

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
MARCH 26, 2018**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, March 26, 2018, at 7:30 P.M. in the Municipal Building, 50 Woodland Avenue, Township of Morris.

Statement of Adequate Notice

Chairman Kronk issued the following:

“I hereby announce and state that adequate notice of this meeting was provided by the Secretary of this Board of Adjustment by preparing a notice dated March 21, 2018 specifying the time, date and place of this meeting, posting such notice on the bulletin board in the Municipal Building; filing said notice with the Clerk of the Township of Morris; forwarding the notice to the Morris County Daily Record and the Morris News Bee, and forwarding, by mail, the said notice to all persons on the request list, and I hereby hand a copy of such notice to the Secretary of the Board of Adjustment for inclusion in the minutes of this meeting, all of the above actions being in accordance with N.J.S.A. 10:4-6, et seq., Open Public Meetings Act.”

The Pledge of Allegiance was led by Timothy Kronk, Chairman

Roll call of Board Members and Professionals

Members Present

Mr. Timothy Kronk
Ms. Kathleen Kalaher
Ms. Joen Luy Ferrari
Mr. Donnell Williams
Mr. Paul Woodford
Mr. Paul Staudt
Ms. Louise Johnson, Alternate #1
Mr. Jeremiah Loughman, Alternate #2

Members Absent

Mr. John Christensen

Also Present

Mr. Richard Oller, Board Attorney
Mr. Kate Keller, Township Planner
Mr. James Slate, Township Engineer
Ms. Sonia Santiago, Board Secretary

Consideration for approval of the minutes for the January 22, 2018, February 27, 2017, March 27, 2017 and May 22, 2017 regular meetings.

On motion duly made by Ms. Ferrari, seconded by Mr. Woodford, and unanimously carried, the minutes of the January 22, 2018, February 27, 2017, March 27, 2017 and May 22, 2017 regular meetings were approved as circulated and placed on file in the office of the Board of Adjustment.

Public Hearings

**Certified shorthand reporter present for the following application
See attached transcript.**

BA-01-18

H'Y 2 Mt. Kemble, LLC

Block 6101, Lot 1 & 4, 350 & 412 Mt. Kemble Avenue, OL-40 zone. Section D

Applicant proposes to remove nine freestanding signs and install five new signs near the existing access drive. In addition the applicant seeks a bulk variance for more than one freestanding sign on a single property and for a total sign area of 310.4 square feet where only 100 square feet are permitted.

Proof of Publication and Affidavit of Service filed and approved by the Board Secretary and Board Attorney.

Ms. Nicole Magdziak, attorney for the applicant entered her appearance and presented the application to the Board members.

The following professionals being sworn in by the Board Attorney appeared to be heard.

Thomas Sklow, Vice President of Development and Leasing, Keystone Property Group
Erik DeLine, Professional Planner, H2M Architects and Engineers

The following exhibit was submitted as evidence.

A-1 Sign Comparison Chart

Summary of Testimony – Thomas Sklow, VP of Development and Leasing, Keystone Property Group
Mr. Sklow described the application he went in front of the Planning Board for last year - it included requesting a variance to place signage on Lot 1 to identify the buildings and tenants. The purpose of the signage is to give the tenant's identity and to provide way finding for the tenants, employees and guests who come to the building. The building is large and has 5 different entrances. The entrances have been identified with signage using the branding of uptown, midtown and downtown to label the entrances both with naming and color coding so people can have easier access to the building. The approved new signage allows a more efficient traffic flow around the loop road of the building to the appropriate parking lots to enter the building. The signs being proposed in this current application are to be located on Lot 4 and are replacing existing signs consistent with the signs that are already installed on the property. They will use the same color-coding and naming convention as the existing signs.

A discussion was carried between the Board and Professionals regarding the driving distance from when you can view the signs and whether there is a difference between the new signs' letter sizing and the existing. Mr. Sklow confirmed it is the exact dimension and lettering as the existing signage. Mr. Slate stated the access road on Lot 1 is shifted to the north and it is a 76 foot set back from the edge of the pavement. In order to direct traffic from the access road, they need to install the signs on Lot 4. Mr. Kronk and Mr. Slate discussed the signage recently approved on Lot 5, 340 Mt. Kemble Ave and agreed they do not create a conflict.

