

HILLSBOROUGH TOWNSHIP BOARD OF ADJUSTMENT
PUBLIC MEETING MINUTES
March 06, 2013

Chairman Fenwick called the Board of Adjustment meeting of March 06, 2013 to order at 7:30 p.m. All stood for the Pledge of Allegiance. The meeting took place in the courtroom of the Municipal Complex.

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

ROLL CALL

Michael Volpe – Present	Frank Valcheck – Present
John Stamler – Absent	Shawn Lipani (#7) – Present
Helen Haines, Vice Chairman – Present	Frank Herbert (Alt. #1) – Present
Marian Fenwick, Chairman – Present	Curtis Suraci (Alt. #2) – Present
Walter Dietz, III – Absent	Kenneth Hesthag (Alt. #3) – Absent
	Michele (Horst) Boronkas (Alt. #4) – Present

Also in attendance: Mark Anderson, Esq., Board Attorney, Woolson Sutphen Anderson, P.C.; William H. R. White, III, PE, Engineer, Maser Consulting; David Kois, Zoning Officer/Assistant Planner/Board of Adjustment Administrative Officer/Secretary; and Susan Baber, CCR.

ACCEPTANCE OF MINUTES

January 09, 2013 – Reorganization Meeting

A motion to approve was made by Vice Chairman Haines, seconded by Mr. Volpe.

Roll Call: Mr. Valcheck – yes; Mr. Volpe – yes; Mr. Lipani – yes; Mr. Herbert – yes; Mr. Suraci – yes; Ms. Horst – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

January 09, 2013 – Regular Meeting

A motion to approve was made by Mr. Lipani, seconded by Mr. Valcheck.

Roll Call: Mr. Valcheck – yes; Mr. Volpe – yes; Mr. Lipani – yes; Mr. Herbert – yes; Mr. Suraci – yes; Ms. Horst – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

January 09, 2013 – Executive Session

A motion to approve was made by Mr. Valcheck, seconded by Mr. Herbert.

Roll Call: Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Herbert – yes; Mr. Suraci – yes; Ms. Horst – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

ACCEPTANCE OF RESOLUTIONS

None

BOARD OF ADJUSTMENT BUSINESS

Resolution of Appreciation – Leon Krals

Chairman Fenwick read the Resolution of Appreciation. Former Board of Adjustment member and Chairman, Leon "Skip" Krals received his honor with a warm round of applause.

BUSINESS FROM THE FLOOR

Thomas Riccardo came up to address his draft Resolution for the application, Thomas and Sandra RICCARDO, BA-12-12. Mr. Riccardo said my attorney received a copy late this afternoon. I just found out tonight that the Resolution was canceled. (*Mr. Riccardo's attorney, Francis P. Linnus, requested that the Resolution be pulled from the agenda for further review.*)

Mr. Riccardo said when I was here for the hearing we talked about doing an environmental test. However, we left it that I did not have to do the test but the Resolution states that I have to. That would be a financial hardship. I wanted to come tonight to discuss it so that more time did not pass and it would not be as fresh in the minds of the members. I was told the recording did not clarify it either way.

Vice Chairman Haines said I remember because I was the one who brought up that issue. Mr. White did not think that it was necessary in this case so I agree with you that that should not be listed as a requirement of the Resolution.

Mr. Herbert said that is my recollection also.

Chairman Fenwick said we have removed the Resolution from the agenda this evening and are going to bring it back on March 20th. There will be discussion about it.

Mr. Riccardo said I got rid of the car and the trucks within a couple of days of the hearing, as you told me.

BOARD OF ADJUSTMENT MEETING MINUTES
March 06, 2013

PUBLIC HEARING - APPLICATIONS

Chairman Fenwick asked Mr. LaRue's Attorney, Richard Schatzman, if he would be agreeable to allow Mr. Farkas to go next being that it should be a relatively short hearing.

Mr. Schatzman agreed.

Mr. Kois introduced the next application.

