

HILLSBOROUGH TOWNSHIP BOARD OF ADJUSTMENT
PUBLIC MEETING MINUTES
May 01, 2013

Chairman Fenwick called the Board of Adjustment meeting of May 01, 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 – Absent

John Stamler – Present

Helen Haines, Vice Chairman – Present

Marian Fenwick, Chairman – Present

Walter Dietz, III – Present

Frank Valcheck – Present

Shawn Lipani (#7) – Present

Frank Herbert (Alt. #1) – Present

Curtis Suraci (Alt. #2) – Present

Kenneth Hesthag (Alt. #3) – Present

Michele Horst (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 Lucille Grozinski, CCR.

ACCEPTANCE OF MINUTES

March 20, 2013

A motion to approve as written was made by Mr. Lipani, seconded by Mr. Stamler.

Roll Call: Mr. Stamler – yes; Mr. Dietz – yes; Mr. Lipani – yes; Mr. Valcheck – yes; Mr. Herbert – yes; Mr. Suraci – yes; Mr. Hesthag – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

ACCEPTANCE OF RESOLUTIONS

Jay and Rena FLEISCHMAN – BA-13-02

A motion to approve as written was made by Vice Chairman Haines, seconded by Mr. Valcheck.

Roll Call: Mr. Valcheck – yes; Mr. Dietz – yes; Mr. Lipani – yes; Mr. Stamler – yes; Mr. Herbert – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

The Avalon at Hillsborough – BA-13-03

A motion to approve as written was made by Mr. Dietz, seconded by Mr. Valcheck.

Roll Call: Mr. Valcheck – yes; Mr. Dietz – yes; Mr. Stamler – yes; Mr. Herbert – yes; Mr. Suraci – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

BOARD OF ADJUSTMENT BUSINESS

None

BUSINESS FROM THE FLOOR

None

PUBLIC HEARING - APPLICATIONS

Chabad Jewish Center of Greater Hillsborough, Inc. – File #BA-12-07 – Block 162, Lot 20.01 (26 New Amwell Road – Rear Lot), and Block 162, Lot 20.02 (22 New Amwell Road – Front Lot). Amended application – Applicant seeking Minor Subdivision; Minor Site Plan Approval; 'd' Use Variances; and 'c' Bulk Variances to merge 2 lots into 1 with 2 existing single family dwellings to remain, convert #26 to a house of worship with Sunday school and religious pre-school; #22 as a parsonage/rectory/residence; with emergency turnaround, improved parking, new fence, widened driveway and improved drainage (easterly side) on property in the CR District. ***Carried from April 03, 2013 without further notice. (Deliberation and Decision)***

Francis P. Linnus, Esq. appeared on behalf of the applicant.

Mr. Dietz made favorable comments as to the summary offered and proposed resolution presented for the application.

Mr. Stamler made mention that the applicant is required to meet all conditions of the D&R Report.

Vice Chairman Haines noted that approval by the D&R would be a condition of approval before the Use Variance goes into effect, along with any other conditions offered by Mr. White and Maser Consulting. Also, the Fire Official would have to give the ok on exits and fire safety evacuations and things of that sort.

BOARD OF ADJUSTMENT MEETING MINUTES
May 01, 2013

Mr. Stamler expressed his concerns with fire safety and evacuation procedures.

Mr. Anderson said the school is under the jurisdiction of the State. Some of those requirements directly have to do with public safety which the Fire Official would control.

Mr. Stamler stated I do not believe this lot is a good fit for this use; I would like to have seen this applicant pursue another property.

No other comments/questions.

A motion to approve with the conditions of: all construction shall be done substantially as shown on the Plans; compliance with all conditions in the report of Mr. White dated April 02, 2013; the applicant will limit the occupancy of the preschool to 44 children and 8 adults; the preschool will be limited to children ages 2 ½ to age 6; occupancy of the house of worship shall be limited to a maximum of 49 people; the applicant shall ensure that the proposed uses shall not operate simultaneously with the exception of the office use; the applicant will not allow any student bus service; the applicant will not allow anyone to reside in the house of worship; the applicant will not use any portion of the property without Board approval; the applicant shall restrict the property impervious coverage by Deed, from increasing beyond that which exists on the property at the time of this application; the applicant shall enter into a Stormwater Management Facilities Agreement with the Township; all exterior lighting will be turned off by 10:00 p.m.; no vehicle shall be permitted to be anywhere on the property other than in a designated parking space; the applicant shall comply with all recommendations of the Fire Marshal; the applicant shall provide a 70 ft. wide space at the rear of the parking lot and designate that space as a "NO PARKING FIRE ZONE" to the satisfaction of the Fire Marshal and Board Engineer; and the applicant shall comply with all D&R requirements, was made by Vice Chairman Haines.

