

HILLSBOROUGH TOWNSHIP BOARD OF ADJUSTMENT
PUBLIC MEETING MINUTES
December 2, 2015

Chairman Haines called the Board of Adjustment meeting of December 2, 2015 to order at 7:32 p.m. All stood for the Pledge of Allegiance. The meeting took place in the Courtroom of the Municipal Complex.

ROLL CALL:

Frank Herbert - Present
John Stamler - Present
Helen Haines, *Chairman* - Present
Curtis Suraci - Present
Fred Gladstone - Present

Frank Valcheck - Present
Kenneth Hesthag, *Vice Chairman* - Present
Steve Monte (Alt. 1) - Present
Sally Becorena (Alt. 2) - Absent
John Shockley (Alt.3) - Present
John Torok (Alt. 4) - Present

Also in attendance: Mark Anderson, Esq., Board Attorney (Woolson Sutphen Anderson, P.A); William H. R. White, III, P.E., C.M.E., Board Engineer (Maser Consulting, P.A.); David Kois, P.P., Deputy Director of Planning/Zoning Official/Board of Adjustment Secretary/Clerk; and Michael Lombardozzi, CCR.

NOTICE OF MEETING

Chairman Haines announced the meeting has been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law").

ACCEPTANCE OF MEETING MINUTES

- None

ACCEPTANCE OF RESOLUTIONS

- BA-15-10 Girl Scouts Heart of New Jersey (Camp DeWitt)

A motion to approve as written was made by Vice Chairman Hesthag, seconded by Mr. Herbert.

Roll Call: Mr. Valcheck - yes; Mr. Herbert - yes; Mr. Suraci- yes; Mr. Gladstone - yes; Mr. Monte - yes; Vice Chairman Hesthag - yes; Chairman Haines - yes. Motion carries.

- BA-15-12 New York SMSA Limited Partnership d/b/a Verizon Wireless (Hillsborough 2 SHOP)

A motion to approve as written was made by Mr. Monte, seconded by Mr. Herbert.

Roll Call: Mr. Valcheck - yes; Mr. Herbert - yes; Mr. Suraci- yes; Mr. Gladstone - yes; Mr. Monte - yes; Vice Chairman Hesthag - yes; Chairman Haines - yes. Motion carries.

- BA-15-16 Phil and Laura NEWMAN

A motion to approve as written was made by Mr. Stamler, seconded by Vice Chairman Hesthag.

Roll Call: Mr. Valcheck - yes; Mr. Herbert - yes; Mr. Suraci- yes; Mr. Gladstone - yes; Mr. Stamler - yes; Vice Chairman Hesthag - yes; Chairman Haines - yes. Motion carries.

BUSINESS FROM THE FLOOR

None

PUBLIC HEARING - APPLICATIONS

Michael DUDZINSKI - File BA-15-11 - Block 174.06, Lot 7 - 34 Murray Drive. Applicant seeking 'c' Bulk Variance for relief from Side Yard Setback and other such variances, waivers, and approvals required to permit construction of a detached one car garage, on property located in R District.

- Chairman Haines announced this application is adjourned and will provide further notice.

David Brook / DORIS - File BA-15-27 - Appeal of the decision made by the Hillsborough Historic Preservation Commission to approve application HHP-15-01 Duke Farms Demolition Request relating to property known as Block 49, Lot 1 at 130 River Road.

- Mr. Shockley recused himself because he is a member of the Historic Preservation Commission (HPC).
- Mr. Kois gave background on the HPC application.
- Chairman Haines noted that the hearing tonight is limited to whether or not the Board has jurisdiction. She asked for a brief summary from each attorney.