The meeting was opened to the public for questions of the witness; no one appeared to be heard.

Summary of Testimony – Erik DeLine, Professional Planner

Mr. DeLine reviewed the sign plan which consisted of the 5 signs that will remain and the ones that will be removed. The first sign proposed to be replaced is the free standing business sign; it is more of a directory for the 3 buildings. Mr. DeLine used Exhibit A-1 to show a comparison of the existing signs and the proposed replacement signs. The new sign (No. 2) continues to be a directory for all 3 buildings. It is color-coded and branded, includes company business names and their logos and is located in the same place as the previous sign. The other signs are located close to the same place as they were before, oriented a bit closer to the main access driveway. They will have the same branding of uptown, midtown and downtown with the location of the three buildings within the site itself. The signs will match what the Planning Board previously approved that had been installed on the property already.

Mr. DeLine stated the key issue is Lot 1 buildings are set back from the access driveway and to place the signage along the access drive on Lot 1 would be useless for the driver because by the time the driver would see the sign related to the building, they would miss the turn. In addition to the use variance to permit the signs to be located on Lot 4 identifying Lot 1 businesses, the applicant is also requesting two c variances: one to permit a total of nine freestanding signs on Lot 4, where one is permitted on any single property and one to permit a total sign area of approximately 302.4 square feet for the five replacement signs where 100 feet is permitted.

Mr. DeLine testified the c-2 variance does not present any kind of substantial detriment to the public welfare. Replacing the same number of signs with the new signs will not create a new safety issue. The code permits up to 100 square feet for signage related to a public roadway, one sign for a building on one parcel. There are 3 buildings on one parcel and they relate to each other. There is a need for a number of multiple signs which cumulatively exceed 100 square feet. None of the signs proposed are more than 100 square feet.

For planning proof, Mr. DeLine stated the proposed signs advance the goals of the MLUL. There are two special reasons. The first one is "I" which relates to good civic design. The sign being proposed is much more attractive, easier to read, aligned with the branding and more modern looking. The second, "H", also applies as the proposed signs will improve way finding. This relates to improving the public safety and welfare. By providing better circulation, a more efficient way finding, you are improving transportation through the site itself.

Mr. DeLine stated 2 points for the negative criteria. First, the signage is not publicly visible; the building is barely visible from Mt. Kemble Rd. The proposed signage is only related to the visitors on this complex. Second, it will not substantially impair the intent and purpose of the zone plan or ordinance. The signage improves the look and visibility of the property by establishing branding for the offices and encouraging improved circulation through way finding.

A discussion between the Board and Professionals was carried. The proposed signs are internally illuminated, during lower light conditions the lights will turn on, and will also be on timers.

The meeting was opened to the public for questions or comments of the witnesses; no one appeared to be heard.

Mr. Staudt moved, seconded by Mr. Williams that approval be granted to the application of H'Y2 Mt. Kemble, LLC thereby permitting on Block 6101, Lot 1 & 4 the installation of various signs and that the Board Attorney be authorized to prepare a formal resolution memorializing the action taken by the Board, same to be presented for consideration at the April 23, 2018 meeting.

Roll Call: (Voting Members)

Ms. Kalaher	YES
Ms. Ferrari	YES
Mr. Williams	YES
Mr. Woodford	YES
Mr. Staudt	YES
Mr. Johnson	YES
Mr. Kronk	YES

Application approved 7 Ayes, 0 nays, 0 Abstained.

**Certified shorthand reporter present for the following application
See attached transcript.**

BA-02-18

122 Mt. Kemble, LLC

Block 10308, Lot 13, 241 Martin Luther King Avenue, RB-7 zone.

Applicant proposes construction of a two family dwelling which requires a bulk variance relief for pre-existing, non-conforming conditions including deficient lot area, lot width and accessory building side yard setback 5.6 feet where 10 feet is required and a front yard setback for the principal structure on Walnut Street of 9.5 feet where 25 feet is required.