Mr. Linnus asked for clarification on the matter of leasing.

Mr. Anderson said the concern is that part of the use can be leased out and then not be controlled entirely by one entity, giving the example of the preschool.

Rabbi Krinsky said it does not matter what the business is called, as long as it is under "Chabad", it is all the same.

Vice Chairman Haines said I believe you testified you will be running the operation.

Rabbi Krinsky replied, "Exactly".

A second to the motion was made by Mr. Dietz.

Roll Call: Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Dietz – yes; Mr. Stamler – no; Mr. Herbert – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

Patrick DeNapoli, Jr. – File BA-12-10 – Block 58, Lot 29 - 154 Johanson Avenue. Amended application – Applicant seeking 'c' Bulk Variances for relief from Maximum Impervious Coverage (24.76% proposed where 15% is permitted; Minimum Lot Size (21,800 sf. existing where 43,560 sf. is required); Minimum Side Yard Setback (left) (14 ft. proposed where 30 ft. is required); and such other variances, waivers, and approvals as are necessary to permit the applicant to retain existing patio and driveway and construct 330 sf. addition to existing residence on property in the R District. Applicant previously granted 'c' Bulk Variance for Impervious Coverage maximum of 18.97% for driveway, Resolution date 12-05-12. ***Adjourned from April 03, 2013 with re-notice.***

Patrick DeNapoli, Jr. was sworn in and gave the following testimony:

Mr. DeNapoli stated I have a two-story dwelling, patio, walkway and driveway on my property. Back in September we were granted an 18.97% maximum for impervious coverage for the expansion of our driveway. Since the approval we had a survey done which highlighted a miscalculation on our part. We did not previously include a 15' x 15' (225 sf.) paver patio. The form called for "paved patio" so we did not believe it needed to be included. We are not looking to expand the driveway further, just looking not to have to remove any impervious coverage. We would also like to propose a 330 sf. addition to our back living room. The reason being is that the kitchen-living room-dining room area is a tight living space. All of the houses in our development were built with identical layouts; many have since added large additions to increase the living space.

The Board asked about drainage.

Mr. DeNapoli said the water drains to the street. We also had 3 French drains put in.

BOARD OF ADJUSTMENT MEETING MINUTES

May 01, 2013

Mr. Dietz asked Mr. DeNapoli why the paver patio cannot be removed.

Mr. DeNapoli stated the pavers house the above-ground firepit. That was there before the driveway was expanded.

Mr. Dietz explained decreasing the areas where water can be absorbed increases the potential for flooding. The Board is concerned with the increase of impervious coverage; that is why we have these regulations. We also need to be concerned for your neighbors.

Mr. DeNapoli said during the floods mentioned there has been no flooding or even puddling on the property.

Vice Chairman Haines remarked although it may not be on your property, you are adding to the general mix of water in that area.

Mr. Dietz suggested working with the Board in decreasing the amount of impervious coverage.

Mr. Stamler asked what the percentage would be if the paver patio was removed.

Mr. Kois reminded the Board, the original application added on 2 pieces to the driveway: 7' x 52' to the front and a 9' x 20' piece to the back which connects to the existing concrete patio.

Mr. DeNapoli explained the additional driveway area is needed because the entry to the garage faces the side of the house and the front of the driveway was expanded so that we can fit 2 cars.

Chairman Fenwick said I went by your property and saw 3 vehicles parked in a very large driveway with lots of room. I believe there is a stream behind your house. Does the water drain to the stream?

Mr. DeNapoli said the water does not pitch to the stream but to the street.

Chairman Fenwick added although not your home, your area has been shut off on Dukes Parkway East from flooding.

Vice Chairman Haines asked Mr. DeNapoli if he is willing to remove the paver patio section to help bring down the amount of impervious coverage on the property.

