

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
FEBRUARY 25, 2019**

Call to Order

The re-organization and regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, February 25, 2019, at 7:32 P.M. in the Municipal Building, 50 Woodland Avenue, Township of Morris.

Statement of Adequate Notice

Vice Chairman Woodford 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 February 20, 2019 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. Paul Woodford, Vice Chairman

Roll call of Board Members and Professionals

Members Present

Mr. Paul Woodford, Vice Chairman
Mr. Lee Goldberg
Ms. Samantha Rothman
Mr. Donnell Williams
Mr. Paul Staudt
Mr. John Christensen
Mr. Jeremiah Loughman, Alternate #2
Mr. George Quillan, Alternate #1

Members Absent

Mr. Timothy Kronk, Chairman

Also Present

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

Consideration for approval of minutes of the January 28, 2019 re-organization and regular meeting.

On motion duly made by Mr. Williams, seconded by Mr. Christensen, and unanimously carried, the minutes of the January 28, 2019 meeting were approved as circulated and placed on file in the office of the Board of Adjustment.

Resolution

Consideration of the following resolution thereby memorializing the action taken by the Board at the January 28, 2019 meeting.

BA-20-18

Michele Mendez & Elsie Sutherland

Block 3805, Lot 25, 44 Fairmount Avenue, RA-15 zone, Section C.

Applicant proposes expansion of a non-conforming structure to construct a second story dormer creating a side yard setback of 15.4 feet where 30 feet is required and creating a combined side yard setback of 34.2 feet where 50 feet is required.

Mr. Williams moved, seconded by Mr. Staudt, 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 January 28, 2019 meeting.

Approval

Roll Call (voting members): Mr. Goldberg, Ms. Rothman, Mr. Williams, Mr. Staudt, Mr. Christensen
Mr. Woodford,

Public Hearings

BA-17-17

184 Washington Valley Road, LLC

Block 3601, lot 15, 184 Washington Valley Road, RA-130 Section C.

Applicant seeks relief for a deck and wall installation without approvals. Applicant also seeks a variance for multiple accessory structures and exceeding the maximum 900 square foot building area on a residential zone. Variance also required for a generator and fire pit in the 50 foot side yard setback.

Mr. Lawrence Calli, attorney for the applicant entered his appearance and requested the application to be adjourned to the April 22, 2019, applicant's attorney granted the Board an extension for action through May 31, 2019.

On a motion duly made by Mr. Christensen seconded by Mr. Williams and unanimously carried the application is carried to the April 22, 2019 Board meeting, without further notice.

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

BA-19-18

1 Whippany Road, LLC

Block 9302, Lot 1, 1 Whippany Road, RA-11 zone. Section C & D.

Applicant proposes to construct a 12,000 square foot building to house a child care facility with 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.

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

Matthew Jarmel, Professional Architect
Matthew Clark, Civil Engineer

The following exhibits were submitted as evidence during testimony.

- A-1 Colorized Rendering Sheet 1 of 3 Landscape Plan
- A-2 Colorized Rendering of the Proposed Building dated 9-11-18
- A-3 Photographs of Existing Learning Experience Signage

Summary of Testimony – Matthew Jarmel, Professional Architect

Mr. Jarmel stated that his firm has had a 16 year relationship with The Learning Center, and that they have designed over 200 child care centers for them. The Learning Center has 65 centers in New Jersey. He has completed 5 Learning Centers in NJ, has ownership of 3, and is currently developing 6 other in New Jersey.

Mr. Jarmel explained the proposed project and how it is inherently beneficial based on the MLUL, and explained what a child care center is. They are licensed by the Department of Children and Families and are allowed to care for children 6 weeks to 6 years of age. The facility gets its license from the State after a Certificate of Occupancy is issued. The hours of operation at this facility are 6:30am-6:30pm Monday through Friday. The tenant is The Learning Experience, and they have over 200 child care centers, taking care of over 25,000 children, and have been in business for more than 16 years. The builders of The Learning Experience developed well over 500 child care centers and are considered experts. They have a patented curriculum, and 9 out of 10 children/students are reading when they leave.

Mr. Jarmel oriented the Board with the site using exhibit A-1. This is an unusual and unique piece of real estate, which is a rectangle bound by 3 streets: Lindsey Drive to the east, Whippany Road to the north and Columbia Road to the south. Directly across the street is the Governor of Morris Inn. The unique road configuration allows for, what we think is, a safe operation in and out of the building. Columbia Rd is a one way road and we have designed the property with left turns in. We would have one way circulation within our facility. There is a comment in the planners report to designate parking spots furthest from the door as employee parking and we would be pleased to do that. We utilize parking spaces directly in front of the facility for pick up and drop off. This facility does not operate like a school; it caters to the needs of working parents. They can pick up and drop off children throughout the day with 6-8 parents there at a time. Parents either carry their child or walk with the child into the facility.