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- Willard Bergman, Esq, attorney for Duke Farms Foundation in connection with this matter, gave his position that the Board of Adjustment does not have jurisdiction.
- He noted that the DORIS group was not the applicant in front of the HPC and that no administrative officer has made a decision in regards to the demolition of the structure in question.
- David Brook, Esq, attorney for the DORIS group, briefly stated his case. He noted that the appeal is based on the MLUL state statute.
- He suggested that the letter from the Planning and Zoning office transmitting the proposed demolition to the HPC constitutes a decision by an administrative officer.
- Chairman Haines asked for advice from the Board Attorney.
- Mr. Anderson noted that both attorneys submitted written proposals that he reviewed prior to this hearing.
- Mr. Anderson recommended that the Board find that it lacks jurisdiction to hear this appeal.
- There was a brief discussion on the consequences of hearing the application and later finding out there was no jurisdiction to do so.
- There is another discussion about the administrative officer designation.
- Mr. Stamler motioned to deny jurisdiction of the application, seconded by Mr. Herbert.
- **Roll Call:** Mr. Valcheck - yes; Mr. Herbert - yes; Mr. Suraci - yes; Mr. Gladstone - yes; Mr. Stamler - yes; Vice Chairman Hesthag - yes; Chairman Haines - yes. Motion carries.

HILLSBOROUGH TOWERS, LLC - File BA-05-25 - Block 163.05, Lot 1.02 (formerly Block 163D) and Block 163.22, Lot 44 - 776 & 779 Eves Drive and 574 Auten Road. Request for extension of variance approvals (Resolution approved 04-04-07).

- John McNamara, Esq., Attorney for the Applicant introduced the application and explained that his client purchased the property and inherited the approvals granted in Resolution BA-05-25.
- There was a lengthy discussion regarding jurisdiction of the request.
- There was a brief adjournment.
- Mr. McNamara, Esq. indicated that there was an administrative determination that the approval pursuant to Resolution BA-05-25 was going to expire after December 31, 2015. The Applicant has applied for a one year extension.
- Mr. Kois confirmed that he made a determination that the Permit Extension Act applies Resolution BA-05-25 and that the approval expires after December 31, 2015 if there is no extension granted by the Board.
- Mr. Anderson, Esq. explained that a one year extension would be so that can secure the proper permits and commence construction.
- Mark Anderson, Esq. explained that the Board has the power to extend the approval.
- There was a discussion regarding the history and authority of the Permit Extension Act.
- The Board expressed concerns about the Applicant repeatedly coming back to ask for extensions.
- John McNamara, Esq., indicated that they are only asking for a one year extension so his clients have an opportunity to submit for permits.
- Chairman Haines verified with Mr. McNamara, Esq., that there are 12 COAH units associated with the approval.
- **Roll Call:** Mr. Stamler - yes; Mr. Valcheck- yes; Mr. Valcheck - yes; Mr. Herbert- yes; Mr. Suraci- yes; Mr. Gladstone - yes; Mr. Stamler- yes; Vice Chairman Hesthag - yes; Chairman Haines - yes. Motion carries.

Anne-Marie RYAN - File BA-15-17 - Block 205.15, Lot 114 - 21 French Drive. Applicant seeking 'c' Bulk Variance for relief from Maximum Impervious Coverage and other such variances, waivers, and approvals required to permit the construction of a patio, on property located in the RA District.

- Ms. Anne-Marie Ryan was sworn in and described the application.
- Ms. Ryan read her narrative into the record.
- There was a lengthy discussion regarding the proposed impervious coverage and the existing grade.
- Ms. Ryan explained that there is open space and a storm water basin behind her property.
- Ms. Ryan agreed to reduce her proposed impervious coverage.
- Motion to approve 28% with the conditions that the patio be pitched to the back, a grading plan to be submitted, and an as built plan to be submitted to verify compliance.
- **Roll Call:** Mr. Stamler - yes; Mr. Valcheck- yes; Mr. Valcheck - yes; Mr. Herbert- yes; Mr. Suraci- yes; Mr. Gladstone - yes; Mr. Stamler- yes; Vice Chairman Hesthag - yes; Chairman Haines - yes. Motion carries.