William FARKAS – File #BA-12-14 – Block 173, Lot 27 – 326 Zion Road. Applicant seeking 'c' Bulk Variances for relief from Minimum Lot Size; Minimum Front Yard Setbacks; Minimum Side Yard Setback for Accessory Structure; Maximum Height for Accessory Structure; and such other variances, waivers and approvals as are necessary to permit the applicant to construct an addition to the existing residence, front porch with roof, addition to the rear of the detached garage and relocate shed, on property in the MZ District (EC review: 01-28-13).

Mr. Lipani stated for the record that his business and Mr. Farkas' business have had interaction. For that reason, Mr. Lipani recused himself from the application and left the dais.

William FARKAS – File #BA-12-14 – Block 173, Lot 27 – 326 Zion Road.

William Farkas, applicant, was sworn in.

Mr. Farkas asked how the Board would like him to proceed.

Chairman Fenwick instructed that the Applicant should describe the property and what he is proposing for the property.

Mr. Anderson explained the requirements to Mr. Farkas and asked him to refer to Mr. Kois' Report.

Mr. Farkas indicated he is proposing "c" bulk variances and further described each.

Mr. Farkas addressed Mr. White's report and indicated he will not be garaging more than three cars.

The following exhibit was marked into evidence:

- o **Exhibit - A1:** Site survey indicating location of septic system and well

Mr. Farkas asked the Board if they need more information.

Mr. Anderson reiterated it is the Applicant's obligation to provide sufficient information that satisfies the criteria.

Mr. Farkas indicated he is applying for the variance on the addition due to the physical constraints of the nonconforming lot. Further, the reason for the variance is because the required front setback is 150 ft., where he proposes 69 ft.

Mr. Farkas noted the other variance is for minimum lot size because it is a nonconforming lot. The rest is for the accessory setbacks for the garage addition being proposed. The side setback is required to be 20 ft., whereas 17.5 ft. is proposed. The other variance is for the height of the garage, where 20 ft. is the maximum and 22 ft. is proposed.

Vice Chairman Haines asked if the Applicant attempted to purchase additional land.

Mr. Farkas said the letters did go out, but even if I purchased the adjoining land, the property would still be nonconforming.

Vice Chairman Haines asked for clarification about the capacity of the gym.

Mr. Farkas indicated he intends to store camping equipment and ATVs in the garage addition. Additionally, he plans to use the space for a home based gym and that is why they are proposing a bathroom in the building.

Vice Chairman Haines asked if walls were being proposed to divide the space to ensure that it is not used for garaging of 3+ cars.

Mr. Farkas noted just one interior wall is proposed, otherwise it will be open. We are proposing a bathroom and next to it would be the gym and open storage space.

Vice Chairman Haines asked for clarification regarding the side yard setback.

Mr. White stated the garage is not parallel to the side property line.

Chairman Fenwick asked about removal of structures on the property.

Mr. Farkas noted the wood shed would be relocated and the lean-tos would be removed, which would help with the impervious coverage.

Chairman Fenwick asked if there is a second floor proposed.

Mr. Farkas said no second floor is proposed; it is designed to be open.

Vice Chairman Haines asked why the roof height is being proposed.

Mr. Farkas said the architect designed it so that the roof lines would match the older section, otherwise it would be ugly.

Mr. Volpe asked Mr. Farkas if the variance for the height is just for aesthetic purposes.

Mr. Farkas affirmed.

Vice Chairman Haines asked if the only garage entrance is from the front.

BOARD OF ADJUSTMENT MEETING MINUTES
March 06, 2013

Mr. Farkas affirmed. Further the side door garage is a one car sized door, which would open up onto the lawn.
Mr. Farkas said I do not intend to store a car in the proposed area.
Chairman Fenwick asked if the septic meets the capacity requirements for the proposal.
Mr. Farkas affirmed.

Mr. Lipani asked the Applicant to explain the purpose of the addition.

Mr. Farkas said the first floor addition is intended for his elderly mother-in-law so she has a comfortable space. The wraparound porch is meant to make the house more aesthetically pleasing to the neighborhood.

Mr. Lipani asked how many people will be living in the home.

Mr. Farkas indicated there will be three people living since his daughter is off to college soon.