Mr. Jarmel used the submitted proposed floor plans, dated 9/11/18, to further describe the drop off process and layout of the building. He stated that drop off starts at 6:30 am and goes to approximately 9:30 am; pick up is more staggered in the afternoon than in the morning. The process of bringing a child in takes about 5 minutes. Mr. Jarmel indicated the vestibule on the proposed floor plans. During normal business hours, the outer door is unlocked but the inner door is locked; a key fob allows access to the building. Once a parent enters, there is a reception desk with a touch screen where each child has an individual pin code that the parent logs in, then the school takes responsibility of the child and the parent leaves. Based on statistics, we have learned that 35% of children are siblings and come in the car together and about 10% will be out sick. The building will be 2 stories and is approximately 12,000 square feet in size. The room functions within are classrooms; infants and toddlers rooms are on the first floor, there are two sets of fire stairs, and an elevator. There is a play area on the second floor called Make Believe Blvd, which is licensed. There are additional classrooms upstairs as well. Each classroom has its own bathroom. There is a pantry, employees would warm food here, not cook it. There is also a teacher's lounge. The building is designed to facility standards for a childcare center. The childcare standards set the guidelines for how many children can be in the building in various natures. This building was proposed at child maximum occupancy of 181, with 23 caregivers and 2 staff. Frequently there are spaces kept in each room open so that as children grow and develop skills, they can be rotated.

The building includes an exterior playground. It is approximately 5000 square feet, licensing rules and facility standards require there is an outdoor playground. It is divided in half based on age appropriateness. The surface material is a combination of turf and AstroTurf and a rubberized surface; it is permeable. There are a couple of areas with concrete patios with picnic tables covered with canvas awnings attached to the building to provide shade protection which is also a requirement. Spread throughout the playground is playground equipment, with fall zones for safety. We are asking for a variance for a 6 foot high solid fence for safety reasons. On the sides of the building is a lower fence, 4 foot high, to provide safety to take them to the playground. The building is classified as Institutional Use Group because there are children younger than 2.5 years of age. It means that the occupants of the building cannot exit the building without assistance. Because of the Institution Use Group, there are a lot of life safety features put into this building as building code requirements. As an example, each room with more than ten occupants has two means of egress either to a corridor or directly outside. It also mandates a fire sprinkler system and alarm. In addition, the building has a requirement of closed circuit television, inside and out. The walls have windows in them where you can look into each classroom as well. In addition, the licensing laws require the managers to work with first responders to develop emergency plans, to file the plans with the State and to hold fire drills. They have to have a plan in place with a power failure, to evacuate the building and have transportation arranged. They will not get their license without an evacuation plan.

Regarding deliveries, they are very infrequent. They come in a UPS or FedEx sized truck. There is a food program here; once they reach 75 children they will offer a lunch program. Food is delivered once or twice a week based on need. Our traffic engineer will testify that the parking lot after drop off and pick up sits half empty, so it is easy to schedule deliveries.

Mr. Jarmel used exhibit A-2, a Colorized Rendering of the proposed building to describe what the building will look like. It is a two-story building, built with residential materials, a brick face, and corners will have pilasters that go up to the roof with a dental crown around the building. We would like the building to look residential so it fits into the neighborhood. The roof is sloped with simulated slate shingles, and has a flat roof behind creating a 6 foot deep well that provides a visual block, a place to store mechanical equipment on the roof and will dampen the noise. We are proposing residential windows. Toward the atrium of the building, the entrance of the building has a canopy. The columns that support the canopy are decorated with what we consider something to help identify this is a childcare center - blocks that are designed to look like children's play blocks.

Mr. Jarmel used exhibit A-3, Sample Photos of existing Learning Experience signage, to show the proposed signage of which variances are being requested. One photo shows an existing Learning Experience child care center where the entrance has a brick base and shows the blocks "1", "2", "3", "4" and "A", "B", "C", "D". This is the signage that is registered and trademarked. We are allowed a sign of 32 square feet. We are asking for 4 square feet per block. The monument sign is double sided. From a design standpoint, this is a prototypical site, it fits in well. The building sign itself is 3 feet 7 inches high, by 10 feet wide, which is 35.8 square feet and the top of the sign is 12 foot 2 inches off of the ground. Mr. Jarmel stated that completes the architectural testimony.