Mr. DeNapoli said I would rather take out a 15' x 15' section of the concrete patio or shorten the driveway.

Mr. Anderson stated the Board's limitation will be on the percentage of the impervious coverage allowed. Assuming as sufficient information is determined what percentage it will permit, there is not a need for the Board to specify where that area will come from.

Mr. White said taking off a 15' x 15' area (225 sf.) will take the percentage of impervious coverage down to 21.4% from 22.44%.

Mr. Dietz asked why the stone driveway needs to go all the way to the back of the garage.

Mr. DeNapoli said that is how it was set up. I added 9 ft. onto it so it would be even with the patio. That area was needed so you can back out of the garage. Even though it is a long driveway, it is a tight driveway.

Vice Chairman Haines asked if any other areas on the property had been overlooked.

Mr. DeNapoli said no.

Open to the Public

No comments/questions

Mr. DeNapoli explained that both patios are pitched going into the French drains. The drains go directly into the storm sewer grate.

Open to the Public

Susan Gulliford – Hunt Club Road

Mrs. Gulliford asked why the lot size is less than the requirement.

Mr. Kois said this is an older subdivision which is nonconforming to the current lot size.

Mrs. Gulliford asked why the French drain was put in. Is there a problem that existed where the drain was needed?

BOARD OF ADJUSTMENT MEETING MINUTES
May 01, 2013

Mr. DeNapoli said the previous owner installed the French drain, we decided to upgrade the piping from 3" to 4".

Mr. Dietz said the purpose of the French drain is to move the water faster to the street and then to the river. That is a benefit to you but a detriment to your neighbors.

Mr. DeNapoli said if need be, I can block them off. I am not certain where the sump pump drains to but it does not drain to the French drains. I do not hear the sump pump go off during rain storms. Part of the house is on a slab, the other has a crawl space.

Mr. Dietz asked about plugging up the French drains.

Mr. White said my only concern is that it might create a breeding ground for mosquitoes. It sounds like this was done for mitigation of ponding water. The soils in this town are slow to perk.

Close Public

A motion to approve at 21.4% impervious coverage with it being up to the applicant to reach that percentage as he needs to but at the approval of the Board Engineer, was made by Mr. Dietz, seconded by Mr. Stamler.

Roll Call: Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Dietz – yes; Mr. Stamler – yes; Mr. Herbert – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

MK Properties, LLC – File BA-13-06 – Block 142.02, Lot 16 (formerly know as: Block 142A, Lots 15 & 16) – 138 Route 206 South. Applicant seeking Preliminary and Final Major Site Plan Approval; 'd' Use Variance for expansion of a non-conforming use; 'c' Bulk Variance for relief from Minimum Rear Yard Setback (existing condition); (Minimum Side Yard Setback to a distance of 10.99 ft. previously granted June 18, 1987); Waivers from providing an Environmental Impact Statement and a Community Impact Statement; and such other variances, waivers and approvals as are necessary to permit the applicant to construct a one-story, 4-bay 4,800 sf. second building with extended roof for a total of 5,334 sf. on property in the HS District. (*EC Review: April 22, 2013*)

Alexander Fischer, Esq. of Mauro, Savo, Camerino, Grant & Schalk representing the applicant introduced Robert Heibell, P.E. of Van Cleef Engineering and Michael Krachun, Owner and Applicant. Both were sworn in with testimony beginning with Mr. Heibell.

This application appeared before the Board in 2010 for a Use Variance, Site Plan and Minor Subdivision. The Minor Subdivision was perfected, increasing this property to 2.166 acres. The Site Plan from 2010 involved an expansion of the existing building, all on an existing concrete pad or stone area so there was no increase in impervious surface. The applicant pursued permits through the Building Department and discovered during that process that because the two buildings would be attached, a sprinkler system would have to be provided. Additionally, the auto body operations would have to be closed down for some time to do so. The applicant would now like to have a freestanding 4,800 sf. building. The purpose of the expansion is to come up to the regulations of NJDEP for paint. Tonight we are seeking a new Use Variance and Bulk Variance for the rear yard. Since 2010 the Township changed the zoning. The current zone, Highway Service, does not include an auto body shop as a permitted principal use. The allowable impervious surface is 60%; we will be taking some of the existing stone out and will end up with 50.4% so no variance is required for impervious surface.

