exiting the garage.
- No auto repair or auto detailing.
- Plans must be revised.

Mr. Brancheau

- Gave revisions required on the plans.
- The site plan should be amended to show the parking space on the side and show the vehicles need to be less than 10 ft. tall and enclosed.

Opened to the public

Seeing and hearing none

Closed to the public

A motion to approve the application with conditions was moved by Member Walsh and seconded by Member Hingos.

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

The Board took a short break.

Back on record

3) CASE NO. 1827
APPLICANT: GAMAR, LLC
OWNER LOT 28: GAMAR, LLC
OWNER LOT 30: ANTHONY AND LOIS DECARO
LOCATION: 299 WHIPPANY ROAD
WHIPPANY
BLOCK: 4701 **LOT:** 28 & 30 **ZONE:** R-15

Applicant is seeking to amend a previously approved Final Major Subdivision, together with approved bulk variances. Said approval is to be extended and amended to reflect a shortening of the constructed road development, resulting in a slight reconfiguration of the five (5), one (1) family residential lots established by the Major Subdivision. CASE PARTIALLY HEARD AND CARRIED FROM SEPTEMBER 4, 2018.

Board decision due by: February 28, 2019

Chairman Stanziale recused himself from hearing this application.

Stacy Santola – Attorney for the Applicant

- This is a preapproved project.
- We believed that we would just be tweaking it but it turned out to be a lot more involved than that.
- A lot of the things that need to be discussed tonight are relatively minimal compared to the rest of the project.

Christine Miseo – Architect for the Applicant

- Sworn in by the Board Attorney.
- Gave educational and professional background.
- Accepted by the Board.

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

Ms. Miseo

- The homes range in size from 2,900 – 3,700 sq. ft.
- Foot prints do not exceed the allowable square footage and are within the building envelopes.
- Homes are 2 ½ stories because they do have attics, some have pull-down stair and some have walk-up stairs.

Mr. Neidhardt

- Questioned if the attics with walkup stairs are livable space.

Ms. Miseo

- The attics are not designed to be livable space.

Opened to the public

Seeing and hearing none

Closed to the public

Fredrick Meola – Engineer and Planner for Applicant

- Reviewed what was previously on this property.
- Gave a history of how this application came about.
- Reviewed the Township Engineers report dated 2/21/2019.
- Explained why there are discrepancies between the deed map and the prior map.
- They were done by a different surveyor so he corrected it now so it is not an issue later.
- Does not feel there is a problem with the recordation act.
- Will correct the elevation.
- Addressed the closing of the well.
- They will provide the proper documentation to the Board of Health.
- Reviewed the Township Planners review dated 2/21/2019.
- Reviewed the layout of the proposed subdivision.
- Reviewed the layout of lot 28.05.
- Reviewed the layout of lot 28.04.
- Now require a front yard variance in the bowl portion of the cul-de-sac.
- Lot 28.03 needs a rear yard variance.
- Lot 28.01 requires a width variance.
- Continued to review variances being requested.

Mr. Santola

- Explained how rear yard setbacks on the two rear lots worked.
- Explained the front yard setback problem for the corner lot.

Mr. Brancheau

- Did a quick comparison of previously approved development and this application.
- The prior application has expired so this is technically a new application.

The Board Attorney and the Township Planner discussed the application. The prior approvals have expired and relief must be re-granted.

Mr. Brancheau

- Continued comparison of this application to the prior approval.
- There were no front yard variances in the prior application.
- Now two lots require front yard variances.

Mr. Santola

- This application is more aesthetically pleasing than the old approval.

Mr. Meola

- Addressed the planners review section B 1-10.
- The applicant can comply with all of the comments.

Mr. Brancheau

- Addressed the tree removal requirements.
- Suggests simply changing it since it is not a big change.

Mr. Meola

- Exhibit A-1: color coded map of undersized lots from the original approval.

Open to the public

Seeing and hearing none

Closed to the public

Ms. Fomchenko

- Believes there should be a condition saying the attics cannot be livable space.

Mr. Brancheau

- Does not believe that is necessary since the ordinance allows 2 ½ story structures.

Mr. Santola

- Gave summation.
- They are trying to build a cul-de-sac with nice homes that will generate good tax revenue.
- What is being proposed is a big improvement to the site than what was previously there.

Mr. Sullivan

- Summarized conditions.

- Township Engineers report items 1, and 3-11.
- Township Planners report items B1-10.
- The number of trees required should be whichever provides more trees based on the old plans and the new plans.

A motion to approve the application with conditions was moved by Member Neidhardt and seconded by Member Fomchenko.

Members Alwell, Caruso, Fomchenko, Hingos, Neidhardt, Giorgio, and Walsh all voted in favor of approving this application.

There will be no Board of Adjustment meeting on March 5, 2019.

I. ADJOURNMENT

A motion to adjourn was made by Member Fomchenko and seconded by Member Hingos.

Meeting Adjourned at 10:11 P.M.

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