Mr. Calli stated Mr. Jarmel is available for questions from the Board. Mr. Goldberg asked, regarding signage, have you done implementations for these types of centers without the multicolor? Mr. Jarmel stated that there are always similar colors and logos, the vast majority are similar to this. There are situations in urban environments where there is not an opportunity to do the canopy but the same colors and logos are used. Mr. Goldberg asked, regarding the monument sign, how far from the road is it? Mr. Jarmel responded that it is back behind the property line, 15 feet or so away from the curb. The signs are illuminated but The Learning Experience closes at 6:30 pm; the operator would as a condition turn the signs off at a reasonable hour. Mr. Goldberg asked how prototypical is it to have a center like this

bounded by 3 major arteries creating an island? Mr. Jarmel responded that the parking is prototypical with the one way circulation being safe, easier to pull in and out of parking spaces. Parking only head on to the front of the building is very prototypical.

Mr. Woodford asked are the "1","2","3","4" and "A","B","C","D" blocks considered signage? Mr. Jarmel stated he considers it decoration, as they are structural columns behind the decoration, but they have been determined both ways. Mr. Woodford asked regarding the 4 foot fencing if it had to be solid. Mr. Jarmel responded, the 4 foot fencing does not have to be solid, but our preference is solid.

Mr. Christensen stated that the sign and columns are garish and while this is branding and a logo, this is right up against a neighborhood. Is there an opportunity to make it not so colorful and blocky, to scale it back to a more conservative looking design? Mr. Jarmel stated that our tenant would prefer to have them, we recognize that this as a variance and ask the Board to vote on it as part of the application.

Ms. Rothman asked if Mr. Jarmel had looked at other historic architecture in that area such as Rest Harrow and Acorn Hall and if he took it into consideration deviating from the prototype when designing the building. Mr. Jarmel stated he is familiar with Acorn Hall but not which building is Rest Harrow and he is aware of the beautiful architectural style in the area. We did not but could revisit if it is a condition of approval. Ms. Rothman continued that, in regard to the signage, given some of the historic nature of the neighborhood she finds the signage in conflict with that and asked could there be a change in coloring and could you speak about the lighting of the signage. Mr. Jarmel responded that it is lit from a spot light on the ground, and that there is no reason the sign should need to stay on past 7:30pm. The "1","2","3","4" and "A","B","C","D" blocks are not illuminated. The sign above the columns is illuminated. Ms. Rothman asked if there are any parent meetings outside of the hours are from 6:30am-6:30pm. Mr. Jarmel responded that if there is an event, it would be planned midday or they would rent space offsite for large events, but there are not assemblies, and it is not open on the weekends. Ms. Rothman asked regarding fire drills, and emergency evacuation plans, will there be testimony provided when a bus would be needed to transport the children off of the property in case of an emergency? Mr. Jarmel responded that the site is not designed for a full size school bus. Part of the operational criteria is to have a plan and arrange for the children to go elsewhere. They plan to arrange emergency transportation through a local school board or private operator.

Mr. Goldberg asked how it is enforced where parents are required to accompany their children into the child care center. Mr. Jarmel responded that the parents sign a contract with the list of requirements of the facility and if they do not follow it they will be asked to leave. The staff takes responsibility once the child has been checked in by the parent and the child does not leave the environment unless they are under the care of the parent or arranged caregiver. There is not a way for a child to leave on his/her own.

Mr. Quillan asked regarding the concealment of mechanical equipment on the roof, whether the concealment goes around all four sides of the building. Mr. Jarmel answered yes, that there is a well on top of the building that is 6 feet deep and it will conceal all of the mechanical equipment. It will have heating/cooling and ventilation units and fans on top of the building. Mr. Quillan asked will there be 4 foot fencing around the western portion of the property, the narrow part of the property? Mr. Jarmel responded no. Mr. Quillan expressed concern of children getting loose in the parking lot, whether the child could walk out onto Whippany Road. Mr. Jarmel responded that parents take their children in, half are carried in, others are held by the hand, and he has never experienced any issues with children getting loose at the Learning Experience by his office over the last 15 years. Mr. Quillan asked how close the parking spaces would be against Whippany Road. Mr. Jarmel responded that they are 15-20 feet back, and that the site has a lot of heavy vegetation. There is no intention to remove mature growth as it helps to provide screening.

Mr. Slate asked whether a generator is proposed. Mr. Jarmel stated there is not one proposed, nor is one required. Mr. Slate stated that the fire department would want to have a hydrant installed. Mr. Jarmel stated that the applicant is willing to work with the Township. Mr. Slate confirmed the height of playground equipment is slightly above the fence, 6.5 feet, but not high enough to trigger a variance.