Mr. Kois asked Mr. Farkas to describe the neighborhood and if the front yard setback will negatively impact the neighborhood.

Mr. Farkas said his house is one of the furthest setback houses in the neighborhood with the exception of a rear neighbor. He noted many lots are around 4 acres with lots of tall trees and large properties.

Mr. Farkas said many houses on the mountain are dilapidated. It is very costly to improve a house due to the zoning and perhaps that is why some of the houses are in poor condition.

Vice Chairman made a motion to approve the application for FARKAS, which was seconded by Mr. Valcheck with the following conditions:

- o Garage addition shall have one floor
- o No occupancy of the garage
- o No driveway access to the side garage door

Votes in Favor: Mr. Valcheck, Mr. Volpe, Mr. Lipani, Mr. Herbert, Mr. Suraci, Vice Chairman Haines and Chairman Fenwick.

Votes Against: None.

BELLE MEAD TIRE (LaRue) – File #BA-12-13 – Block 180.01, Lot 2 – 882 Route 206.

Mr. Kois introduced the application.

Richard Schatzman, Esq., attorney for the applicant stated I have filed an affidavit of service and an affidavit of notice.

Mr. Anderson acknowledged that both were in order but that the notice did not mention a building height variance. There is no reason why that cannot be dealt with in the second part of the application should the use and other bulk variances be granted.

Mr. Schatzman said we do not need the height variance. Tonight we have the applicant, engineer, traffic engineer and architect to provide testimony. We do not expect to be able to finish up tonight and will provide testimony from our planner at the next hearing. This is a bifurcated application. Should you grant the use variance and 'c' variances, we will have to come back before this Board for site plan approval. At that time even though receiving a 'd' and 'c' variances, we would still need to prove the lack of negative criteria.

Mr. Anderson agreed.

David Schmidt, P.E. of D.S. Engineering was sworn in, reviewed his credentials, was accepted by the Board and gave the following testimony in response to questions asked by Mr. Schatzman:

I have been out to the sight, prepared all engineering plans and am familiar with Hillsborough's Ordinances.

Exhibit A-1 Colorized Display Map (03-05-13)
Exhibit A-2 Architectural Plan

This property is located on the southbound side of Route 206. Immediate neighbors are the Millennium Car Wash and Belle Mead Hot Glass. The total lot area is .8673 acres, zoned C-1 Retail. I am going to go through the list of variances required. Richard Coppola, P.P. will go through the justifications for the variances at the next meeting. This application will require a 'd' use variance; 'c' bulk variances for lot area, 2 acres is the requirement; minimum lot width, 200 ft. is proposed, 100 ft. is pre-existing; minimum side yard setback, 50 ft. each is required, we are proposing 10 ft. from the north side (car wash) and 39.7 ft. from the south side (glass co.); maximum building coverage, 20% is required, 21.85% is proposed; maximum lot coverage, 45% is required, 64.26% is proposed; access drive is to be 30 ft. from the property line, 21 ft. is proposed.

Mr. Cohen will go over the architectural plans but I will give a brief scenario of what we are proposing:

BOARD OF ADJUSTMENT MEETING MINUTES

March 06, 2013

A 7,780 sf. rectangular building with a 475 sf. porch on the front; 50 ft. width x 155 ft. 7 in. in length; 9 ft. 6 in. porch; total area with the porch included is 8,255 sf.; 1st floor is 7, 780 sf. includes the shop area in the rear, office and reception area in the front, a 1,200 sf. storage mezzanine will go above the shop area; proposed building height is the 30 ft. maximum; facade is a tan metal siding with a brown metal roof; there will be some areas of cultured stone.

Site plan will have a 30 ft. wide entrance way; 4 spaces when you come off of Route 206, 2 of which are handicap parking; 13 parking spaces in the rear; storage parking inside consists of 6 bays for parking of cars and the aisle ways can also park additional cars for vehicles being serviced and stored over night.

Mr. White stated in his memo that the parking requirement is 1 parking space for every employee, 2 parking space for every bay, and 1 space for every 150 sf. of retail. We have 5 employees and 6 services bays. Our total number of spaces provided is 17. I will look to meet with Mr. White and Mr. Kois to figure out if the retail for a service station which is just selling tires requires the same parking that is typically for a shopping center. It is my opinion the total site plan has adequate parking.

