

Minutes of the Regular Meeting of the Morris Plains Board of Adjustment held on May 19, 2014 at 7:30 p.m. in the Council Chambers, 531 Speedwell Avenue. The following members were present:

Mrs. Rosemary Lopez  
Mrs. Ruth Mills  
Ms. Joan Scaccia  
Mr. David Schulz, Vice Chairman  
Mr. Mark Karr  
Mr. Michael Bozza, Chairman

Mr. William Denzler, Borough Planner

Absent: Mr. Roy Stewart  
Mr. Jack Cox  
Mr. Robert Webster  
Mr. Leon Hall, Borough Engineer  
Mr. Michael Sullivan, Board Attorney

### **PLEDGE OF ALLEGIANCE TO THE FLAG**

The meeting was called to order by Mr. Bozza. Mr. Bozza made the statement that adequate notice of this meeting has been published and posted in accordance with Chapter 231 of the Public Law of 1975, "Open Public Meetings Act."

### **APPROVAL OF MINUTES**

Mr. Bozza stated the next matter for action at this meeting is the approval of the Board minutes for the April 28, 2014 Regular Meeting.

Mr. Schulz advised of a correction on page 202, last paragraph. Where it states "Mr. Sullivan further suggested. . ." it should read "Mr. Stewart further suggested. . ."

Mr. Schulz moved to approve the minutes as corrected, seconded by Mr. Karr.

Roll Call

Yeas: Mrs. Lopez, Mr. Schulz, Mr. Karr, Mr. Bozza

Nays: None

Abstain: Mrs. Mills, Ms. Scaccia

Absent: Mr. Stewart, Mr. Webster, Mr. Cox

**Motion carried**

### **COMMENTS FROM THE PUBLIC**

Mr. Bozza opened the meeting to the public to speak on matters other than those on the agenda. Seeing no one, he closed the public portion of the meeting.

Mrs. Tracy Dragos, 49 Dogwood Road, Morris Plains, New Jersey, spoke on the matter of application BA-6-11. She stated that while they were copied on earlier correspondence, they were not copied on the most recent letter from Virginia Ryan

requesting an extension until August. She asked what the current status is of this matter. Why is a three-month extension being requested and what are the issues. She stated they have been dealing with this situation since 2006.

Mr. Bozza replied that while he does not have much detail, he does know that an applicant has a legal right to request that his/her application be carried. No reason was given as to why the extension was being requested, and one does not need to be provided.

Mrs. Dragos asked if there is anything they are entitled to be aware of that the Board may know about; she does not know what this could be. She also advised they have spent a considerable amount of money so far in defense of their position and the easement agreement that was signed by all at their closing. This is very upsetting to them; if she had not called they would not be aware of the Ryan letter requesting an extension. She thanked the Board for its time and consideration of her comments.

Mr. Bozza stated that the vote taken by the Board at its April meeting was to take another look at application BA-6-11 along with the documentation provided. The Board's business is conducted in a public setting, a public forum. The Board cannot speak for the Applicant.

Mrs. Dragos asked if she would be entitled to comment on this application in the future both as a member of the public and as someone closely involved in this matter. Are they entitled to know anything and everything happening with this application?

Mr. Schulz asked the Board Secretary if anything else in addition to the Ryan letter was received from the Applicant.

The Board Secretary stated only Ms. Ryan letter was received on Friday, May 16, 2014. She has advised Mrs. Dragos to call whenever she wants to and that she can have access to the folder with a completed OPRA request at any time.

Mrs. Dragos asked how long an application is permitted to remain open and active.

The Board Secretary stated she will check with Mr. Sullivan, Board Attorney; she also stated that Ms. Ryan's letter was sent to Mr. Sullivan and if there was a time factor she believes he would have mentioned it.

Mr. Bozza asked if there was anyone else from the public who wished to speak. Hearing none, he closed this portion of the meeting to the public.