This application was submitted to 4 outside agencies: D&R Canal Commission – 04-05-13 report – exempt since no additional impervious surface is being added; Somerset-Union Soil Conservation District – 04-01-13 report – certified approval without any conditions; Somerset County Planning Board – 04-04-13 report – approved without any conditions; Hillsborough Township Environmental Commission – 04-29-13 report – no major concerns or any conditions in response to our appearance before the Commission on 04-22-13; Hillsborough Township Fire Marshal – 04-22-13 report addresses conditions for sprinklers *if* required by the Building Department - we are not objecting to any of the comments.

In the Planning report dated 04-10-13, Mr. Kois outlines the variances requested. I usually do not testify as a professional planner but I would like to review that this applicant has already received a Use Variance of very similar nature from this Board. Also, Mr. Krachun and his father have been operating this business at this location for the past 38 years so in my professional opinion, I do not believe this would be a detriment to the public good, nor does it impair the zone plan.

The new building would be 31 feet away from the existing building. The reason being is that 30 ft. is the distance required by the Building Department so that there would be non-firewall protection. We are adding 1 ft. The new HS Zone has a required rear yard setback of 75 ft.; the proposed building is 61 ft. away. There is an existing garage that is 25 ft. from the property line which we will be taking down. A variance was not required in the previously zoned industrial district. We will be taking down 1 tree and in accordance with the Ordinance, replacing it with 6 evergreen trees. This should help to mitigate not having the 75 ft. setback.

BOARD OF ADJUSTMENT MEETING MINUTES

May 01, 2013

As noted in the Maser report, there is a house on the property to the west on Brown Avenue. I was not aware there is a tenant in this house owned by Lackland but this pre-existing, nonconforming use in the HS District requires a 60 ft. buffer. The current stone is at 25 ft. We will be taking some of that stone out and increasing the buffer to 36.1 ft.

This applicant has had to come before this Board many times over the years because this is a nonconforming use. Prior to the purchase of the Lackland property, the applicant was asked to plant a row of evergreens to buffer the Lackland property. Those trees did not survive and do not show on the plan. We have relocated those trees right by the area where the public comes in to shield the back area.

The applicant does not disagree with any of the comments in Mr. White's 04-24-13 report. This application will not require any more parking spaces; there will be no new lighting; no new dumpster; the facility will be maintained on public sewer. There are 2 wells on the property, one in front and one in back. The water for the paint building will be serviced by the rear well. We will contact the NJ One Call System before any excavation begins.

Board attorney, Mark Anderson, Esq. asked Mr. Heibell to confirm for the record his qualifications as a licensed professional engineer, professional land surveyor and professional planner in the State of New Jersey.

Mr. Heibell confirmed all three, since 1979.

Mr. Anderson asked for clarification on parking.

Mr. Heibell said Mr. Krachun will address that in his testimony.

Open to the Public

No comments/questions

Michael Krachun, owner and applicant, said a lot of the cars outside now are ready to go to the paint department so they will be able to be stored inside the new facility. The old garage that was on the property at the time of purchase will be taken down.

Mr. Stamler questioned if there would be any storage in the building being it is so tall.

Mr. Krachun said there are restrictions for the paint booths and there needs to be room for stacks, ventilation and filters to go through the ceiling above. With the new paint system the vehicles need to be stored inside to dry. You can probably fit 6 cars inside, counting the 2 in each booth. The hours are Monday – Friday 8:00 a.m. to 5:00 p.m., sometimes Saturday 8:00 a.m. to 1:00 p.m.

A motion to approve in accordance with all recommendations made by Mr. White and all professionals was made by Mr. Dietz, seconded by Mr. Stamler.

Roll Call: Mr. Valcheck – yes; Mr. Lipani – yes; Mr. Dietz – yes; Mr. Stamler – yes; Mr. Herbert – yes; Vice Chairman Haines – yes; Chairman Fenwick – yes. Motion carries.

CORRESPONDENCE

None

ADJOURNMENT

The meeting adjourned at 8:44 p.m.

Submitted by:
Debora Padgett
Planning Board/Board of Adjustment Clerk