

Minutes of the Regular Meeting of the Morris Plains Board of Adjustment held on March 23, 2015 at 7:30 p.m. in the Council Chambers, 531 Speedwell Avenue. The following members were present:

Present: Mr. Mark Karr
Mrs. Ruth Mills
Ms. Joan Scaccia
Mr. David Schulz, Vice Chairman
Mr. Robert Webster
Mr. Jack Cox
Mr. Shaji Eapen

Mr. Leon Hall, Borough Engineer
Mr. Michael Sullivan, Board Attorney

Absent: Mr. Michael Bozza, Chairman
Mr. Roy Stewart
Ms. Liz Leheny, Borough Planner

PLEDGE OF ALLEGIANCE TO THE FLAG

The meeting was called to order by Mr. Schulz. Mr. Schulz 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. Schulz stated the next matter for action at this meeting is the approval of the Board minutes for the February 23, 2015 Re-Organization meeting.

The Board Secretary advised of revisions to the minutes. The first revision is on Page 233 and the second is on Page 236. Both involved corrections to name spelling/title. These revisions are made to the official copy.

Ms. Scaccia moved to approve the minutes of the February 23, 2015 Regular Meeting, seconded by Mr. Webster.

Roll Call

Yeas: Mr. Karr, Mrs. Mills, Ms. Scaccia, Mr. Schulz, Mr. Webster, Mr. Cox,
Mr. Eapen

Nays: None

Abstain: None

Absent: Mr. Bozza, Mr. Stewart

Motion carried

COMMENTS FROM THE PUBLIC

Mr. Schulz 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.

**BA-2-14 CSH Morris Plains, LLC –
361 Speedwell Avenue, Block: 23 Lots: 1, 1.07**

Mr. Schulz advised this application was approved at the Board's last meeting, and at tonight's meeting there will be a memorialization of the resolution authorizing approval.

There was a comment concerning the correct spelling of the current name of the facility which is to be The Mansion at Bretton Woods.

Ms. Scaccia moved to adopt this resolution as amended, seconded by Mr. Karr.

Roll Call

Yeas: Mr. Karr, Mrs. Mills, Ms. Scaccia, Mr. Schulz, Mr. Webster,
Mr. Cox, Mr. Eapen

Nays: None

Abstain: None

Absent: Mr. Bozza, Mr. Stewart

Motion carried

BA-3-14 Ralph and Danielle Mendoza - 56 Glenbrook Road, Block: 27 Lot: 2

Mr. Schulz advised this application was deemed complete at the Board's last meeting.

The Board Secretary stated that everything is in order.

Kevin Weinman, Esq. introduced himself as the attorney for the Applicants. He provided an address of 3 Prospect Street, Morristown, New Jersey.

Mr. Sullivan swore in the Borough's Engineer Leon Hall.

Mr. Weinman provided information as to the expert witness(es) who will provide testimony at this meeting. The Applicants will provide testimony as will the Applicants' architect who designed the plans and a professional planner. He provided a summary of what is being proposed in this application, including several variances that are being sought. He called Mr. Mendoza.

Mr. Sullivan swore in Mr. Mendoza who provided an address of 56 Glenbrook Road, Morris Plains, New Jersey. Mr. Mendoza provided a general description of the existing house and the improvements and alternations that were done since moving in as well as plans for the Applicants future alterations and improvements. He explained what they are hoping to accomplish by what they are seeking in this application and why. He

stated that they are seeking approval to construct a one and a half story addition to their home with an attached garage and new section of driveway.

The first exhibit was marked Exhibit A-1 (photograph).

Mr. Mendoza provided additional details about the existing house and their proposed plans. He also commented on matters relating to any possible plan revisions that would have reduced any variances being sought. He stated their goal was to retain as much of the character of the house. He also raised some ideas that they perhaps could be agreeable to if the Board asked them to consider one or more changes to their current plans. He mentioned a large tree on the property that provided significant shade to the family in the summer months. He stated that if their application is approved, they would like to begin construction almost immediately once the necessary permits are obtained. He believes this project will take six to eight months to complete.

Mr. Hall asked a question about the existing master bedroom and bath, a sitting room, and a walk-in closet.

Mr. Mendoza replied that they are considering switching two rooms around. It relates to the type of flow they prefer.

Mr. Hall asked about the number of trees that apparently will be lost as a result of the planned construction.

Mr. Mendoza advised that at least one of two Yew trees is in fact dead while the other one has been damaged due to deer browsing. He provided about a third of the landscaping that is currently on the property. At this point he believes three larger trees will be taken down and that much of what is there now, he hopes to be able to put back.