**BA-1-14 Robert & Joanne O'Connor – 31 Diana Rd. /Block: 31.02 Lot: 34**

Mr. Bozza stated this application is on tonight's agenda for completeness. He advised the applicant that they will not need to provide any testimony at this meeting; that will only occur once the application has been deemed complete and a hearing can be scheduled.

Mr. Denzler reviewed his May 1, 2014 report as well as Mr. Hall's report stating that he does recommend that this application be deemed complete. There are submission waivers he recommended that the Board should grant, reading these from his report. Reviewing Mr. Hall's May 2, 2014 report, Mr. Denzler stated there are three items that need to be addressed. These issues are (1) Item No. 18 (Property Owners Within 200') needs to be provided before a public hearing; (2) Item No. 22(b) (Front Yard Depth) – there is a concern that the proposed front yard setback is not adequately shown on the survey. Additional correspondence was received; he suggested adjusting the number of 12.93' to 12.5' to provide 6" of "wiggle room"; and (3) item No. 23(g-2) – existing front yard within 500'. He waived this in his report and believes there is sufficient information regarding what is established along the street, and this application is in line with that. He recommended that this could be waived for submission purposes. He also provided additional detail regarding Item No. 22(b). Mr. Denzler explained that this application could either be deemed incomplete at this meeting with the intent to deem it complete at the Board's June meeting once the remaining needed documentation is submitted and conduct the public hearing or deem it complete at this meeting.

Cross discussion about the best way to proceed and reasons why.

Mrs. O'Connor advised that the notice mailing basically is ready to go out.

Mrs. Lopez moved that this application be deemed complete subject to the waivers discussed and the additional information required at least two weeks prior to the next meeting, seconded by Mrs. Mills.

Roll Call

Yeas: Mrs. Lopez, Mrs. Mills, Ms. Scaccia, Mr. Karr, Mr. Bozza

Nays: Mr. Schulz

Abstain: None

Absent: Mr. Stewart, Mr. Webster, Mr. Cox

**Motion carried**

Mr. Bozza stated this application has been deemed complete. The next Board meeting is on June 23, 2014. If all the required information is submitted at least two week's prior to the next Board meeting, the public hearing will be held on June 23, 2014.

**BA-6-11 Denise Yuliano – 49 Dogwood Road - Block: 72 Lot: 12 (rear)**

Mr. Bozza stated that a letter was received requesting an extension of this matter until the Board's August meeting.

Cross discussion as to whether the motion can be made with a requirement that the application cannot be heard until the Board's August meeting, including that asking for the extension implies that this is when it will be heard and not at an earlier time/meeting.

The Board Secretary stated the Applicant did request two prior extensions.

Mr. Schulz moved that this application be extended as requested by the Applicant, seconded by Mrs. Lopez.

Roll Call

Yeas: Mrs. Lopez, Mr. Schulz, Mr. Karr, Mr. Bozza

Nays: None

Abstain: Mrs. Mills, Ms. Scaccia

Absent: Mr. Stewart, Mr. Webster, Mr. Cox

**Motion carried.**

### **CORRESPONDENCE AND BILLS**

Mrs. Mills moved the payment of the purchase order (Anderson & Denzler – Professional Engineering Services, April 2014 - \$37.42), seconded by Mr. Karr. Voice vote. All in favor. **Motion carried.**

### **NEW BUSINESS**

None.

### **OLD BUSINESS**

Brief discussion of the Harley Davidson business and activity at the Honeywell property.

Ms. Scaccia asked if she should plan to be involved with the Yuliano application since she has not been involved up to now.

Mr. Bozza recommended that he will check with Mr. Sullivan on this. He also stated that in order for her to be able to vote she will need to listen to the tapes of the prior meetings where this application is on the agenda.

There being no further business, Mrs. Mills moved the meeting be adjourned, seconded by Mr. Schulz. Voice vote. All in favor. **Motion carried.**

Karen M. Coffey  
Commission Secretary

Maureen Sullivan  
Recording Secretary