

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
OCTOBER 26, 2009**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, October 26, 2009, 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 October 20, 2009 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 Mr. Timothy Kronk, Chairman

Roll call of Board Members and Professionals

Members Present

Mr. Timothy Kronk, Chairman
Mr. James C. Allison
Mr. Thomas Luby
Mr. Donnell Williams
Mr. Paul Woodford
Mr. Rick Haan
Mr. John Christensen, Alternate #1

Members Absent

Mr. Nelson Morales

Also Present

Mr. Rich Oller, Board Attorney
Mr. James Slate, Township Engineer
Ms. Tirrell Loftin, Zoning Officer
Ms. Sonia Santiago, Board Secretary

On motion duly made, seconded, and unanimously carried, the minutes of the September 21, 2009 meeting were approved as circulated and placed on file in the office of the Board of Adjustment.

Resolutions

BA-07-09

RXR Realty, LLC

Block 10001, Lot 3 & 4, 44 Whippany Road, OL-15 zone.

Applicant proposes to reface an existing 3' x 30' freestanding sign and add a new 7 foot high pylon sign creating a sign setback of 42.33 feet where a minimum of 75 feet is required

Mr. Woodford moved, seconded by Mr. Williams, roll call as indicated that resolution of approval, attached hereto and by reference made part of the official minutes of this meeting, be adopted as presented, memorializing the action taken by the Board at the September 21, 2009 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Williams	YES
Mr. Woodford	YES
Mr. Christensen	YES
Mr. Kronk	YES

BA-14-08

Jerry Winston

Block 10300, Lot 3, 7 Monroe Street, RA-7 zone.

Applicant's attorney requests an extension of 190 day for filing of the deed due to the delays in obtaining legally required approvals from other governmental entities.

Mr. Allison moved, seconded by Mr. Williams, roll call as indicated that resolution of approval, attached hereto and by reference made part of the official minutes of this meeting, be adopted as presented, memorializing the action taken by the Board at the September 21, 2009 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Williams	YES
Mr. Woodford	YES
Mr. Christensen	YES
Mr. Kronk	YES

Regular Meeting

BA-13-09

Benjamin Bailey

Block 4401, Lot 33, 41 Wood Road, RA-130 zone. Section C.

Applicant proposes to construct an addition to the north side of the existing house creating a front yard setback of 98 feet where 100 feet is required and a side yard setback of 21.73 feet where 50 feet is required.

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

Mr. Bailey entered his appearance, being duly sworn in by the Board Attorney and presented the application to the Board.

The following professional being sworn in by the Board Attorney appeared to be heard.
Tirrell Loftin, Township Zoning Official

The following exhibits were submitted as evidence.

- A-1 Photograph of existing house
- A-2 Photograph of the view between the trees
- A-3 Photograph of the view from the proposed location of the garage

Summary of Testimony - Benjamin Bailey, Homeowner

Mr. Bailey stated that he had purchased the house approximately two years ago for his family. It is an undersized lot and they plan to expand the family in the future and extra living space is needed. The existing garage is undersized and it is also impossible to keep the rooms above the garage warm which is an issue we have at this time. What he is proposing is a three car garage to the north end of the house so that they may have extra room for the cars and to store the outdoor equipment. He stated that the previous owner re-did the layout of the land, they started the driveway at the far end and it wraps around the house. He also stated that he had explored other areas on the lot to place the addition but either way it would require a variance. He further stated that even though the addition is close to the property line there is a height difference of approximately twenty feet above the neighbor's driveway. Mr. Bailey stated that he might have to remove one tree in order to build the proposed addition but that he plans on adding evergreen trees to buffer the addition from the neighbor. He also stated to have spoken to the neighbor and they seem to have no problem with the proposed addition. A discussion was carried regarding the screened porch and the side yard setback.

Summary of Testimony – Tirrell Loftin, Township Zoning Official

Ms. Loftin stated that the screen porch is with the original house, if not it was done before 1974; it is preexisting non-conforming and as a result a side yard setback variance would have to be granted if the application is approved.

The meeting was opened to the public; no one appeared to be heard.

A discussion was carried regarding landscaping; the applicant was asked to submit a landscaping plan to the Township Engineer for review.

Mr. Haan moved, seconded by Mr. Williams that approval be granted to the application of Benjamin Bailey thereby permitting on Block 4401, Lot 33 the construction of an addition to the north of the existing house with conditions stipulated 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 November 23, 2009 meeting.

Roll Call: (Voting Members)

Mr. Allison	YES
Mr. Luby	YES
Mr. Williams	YES
Mr. Woodford	YES
Mr. Christensen	YES
Mr. Haan	YES
Mr. Kronk	YES

Mr. Luby recused himself from the following application

BA-20-07

Jeffrey Hind

Block 10315, Lot 1, 26 Emmet Avenue, RB-7 zone. Section C & D.

Applicant is seeking a “d (2)” use variance to expand the existing non conforming commercial use of the premises which is involved in the sales, service and repair of outdoor power equipment; a “c” bulk variance for a building addition creating a side yard setback of 10 feet where 15 feet is required; a building coverage of 31.9% where 30% is permitted and other related improvements.

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

Mr. Lawrence Calli, attorney for the applicant entered his appearance and presented the application to the Board.

TCC reports dated September 23, 2004 and November 9, 2007 were read into the record by Mr. James Slate, Township Engineer.

Environmental Report dated January 16, 2008 was read into the record by Mr. James Slate, Township Engineer.

Mr. Oller informed the counsel that we have a policy that for all “D” variances the applicant is required to have a court reporter present so that we may have a transcript and in this case it is going to be needed since we only have six members present. What we have done in the past is that the applicant obtains a copy of the recording so transcripts may be prepared for the members absent. Applicant has agreed to have the transcript made.

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

Fred Meola, Professional Engineer
Michael Tobia, Professional Planner
James R. Slate, Township Engineer

The following exhibits were submitted as evidence.

A-1 Description of proposed fence
A-2 Fence sound report
A-3 Photograph of Site
A-4 Photograph north side of the site
A-5 Photograph with view of the two properties
A-6 Photo of proposed pre fabricated building

Summary of Testimony – Fred Meola, Professional Engineer

Mr. Meola reviewed the plans submitted with the Board. He further testified that the proposal is to place an accessory structure at the rear of the building to allow all the outdoor storage that is within the fence area will be within the proposed accessory structure. It will also allow us to have a paved driveway; there will be two parking spaces in the front one handicap and one regular space. There is an area designated for loading and unloading and still enough room to get around it with additional parking towards the rear. What we are proposing is to take the roof leaders for the existing and proposed structures and pipe them to the rear and put them into seepage pits to reduce the runoff in accordance with the current regulations. A soil test was completed to make sure that the system will work. The system will consist of half pipes that goes in a stone bed; they are fairly shallow because there is a ground water condition that is about four to five feet deep so you can't go too deep like you do with seepage pits. There will be a