Cross discussion about issues relating in general to existing and future trees and plantings.

Mr. Hall recommended that there be a minimum of six Cypress trees and a maximum of ten such trees. The trees should be 10' to 12'. He commented on the need for screening and the most important locations.

Mr. Mendoza stated he is agreeable to conform to Mr. Hall's recommendations regarding the trees and plantings in general.

No Board members had any questions.

Mr. Schulz opened this portion of the meeting to questions from the public. Seeing none, he closed this portion of the meeting.

Mr. Weinman called his next witness.

Mr. Ayman Sedra, provided an address of 115 North Spring Street, Bloomfield, New Jersey. Mr. Sedra provided information in connection with his professional background and related matters. He has been in the field of designing houses and providing official designs for approximately eight years.

Mr. Sullivan advised that since Mr. Sedra does not possess registration as an architect in New Jersey, he cannot be qualified as the Applicants' registered architect. It was recommended that he be qualified as the designer, the project manager, or as some other title.

Mr. Sedra provided information as to what he exactly has done with regard to the design, beginning with measuring the house and worked on all the schematic designs, design development, and the construction document of the house. He worked on documentation that was submitted to the Board as part of this application, such as hand-drawn sketches that needed to be transferred to CAD. He is quite familiar with this project. He works with Hiland Hall Turner Architects located at 2 Claremont Road, Bernardsville, New Jersey. He provided information concerning his education. Mr. Sedra provided commentary on what this application is proposing. The plan consists of a two-car garage, a mud room, a small study room, and on the second floor a sitting area and a master bathroom and closet. The total area of the addition is approximately 717 SF.

Mr. Weinman stated that this plan requires a variance and that is the reason they are before the Board at this meeting. Are there any possible other ways of doing what is desired without requiring a variance.

Mr. Sedra advised the addition could be added at the back of the property, but this option would significantly affect the use of the backyard.

Mr. Weinman asked if there is an aesthetic or architectural benefit from the proposed configuration versus some other one.

Mr. Sedra explained that this plan works better on the proposed side because the kitchen is on that side making access better coming from the garage to the kitchen.

The site plan was marked as Exhibit A-2.

Mr. Sedra stated he was involved in making the calculation. He provided information on adjustment(s) he needed to make to the coverage calculation. The calculations were revised once he was aware of Mr. Hall's concerns.

Mr. Weinman asked if Mr. Hall and/or the Board believes that it still did not conform, would he be able to make additional adjustments to the property so that there would be conformance.

Mr. Sedra stated all his numbers are based on the surveyor's number which brings the Applicants under the limit. Some paved areas will need to be removed.

Mr. Sullivan referred to Mr. Hall's February 19, 2015 memorandum that indicates that the maximum impervious coverage allowed is 6,036.3 SF and his calculation is that the lot coverage proposed on the plan is 6,518 SF. Will the Applicant eliminate 490 SF of coverage to make it comply and where will this be done?

Mr. Sedra replied that existing slate pavers will be removed as well as asphalt pavers on the right side of the house. This will create an impervious coverage of less than 6,036.3 SF.

Mr. Hall referred to existing lot coverage and survey information. He advised the Board to always go with the licensed land surveyor's number for lot coverage and add to it the increase in impervious lot coverage that is in the Zoning Table. This is how he arrived at his number. So, a series of revisions are necessary to show a conforming lot coverage.

Mr. Sedra agreed with that a series of revisions are required.

Mr. Hall advised that if the Applicants do not pursue a lot coverage variance, he will need to recommend to the Board that it insists upon a final as-built survey signed and sealed by a PLS in which there is a calculation of the square feet of the lot coverage. If the Applicants do not comply, any building permits would be frozen and the Applicants will need to come back before the Board.

Cross discussion about Sheet S-01 with a revision date of January 5, 2015, including a revision date of February 4, 2015, that this sheet has been fully revised to eliminate impervious coverage in order to comply with the ordinance requirement, and Mr. Hall's request that there be a condition that there be an as-built survey signed by a PLS to show conformance.

Mr. Hall asked a question about A-05 relating to woodwork matching the existing woodwork. He recommended a notation on the plans that this will be done.

Mr. Schulz opened this portion of the meeting to questions from the public. Seeing none, he closed this portion of the meeting.

Mr. Weinman called his next witness.