The site will generate a light traffic load. The access will require a NJDOT Permit and is proposed for full traffic movement, allowing the driver to turn left or right out of the driveway. The hours of operation are Monday – Friday 7 a.m. to 6 p.m., Saturday 8 a.m. to 3 p.m., closed on Sunday.

The proposed Belle Mead Tire Center will service public and commercial automobiles and light trucks. Adequate lighting will be provided around the site. We propose to have a lighted sign in the front of the building with landscaping in accordance with the Ordinance.

As for stormwater management, we are proposing a bioretention basin with some underground storage facilities under the pervious pavement in the rear of the building. We will be doing some soil testing later this week so we can give Mr. White a more comprehensive design. The wastewater management will be handled by the HTMUA sanitary sewer manhole in the front of the property. Water is provided by the NJ American Water Co., gas and electric by PSE&G, phone is Century Link and cable is Comcast.

There are no critical slopes on the property. There are no wetlands on site. The soils are substantial enough to hold the loads for the proposed building.

Outside agencies: SCPB letter dated 01-07-13 had no comments; I submitted to the DRCC but did not ask for site plan review since this is a bifurcated application; we will also need Somerset-Union Soil Conservation Commission approval at the time of site plan.

In the Fire Marshal's report he states he would like to see full movement for a 47 ft. long truck. It is difficult having only 150 ft. width to be able to provide a truck of that width to have those movements. We have an access easement with the carwash. Perhaps I can move the dumpster and provide pavers in that area which would allow for better movement. I will discuss this further with the Fire Official. I will also look into different options for moving the dumpster.

Vice Chairman Haines questioned the lack of room for the firetrucks.

Mr. Schmidt said if there were a fire the adjacent sites would be used for fire vehicles.

Mr. Schatzman said we will work on it with the Fire Marshal but the site is very narrow. That would be a problem no matter what type of business you put there.

Mr. Herbert asked if this application was before the Environmental Commission.

Mr. Schatzman said yes, the Environmental Commission is concerned with the impervious hard cover. As Mr. Schmidt stated, we are going to be giving more information by doing soil testing to see if our stormwater works so that you can make an informed decision. The EC said they will do a full review of the site once the site plan application is provided. The EC asked for a Phase I report which we gave them. I explained to the EC during our presentation that we were doing the 'c' and 'd' variances at the same time. They were concerned with the impervious cover.

Chairman Fenwick said I would like to see that cross access with the car wash which would provide one movement through the site.

Mr. Lipani said you are putting as much as you can on a narrow lot that will fit. Are there any other proposals to make the building smaller? You are reaching total saturation on a site that is not really conducive to what you are trying to do.

Mr. White asked for more information about the number of employees and operations of the business.

BOARD OF ADJUSTMENT MEETING MINUTES
March 06, 2013

Mr. Schatzman said Mr. LaRue will provide that testimony later in the hearing.

John Rea, P.E. of McDonough & Rea Associates, Inc. was sworn in, reviewed his credentials, was accepted by the Board and offered the following testimony in response to questions asked by Mr. Schatzman:

For my 11-14-12 study, I needed to compare the amount of traffic generated for the proposed use vs. a permitted retail use. This is a minimal traffic generator in terms of what you would likely find in the commercial zone of Route 206. It is my understanding that on a typical day Mr. Larue will have approximately 30 customers and have 5 employees. Realistically we are looking at 3 or 4 customers and hour. A retail use would substantially generate more traffic.

We have make numerous visits to the site to observe existing traffic conditions to record daily and hourly traffic volumes. On average there are 26,000 cars per day traveling north and south past the property frontage. The peak hours in the morning and afternoon average 2,000 to 2,100 cars passing the site frontage. We are going to generate 3 or 4 traffic movements instead of 120 peak hour traffic movements. In my opinion it is a pretty easy job to prove the negative criteria which Mr. Coppola will talk about.