Proof of Publication and Affidavit of Service filed and approved by the Board Secretary and Board Attorney.

Ms. Nicole Magdziak, attorney for the applicant entered her appearance and presented the application to the Board members.

The following professionals being sworn in by the Board Attorney appeared to be heard.

Jay Grant, Managing Member of 122 Mt. Kemble, LLC, Property Owner
Thomas Baio, Professional Architect
Catherine Mueller, Professional Engineer
Kate Keller, Professional Planner
Phil Abramson, Professional Planner

The following exhibits were submitted as evidence.

A-1 Colored Drawing of Proposed Dwelling
A-2 Photographs of Existing Site Conditions
A-3 Aerial Photograph

Summary of Testimony – Jay Grant, Managing Member

Mr. Grant stated that the property is located on the corner of Martin Luther King Ave. and Walnut St. 122 Mt. Kemble, LLC, had two objectives in acquiring the property. As the zone permits, the proposed dwelling will be a two family dwelling, equal units on both sides with three bedrooms each. One objective was to satisfy a condition from a prior application where there is a requirement to create an affordable housing unit. One unit will be a moderate income unit and the other will be for rent as a market value unit, the second objective of acquiring the property. The intent is to rent both units. Mr. Grant referred to Exhibit 2 to show the existing garage which will remain and will be refurbished. There is a fence which encroaches into the property. Mr. Grant spoke to the property owner and informed them

the fence was encroaching onto the property. The applicant offered to relocate the fence when they start construction at the applicant's expense.

The meeting was opened to the public; the following persons appeared to be heard.

Betty Staley	53 Highland Avenue
Pauline Drewery	223 E. Hanover Avenue
Kimberly Brown	2 Carlton Street
Jeannie McKay	10 Walnut Street
Juruan Wright	13 Cedar Street

With no further questions for this witness the meeting was closed to the public at 8:39pm.

Summary of Testimony – Thomas Baio, Professional Architect

Mr. Baio proceeded to review exhibit A-1 and stated the dwelling consists of 2 adjacent side-by-side one-family homes. The units will have a two-hour fire separation wall, made out of masonry composite material along with some sound attenuation. The first floor of each unit has a family room, dining area, bathroom and kitchen. It has a staircase connecting the basement to the first floor, and first floor to the second floor. Each unit will have a non-habitable attic and the basement will be unfinished. Each unit has a front door and a rear door. The front door is a single stoop united for both units facing MLK Ave. The rear door for each unit has a set of stairs facing the garage. Mr. Baio continued reviewing exhibit 1 describing the gray tonal horizontal siding for the lower half and a board-on-board for the upper section. The units are contemporary in their styling, and will feature insulated double hung windows along with a wide strip around the windows. It will have a fiberglass gray darkened roof. The units are each 735 square feet on the first floor, and each unit has 700 square feet on the second floor. The master bedroom in each unit is 11'x13', a second bedroom 7'x5', and a third bedroom 10x13'11". The difference between the two units is one has a walk in closet in the master bedroom, and the other has a full bathroom in place of the walk in closet. It is one structure with two dwelling units; each unit has the same layout. The structure will look like a single-family home, with 2 front doors.

Mr. Baio stated the existing garage will match the dwelling. There will be some repair and renovations. It will stay the same bulk and size. It will be finished off with new doors and new siding materials. The roof pitch will stay the same, and the rafters are all intact. It is a preexisting nonconforming setback.

A discussion was carried between the Board, the Applicant and Professionals regarding placement of the downstairs bathroom, placement of the front doors, possibility of removing the garage and repositioning the house in order to have better setbacks.

The meeting was opened to the public for questions of the witness; the following persons appeared to be heard.

Pamela Watson	2 Cory Road
Jeannie McKay	10 Walnut Street
Kimberly Brown	2 Carlton Street

With no further questions for this witness the meeting was closed to the public at 9:05 pm.