Mr. Sullivan swore in Mr. David Karlebach, P.P. who provided an address of 38 East Ridgewood Avenue, Ridgewood, New Jersey. He provided information on his educational background, obtaining a degree in landscape architecture from Rutgers University. He also has a Master's degree in city and regional planning also from Rutgers. He is a licensed professional planner in the State of New Jersey and has been for more than 20 years. He has qualified and testified before the Morris Plains Board of Adjustment within the last year and a half.

Mr. Karlebach advised as to the documentation he reviewed in connection with this application, he has visited the site and the surrounding areas, and has reviewed the municipal zoning ordinance. He also reviewed several exhibits prepared by another planner. He stated the most significant feature of this site is its size relative to the lot area requirement in the zone. The lot is 24,545 SF where only 18,000 SF lots are required. It is a large lot, but it is also in an irregular shape (wedge or pie shape). Applying the front yard setback requirements on two sides, the building envelope is quite constricted. There is 139' of frontage on Glenbrook Road and 263' of frontage on Mountain Way and is a corner lot. Mr. Karlebach referred to Exhibit A-2 to point out the lot configuration, the circular driveway beginning and ending on Mountain Way, the pavers at the driveway entrance and exit, the rest of driveway is asphalt, a shed at the rear of the property, and the rear of the house. The house is 2,200 SF and a 1,725 SF footprint that is inclusive of the covered porch and the shed. There are four bedrooms and two and half baths. Mr. Karlebach presented a new exhibit that was marked as Exhibit A-3. It shows the rear of the house and current landscaping. He pointed out the covered porch that will be removed. The Oak tree in the center of the property will be preserved. In his opinion, it is unquestionably one of the most attractive houses in the neighborhood. He reviewed what is being proposed in the application, such as the mud room, the study, doors, the addition to the existing driveway, and sizes of some spaces.

Mr. Karlebach described the surrounding area stating it is exclusively a single-family residential area. There are many houses in the area that are non conforming with respect to the minimum front yard setback requirement. In this zone, 35' is required; he noted and read aloud information for at least five lots with smaller front yard setbacks. There are many deficient front yard setbacks already and the site is very much consistent with the pattern of front yard setbacks along Mountain Way. He mentioned several other properties along Glenbrook Road where the setbacks are significantly larger ranging from 63.8' up to 97.9'. The site's front yard is sufficient along Glenbrook Road and matches the existing pattern of setbacks. Mr. Karlebach introduced a new exhibit that was marked as Exhibit A-4. This exhibit shows a large grouping of Hemlock trees that provide significant screening. He stated that if he was doing the designing, he would not install any additional Evergreen screening. Generally, you would want to be screening an unsightly view; however, this house is a very attractive residence and really does not need typical screening. Some shade trees might be a better proposal for plantings. Next, Mr. Karlebach reviewed variances being

sought including front yard setback, removal of certain landscaping which the Applicants will comply with the location of central air conditioning compressors relating to noise regulations at the property line. The impervious lot area has been revised to comply and is no longer a waiver being sought. The principal variance is that for the front yard setback; the others are able to be addressed and mitigated. He commented on the site's lot area, lot depth, the Glenbrook Road front yard setback and other related information. The application complies with most of the bulk requirements in this zone. The variance can be considered either C-1 (hardship variance) or C-2. He read a portion of text that could pertain to the subject lot such as the lot being an irregular shape and the possibility of peculiar or exceptional difficulties or undue hardship to the developer relating to the C-1 variance. He also provided information that can be used to differentiate between whether it is appropriate to grant a C-1 or C-2 variance. Based on the plans submitted, this is a very attractive building that will be preserved and enhanced. He commented on the necessity for the garage in today's world and what property owners need and want. He believes there are several purposes of the Municipal Land Use Law that will be advanced by what is proposed by this application. It is an appropriate use and is a permitted use in the zone. It meets the height requirement and virtually all the bulk requirements. The addition will be done in a very logical and tasteful manner thus maintaining this house as one of the nicest houses in the neighborhood. He does not believe there are any substantial detriments to the public good nor any negative impact to the zone plan and zone ordinance. He does not think the addition will have much visibility from Mountain Way even without additional landscaping.

Mr. Karlebach concluded his presentation by recommending to the Board that the C variances can be granted under the law.

Mr. Weinman asked for Mr. Karlebach's thoughts on what the impact could be if the use of how the Applicants now use the property would be if changes were required to the planned configuration, especially relating to the large specimen tree.

Mr. Karlebach commented that this tree certainly appears to be well worth preserving. If one had to balance between the reduced front yard setback and preservation of the tree, he would select the reduction of the setback each time.

Mr. Hall asked a question about the building footprint. He also asked about buffering and whether he would like to recommend any specific species.