This lot is a nonconforming NJDOT lot. We have to go through a calculation to figure out how much traffic DOT will permit us to generate from the lot. We are permitted to have 92 peak hour trips, so based on that I am very comfortable that we will be able to get a NJDOT Permit for this particular use. From a traffic point of view it is a good use because it will generate substantially less traffic than a permitted use.

The Route 206 Bypass will terminate at Mountain View Road which as Mr. Schmidt indicated, is 800 ft. north of the property. My notes indicate the speed limit is 45 m.p.h. The NJDOT makes us look at very specific land use categories in their traffic generation spreadsheet. For a tire center of this size we have to use the DOT numbers which are higher than we anticipate, at 30 peak hour trips, which we will never reach. I needed to go through that calculation to make sure we fell well within the 92 peak hour threshold that the DOT would permit.

Clearly, left turns are going to be difficult out of the site at peak hours which is true of any property along Route 206. My feeling is that if you have a mid-block location without access to a side street or traffic light, you are better off permitting the left turn to be made at the site driveway. If you don't, you have to consider what the alternative is which is for someone to make a right turn out of the property and look for the nearest driveway to make a u-turn and make the left turn anyway. As long as the sight distance is good, which it is at this site, the left-turn should be permitted.

Vice Chairman Haines asked what about a rear access that would take you through the back up to Mountainview and to a light.

Mr. Rea said I was unaware there was an access easement until today when Mr. Schatzman mentioned it.

Mr. White said that would be for emergency access only. Making it for everyday access would be difficult because the carwash has the traffic going forward.

Vice Chairman Haines said the car wash has access through the veterinary hospital so I think it would be good to look into that.

Mr. Rea said we are going to look into it but our initial thought is that because the stacking lanes for the car wash are in the area of the easement, it would be an inappropriate place to do that.

Mr. Herbert asked about there being a barrier on Route 206.

Mr. Rea said it will not be in this section of Route 206.

Steven S. Cohen, Architect, was sworn in, provided his qualifications, was accepted by the Board and offered the following testimony in response to questions asked by Mr. Schatzman:

The proposed is a metal building with 2 sections. The showroom portion is slightly lower than the main service portion. To break up the front we put a covered porch. The base of the building will be a decorative block which will continue around the side. Above that will be metal siding done in 2 colors. The porch area will have a shingle roof, residential style windows and doors for access. The south side and the back have several overhead doors.

In response to comments in Mr. White's report, there will not be a basement. The finished floor will be a minimum of 2 ft. above the water table. The porch does not wrap around the side of the building, it is just in the front.

Mr. Herbert asked where deliveries would be made.

BOARD OF ADJUSTMENT MEETING MINUTES

March 06, 2013

Mr. Cohen said truck deliveries would come in through either the side or the back. Small parcels may come through the front. I believe the delivery trucks are going to be single axle trucks, not large trucks. There are 6 service lifts, not 5 as the note indicates on the drawing. The alignment rack closest to the sales area is technically not a lift.

Mr. Kois asked about a wall sign.

Mr. Cohen said I can show that when we come back.

John LaRue, applicant was sworn in and gave the following testimony in response to questions asked by Mr. Schatzman:

I grew up in Hillsborough, moved to Montgomery in 1984. I am the owner of the Sunoco in Montgomery near the airport. I am looking to have more room. My plan is to turn the Sunoco into a convenience store and find another location to have my auto tire center.

I have been in business since 1984. We work on cars and pick-up trucks, sell tires, do basic auto repair, diagnosing of cars, install bike racks and things like that. We are going to have 1 service writer, 3 technicians and myself. Noise, other than air tools is confined to the inside of the building. The building is big enough to house 15 or 16 cars so everything is going to be done inside; we are not going to be working in the parking lot or in a neighbor's lot. There is no pollution. The waste oil will go into a tank with a spill basin underneath or we will add a waste oil heater to burn the waste oil. In my location now we have companies that come in to buy the waste oil and recycle it.

Vice Chairman Haines asked if there would be any outside storage of vehicles overnight.