Summary of Testimony – Catherine Mueller, Professional Engineer

Ms. Mueller reviewed the plans submitted with the Board and members of the public. The current property is a corner lot, on Martin Luther King Avenue and Walnut Street. It has a 12' municipal alleyway behind it. It is a 7500 square foot lot, and runs long ways along Walnut St. It is located in the RB-7 zone, adjacent to the RA-7 zone located to the east of the property. The current property is vacant with the exception of the garage, the chain link fence and a split rail fence along Walnut Street. The existing

condition on site is mostly covered in gravel. The existing garage has a paved apron from Walnut St. There are two trees on the property.

Ms. Mueller stated the two-family house will be located to the western side of the property, closest to MLK Ave. The required front yard setback along MLK Ave. is 25'. We have indicated that front-yard setback at 25 ½'. An extra 6" is added for construction tolerance, that is why it is indicated at 25 ½' instead of 25'. The overhang on the front stoop will encroach in to the front yard no less than 2 feet, which is in accordance with the Township ordinance. To the north of the property is the one side yard that exists on the property and it is proposed that at 10' setback to the building which results in 9 ½' foot setback to Walnut St. The extra 6" gap is again built in for construction tolerances. The rear yard to the alleyway exceeds 75' to that setback. When referring to rear yard, it is technically a front yard for purposes of setback requirements of 25'.

The existing garage is in the corner of the lot adjacent to the alleyway. The pavement area in front of the garage will be replaced, upgraded, repaved and improved. Additional parking adjacent to the garage with access off of Walnut is being proposed. Per the RSIS, the state standards of 3 bedroom apartments require 2 parking spaces. We are required to provide 4 on-site parking spaces for the proposed 2 3-bedroom units. The garage will be converted into 2 spaces, and there will be 2 on-grade spaces adjacent to it. The intention of the parking is to have the garage for the use of the market-rate unit. The on-grade, paved driveway spots will be assigned to the COAH unit. Both units will have 2 assigned spots. This will be within their lease agreement and overseen by the property manager.

The lot is extremely flat. As part of the improvements to the property, a ridge will be created to improve the drainage on the property. Half of the lot will continue to flow out towards Walnut Street. A collection system is proposed to the north side of the lot to collect the water from going on to the neighbor's lot.

Impervious coverage is increasing on the lot, therefore a dry well system for storm water management is proposed. This consists of concrete tanks surrounded by stone, and will collect the water to infiltrate into the soils before it goes into the municipal system. Soil testing was done on the property and it was found to have high permeability. The dry well system has been designed to drain within the State standards. A system which will collect the roof runoff around the proposed house will drain to the drywell system. The drywell system has been designed for 3" straight volume, not accounting for anything going into the sandy soil below. Larger storms will flow out to the existing B inlet located at the corner of MLK Ave. and Walnut St.

The two units will have separate utilities. They will have gas, electric and sanitary sewer for individual services. All proposed services to these units will be underground.

Ms. Mueller confirmed drivers can safely see cars that are coming to the intersection in the opposite way and make their movements safely. The proposed placement of the building will not interfere with the sight line as you leave the stop bar at MLK Ave. The sight line is drawn from the stop bar to the north at a distance of 250', reflective of the 25 mph speed zone.

Ms. Magdziak asked Ms. Mueller to address the discussion earlier during the testimony of Mr. Baio regarding removal of the garage in order to shift the proposed building to reduce the variances. Ms. Mueller stated if the garage was removed, the setback to the alleyway and the property line to the north would be removed. No other variances would be removed as the proposed building would slide parallel to Walnut St., towards the back of the property. The setback is already complied with at MLK Ave. It would increase the front yard setback but then impact the paved parking where the garage is now. The rear yard of the property, the green area, would then be decreased by the distance moving the proposed building away from MLK Ave.

Recess taken at 9:25 pm
Meeting Reconvened at 9:38 pm

The meeting was opened to the public for questions of the witness the following person appeared to be heard.

Eugene McKay 61 Highland Avenue

With no further questions for this witness the meeting was closed to the public at 9:49 pm.