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Absolute Property Management, LLC - File BA-15-14 - Block 202, Lot 19 - 170 Township Line Road. Applicant seeking 'd' Use Variance and other such variances, waivers, and approvals required to convert an existing office into a residence on property located in the AG District.

- Mr. Gladstone recused himself from this application, as he operates a business on this property.
- Mark Busch, Esq, Attorney for the Applicant called his first witness.
- Arthur Lauri, III, partner of Absolute Property Management, was sworn in.
- Mr. Lauri described the existing uses and the property. He testified that the property was originally a farm and the house/office was a farmhouse.
- Mr. Lauri noted that it would be beneficial to have someone living there to be a presence on the property all the time and over the weekends.
- Mr. Kois noted that the current uses on the property were part of the original approvals.
- Chairman Haines asked about putting an agricultural easement on the back six acres of the property that are currently farm assessed.
- Mr. Busch noted they are agreeable.
- Mr. Lauri testified there are no site improvements proposed and there is currently sufficient parking but there is no parking designated for the residence only.
- Ronald Sadowski, Engineer for the Applicant, was sworn in. Mr. White and Mr. Sadowski discussed the property lines on the survey.
- Mr. White recommended that if a right of way of 25 feet had never been dedicated to Hillsborough Township, as indicated on the survey, that dedication should be a condition of this approval.
- Henry Hinterstein, Planner for the Applicant, was sworn in. His qualifications were accepted by the Board.
- Mr. Hinterstein described the positive criteria for this use.
- Mr. Stamler motioned to approve the application with the conditions of an agricultural easement and a right-of-way easement dedicated to the town if that has not been done already. Vice Chairman Hesthag seconded it.
- Roll Call:** Mr. Valcheck - yes; Mr. Herbert - yes; Mr. Suraci - yes; Mr. Stamler - yes; Mr. Monte - yes; Vice Chairman Hesthag - yes; Chairman Haines - yes. Motion carries.

Lynn and Keith MARLEY - File BA-15-13 - Block 149.03, Lot 55 (formerly Block 149E) - 61 Beechwood Circle. Applicant seeking 'c' Bulk Variances for relief from Rear Yard Setback and Maximum Impervious Coverage and other such variances, waiver, and approvals required to construct a new porch on property located in the R District.

- Mr. Keith Marley and Rick Yager, Sunroom Representative, were both sworn in.
- Mr. Marley described the application.
- Mr. Stamler verified that the sunroom was going onto an existing patio.
- There was discussion regarding which yard setbacks apply since the property is a corner lot and has two front yards. Mr. Yager indicated that it is unclear if the property has a side yard or rear yard applies to the proposed sunroom.
- Mr. Kois indicated that the ordinance is less than clear on which setback applies.
- It was noted that the proposed impervious coverage is 27.74%, which includes the proposed sunroom and the existing patio which is unknown to have received permits previously.
- Mr. Anderson, Esq. reviewed the definition for side yard and rear yard, which does not provide clarity
- Mr. Kois verified that the minimum side yard is 30 feet and the minimum rear yard is 40 feet.
- Mr. Anderson suggested that the resolution reflect that no finding has been made as to whether this is a rear or side yard, but if it is interpreted as rear yard; the board finds sufficient evidence to grant a variance.
- Roll Call:** Mr. Stamler - yes; Mr. Valcheck- yes; Mr. Valcheck - yes; Mr. Herbert- yes; Mr. Suraci- yes; Mr. Gladstone - yes; Mr. Stamler- yes; Vice Chairman Hesthag - yes; Chairman Haines - yes. Motion carries.

BOARD OF ADJUSTMENT BUSINESS

- Annual report discussion

CORRESPONDENCE

None

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ADJOURNMENT

The meeting adjourned at 9:57 p.m.

Respectfully Submitted by: David Kois, P.P., Deputy Planning Director/Zoning Official/Board of Adjustment Secretary/Clerk

APPROVED