Mr. LaRue said the building being the size that it is will be able to house 15 cars so most of the cars will be inside overnight. With the parking lot being in the back, it will not be an eyesore. I designed the building so that the showroom has cultured stone and windows so that it does not look like a typical STS or Firestone where you have 10 doors across the front. This building is going to be set up like a car dealership in that you pull into the lifts which makes the building cleaner.

For a mechanic to be efficient, you have to have a dead lift. Cars today do not all take the same parts so a car may sit on a lift for a day. That is the reason for the employee to lift ratio.

Mr. Herbert asked about the amount of space between the door and the lift.

Mr. LaRue said there are 3 doors. The way I designed it is so that there is a 14 ft. door in the back of the building. Smaller cars will pull into that door. The lifts will be on the car wash side so they will swing into a lift. There are 2 doors on the south side of the building. One door will give us access to the alignment rack. The middle door will be to access the heavier lift for 1 ton trucks. I designed it so that there are going to be pods to make everything more efficient. We are going to use electric lifts that lock. That allows me to have 6 cars on lifts and the space to park 6 more underneath and that is without using the rest of the area. In reality, that building can house 20 cars. We are not pushing a huge parking lot because we will not need it. In my business we have about 20 cars a day. Twenty years ago you could fix 30 cars a day but now you can only fix between 10 and 16 cars a day because the cars are more sophisticated, the parts are harder to get and the jobs are more expensive.

Vice Chairman Haines asked about the possibility of there being an access road in the back.

Mr. LaRue said in my opinion whoever designed the car wash did not design enough property to put in an access road. I do not see how an access road can be designed safely.

Vice Chairman Haines said when I try to get out of my roadway onto Route 206 the traffic is bad and it is not safe to make a left.

Mr. Schatzman reiterated, we will take a look to see what can be done.

Chairman Fenwick noted that the design of the building is in keeping with the surroundings. Given the configuration of the property, you do not have a lot of options but not having to look into the bays as you drive by makes it esthetically pleasing and one of the positives of the application.

Mr. Lipani asked how snow removal will be handled.

Mr. LaRue said I have been plowing snow for 30 years. I would push the snow to the back of the lot and then push the snow over the curb. I just wanted to have this parking lot wide open so that you could maneuver around.

Mr. Schatzman said that concludes our testimony for tonight. Since we need time to do soil testing we would like to come back in May. I will sign a consent for the 95 days. Let the record show that there is no one in the audience.

BOARD OF ADJUSTMENT MEETING MINUTES

March 06, 2013

Chairman Fenwick asked for a motion to open to the public for the record.

Open to the public
No comments/questions

Close public

Mr. Anderson stated for the record that there has not been anyone in the audience for the entire presentation of the application; hence the Chairman did not open to questioning after each witness.

Chairman Fenwick said May 15 should give you enough time to coordinate with the Environmental Commission again.

Mr. Anderson stated this application is carried to May 15, 2013 without further notice.

A motion and second was made. All were in favor; none were opposed. Motion carries.

EXECUTIVE SESSION

RE: Jeffrey ROTH – File #BA-06-43 (Jeffrey Roth v. The Board of Adjustment of the Township of Hillsborough) – The Board will convene to discuss litigation and attorney-client privilege matters.

A motion and second was made to go into closed session after a 10 minute break. All were in favor; none were opposed. Motion carries.

Mr. Anderson stated the Board will go into closed session to discuss attorney-client privilege matters on the Roth application and Riccardo Resolution.

Break

Executive Session ran 9:30 p.m. to 10:04 p.m.

A motion and second was made to close Executive Session. All were in favor; none were opposed. Motion carries.

HERCULES ENTERPRISES, LLC (Copart) – File #BA-13-01 – Block 143, Lot 7 – 321 Valley Road. Appeal/Interpretation. ***ADJOURNED to April 03, 2013 without notice.***

Mr. Kois announced the Hercules application has been adjourned to April 03, 2013 without further notice.

ADJOURNMENT

The meeting adjourned at 10:05 p.m.

Submitted by:
David Kois
Zoning Officer/Assistant Planner
Board of Adjustment Administrative Officer/Secretary

Debra Padgett
Planning Board/Board of Adjustment Clerk