Summary of Testimony – Phil Abramson, Professional Planner

Mr. Abramson submitted exhibit A-3 which consisted of an aerial photograph. Mr. Abramson modified the aerial photograph to show some of the zone boundaries of the zoning districts in Morris Township, the street names and parcel boundaries, and the Applicant's parcel highlighted in red. Mr. Abramson described the existing conditions. The property is currently vacant with an existing detached garage. Most recently it has been used by a commercial operation for vehicles and storage. This property has three front yards, Martin Luther King Ave., Walnut St., and a 12 foot alleyway. The property is an undersized lot. The minimum lot area that would be required there is 10,000 square feet and this site measures 7500 square feet. The minimum lot width for a corner lot is 95' and this is a 50' property on both front yards that are parallel to MLK Ave. The minimum front yard setback for the accessory structure would be 25'; the existing garage is 14' from Walnut St. and less than a foot from the alleyway. The minimum side yard is 15' for an accessory structure and the existing garage is 5.6' away from the shared lot line. The maximum building height for an accessory structure is 15', the existing structure is 20'. None of the existing conditions on the property are being changed. There are 5 preexisting nonconformities and building the proposed 2 family house does not exacerbate or intensify any of the preexisting conditions.

The variances requested by this applicant are because there is no existing principal structure on the property. The minimum lot area per family is 5000 square feet, 10,000 square feet is required, and the applicant is proposing 3,750 square feet of lot area per family. This is based on existing lot size. The variance statute or density statute NJSA 40:55D70(d)5 exempts one and two-family homes for undersized lot area per family. The second variance is for the minimum front yard setback of 9 ½' where 25' are required. The third variance requested is the minimum side-yard setback for a principal structure 15' where are required and the applicant is proposing 10'.

Mr. Abramson stated this property is in the RB-7 zone where two family homes are permitted. Across the street is nonresidential use B-11 zone, and on the other side of the alleyway is RA-7 single family. It is his opinion vacant lots are not good for neighborhoods, and having a house here is better than a vacant lot used as informal nonconforming commercial use (parking and storage). The RB-7 is a zone that anticipates 2 family homes and there are not any negative impacts for the proposed application due to the unique conditions of the lot.

Regarding the variances, Mr. Abramson believes they could be granted under the C-1 hardship test. He stated it could be applied and invoked by an applicant when there is excessive development. This is an appropriately sized unit for the site. It would be difficult to locate a principal structure without offending some of the zoning provisions on this property.

Regarding the existing garage, Mr. Abramson stated there is a tradition of the detached garages and carriage houses in this area and it makes the neighborhood look nicer. It adds texture to a neighborhood to have different sized structures; it creates some variety and scale in a neighborhood. There are a number of detached garages that back up towards the alleyway in neighboring properties, it is a common condition in this area and it is a nice amenity for the residential units. From a coverage

perspective, the property is at 47% where 75% is permitted. Keeping the existing garage and adding space to park the other 2 vehicles is a better planning alternative than open asphalt parking.

Mr. Abramson confirmed the setbacks for the proposed property is comparable to the restaurant on the opposite side of Walnut St. and it is twice the side-yard setback compared to the home to the north on Lot 14.

The meeting was opened to the public for questions of the witness; the following persons appeared to be heard.

Jeannie McKay	10 Walnut Street
Cecile Kent	22 Woodruff Road
David Mosley	32 Highland Avenue
Kimberly Brown	2 Carlton Street
Eugene McKay	61 Highland Avenue

With no further questions for this witness the meeting was closed to the public at 10:53 pm.

There was a brief discussion regarding landscaping on the Township right of way between the Board and the Applicant. The discussion will be carried over onto the next meeting.

Meeting adjourned until April 23, 2018 without further notice from the applicant.

Other Matters

With no further business for consideration by the Township of Morris Board of Adjustment, on motion duly made, seconded and unanimously carried, the meeting was adjourned at 10:58 P.M.

Respectfully submitted,



Sonia Santiago, Secretary
Township of Morris Board of Adjustment
Approved: June 25, 2018