Mr. Karlebach stated the entire area is 2,200 SF and the footprint of 1,725 included the covered porch and the shed. He provided his recommendation as to screening, stating he does not believe there should be significant screening – this is a very attractive building – and does not need to be hidden. Additional landscaping should be deciduous street trees that can be looked under and provide a canopy, but not blocking the view entirely and planted about 35' apart.

Cross discussion about possible or planned tree removal in connection with this application, including possible removal of the ornamental grasses since they may be considered a problem for sight distance, use of Exhibit A-3 as part of this discussion, the Applicants desire for either more or less privacy relating to screening, and adjoining properties issues.

Mr. Hall provided commentary regarding noise issues. He stated there is an existing fence on the property and that this fence will aid in abating any noise problems. However, if a neighbor complains, the Applicants will need to address the situation. Applicants have agreed to comply with noise and all other pertinent ordinances. He stated which conditions contained in his February 19, 2015 memorandum should be made part of any resolution in connection with approval of this application.

The calculations for the proposed structure will be: The first floor is about 717 SF and second floor is about 543 SF – a total of 1,260 SF. The existing structure has a gross floor area of 2,200 SF. The gross floor area of the addition is 1,260 SF. The entire gross floor area with the addition is 3,460 SF.

There was a question from a Board member about the existing air conditioning unit and a new one that is proposed. The existing air conditioning unit is approximately 15 years old and is being used for only the second story, not the entire house. A second question was about other front yard setbacks in the neighborhood, specifically those that were non conforming. A third question related to distance from the edge of the sidewalk to the property line. This question generated more discussion about trees, buffering, and screening.

Mr. Karlebach advised that Mr. Mendoza wants an Evergreen buffer which is the opposite of what he had recommended. He would continue the Evergreen screen.

Mr. Hall again recommended that six to ten trees be installed for this screening purpose and that they be more substantial than the standard 6' to 8' meaning these trees should be 10' to 12'.

Mr. Mendoza provided commentary stating that six trees should be sufficient; he has no problem with six, but believes 11 trees all in this one area would be too much. He did plant a rhododendron tree in this same area which he will keep.

Mr. Schulz opened this portion of the meeting to questions from the public. Seeing none, he closed this portion of the meeting.

Mr. Hall asked that if this application is approved that his comments from his February 19, 2015 report – C2, C3, C4, and C6 be incorporated into the resolution.

Mr. Sullivan read text pertaining to C6 and the requirements that relate to this item.

Cross discussion about this leading to clarification that a certain variance will not be required because the Applicants will comply. This is essentially just for clarification. Everyone agreed they are good.

Mr. Schulz opened this portion of the meeting to comments from the public. Seeing none, he closed this portion of the meeting.

Mr. Sullivan asked Mr. Weinman if he had a summation of if he has completed his commentary.

Mr. Weinman stated he will trust the testimony of the Applicants' witnesses.

Mr. Sullivan reviewed the conditions that the Applicants will need to comply with in connection with approval of their application.

Mrs. Mills moved that this application be approved subject to all the conditions as outlined by Mr. Sullivan seconded by Ms. Scaccia.

Roll Call

Yeas: Mr. Karr, Mrs. Mills, Ms. Scaccia, Mr. Schulz, Mr. Webster,
Mr. Eapen

Nays: Mr. Cox

Abstain: None

Absent: Mr. Bozza, Mr. Stewart

Motion carried

CORRESPONDENCE AND BILLS

Mrs. Mills moved approval of the bill submitted by Stickel, Koenig , Sullivan & Drill, LLC in the amount of \$333.25, seconded by Ms. Scaccia.

Roll Call

Yeas: Mr. Karr, Mrs. Mills, Ms. Scaccia, Mr. Schulz, Mr. Webster, Mr. Cox,
Mr. Eapen

Nays: None

Abstain: None

Absent: Mr. Bozza, Mr. Stewart

Motion carried

NEW BUSINESS

2014 Annual Report – Resolution of Approval

Mr. Schulz reported on the 2014 Annual Report prepared by Mr. Karr. It is now prepared and was distributed for the Board's review. A resolution has been prepared approving this 2014 Annual Report.

Mr. Cox moved to approve the Annual Report, seconded by Mr. Webster. Voice vote. All in favor. **Motion carried.**

OLD BUSINESS

None.

ADJOURNMENT

There being no further business, Ms. Scaccia moved the meeting be adjourned, seconded by Mr. Webster. Voice vote. All in favor. **Motion carried.**

Karen M. Coffey
Commission Secretary

Maureen Sullivan
Recording Secretary