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

Michael Sutcliffe	12 Kary Way
Lucille Knapik	32 Washington Ave
Susan Young	35 School House Ln, Environmental Commission past Chair Person
Rob Mutzenback	7 Woodside Rd
Carol Barkin	5 Mark Twain Drive, Historic Preservation Commission
Bryan Horan	16 Kary Way
Bob Iannaccone	23 Georgian Road

Public portion closed at 8:48pm

Summary of Testimony – Matthew Clark, Professional Civil Engineer

Mr. Clark gave an overview of the site by reviewing the submitted site plan, from October 5, 2018. The first sheet is basic mapping, a summary of the variances, and an aerial picture of the site to give an idea of the site location and surrounding properties. To the north is the Governor of Morris Inn, to the north east is an apartment complex, to the east is a single family home, to the south is a single family community, and to the west is the Town of Morristown. On the property, there is an existing dilapidated 2.5 story structure, an accessory garage and it is all proposed to be removed as part of this application. The second sheet is the Site Plan sheet showing the horizontal improvements associated with the project. It shows the proposed new building being 2 stories, with a play area, and a parking area which is a one way in and one way out. He continued to point out the refuse enclosure, the fence surrounding the building, the playground and the location of the 6" diameter steel concrete filled bollards in place for safety reasons.

Mr. Clark stated that there is the parking computation for child daycare. We worked with our traffic engineer and based upon our experience 38 stalls are required and we are over parked for this facility. On the site plan is the summary of bulk standards, building coverage, and impervious coverage of which we meet. On the 3rd sheet is the Grading Utility Plan, our nuts and bolts of this project, indicating how to control and manage stormwater. The lot is flat in nature; we grade it to minimize earthwork, without providing adverse impact to our neighbors. Under the parking area is a subsurface retention system. This project is classified as a major development. We have to meet existing storm water conditions, but also reduce peak flows through our system. Because we are increasing impervious area, we have to deal with water quality. We have provided a set of drainage calculations. The area is fully developed and we are looking to provide those connections off of Columbia Road.

The next sheet in our plan is the lighting plan; this represents how we will light the parking field. We have a series of 6 pole mounted LED lights that are 14 foot high poles sitting on 2 foot foundations. At the edge of the property the lights fade away to 0 candles. In the residential neighborhood to our south, the light level goes to 0 candles, and the shields will be provided as necessary to minimize impact. The site lights will be turned on 1 hour before opening and 1 hour after closing, and off on the weekends at all times.

The next sheet is the Soil Erosion and Sediment Control plan. We are disturbing more than 5000 square feet, therefore certification is required. This plan represents the details and items that the district requires. The last few sheets are site details related to the project.

Mr. Calli asked if there would be environmental impact or concerns caused by the development proposed. Mr. Clark responded that there would be none. Mr. Calli asked regarding the parking lot, if the proposed 9 foot x 18 foot parking stalls size appropriate. Mr. Clark responded it was. Mr. Calli asked if there is snow management plan being considered. Mr. Clark responded that all parking spaces will remain available. The areas where we can put snow are the parking islands, and the area next to the refuse enclosure, with no impact on site distance. Mr. Calli asked what the distance is from the edge of the parking stalls to Whippany Rd and the monument sign to the roadway. Mr. Clark responded that the parking stall to Whippany Road is approximately 10 feet. From the monument sign to the roadway curb is approximately 19 feet. Mr. Calli asked that around the playground area, there is a 6 foot privacy fence and protective bollards spaced every 4 feet. Mr. Clark stated that the bollards will be placed 4 foot on center. Mr. Calli asked Mr. Clark to briefly explain what vegetation is being removed as a necessity, what is being retained and what is being proposed to increase buffering on site. Mr. Clark described the extensive vegetation. There is a lot of existing landscaping. The only trees to be removed are the ones in the way of the building or parking area and rest we are looking to be maintained around the property. The number of trees to be removed is 18, the number of trees to be preserved is 41 and we are proposing an additional 26 trees to be planted. Exhibit A-1 gives a good sense of the thick vegetation with plantings. This is to help fit in with the characteristic of the neighborhood; there are also 395 shrubs proposed. There are benefits of additional trees for storm water management. Additional trees block the rain water, the leaves help slow the water down from hitting the lawn. Mr. Calli had Mr. Clark describe how the development proposed complies with the zoning requirements. The coverage as proposed complies with zoning requirements. The building height complies with zoning. We are within the building envelope.

Mr. Calli stated Mr. Clark is available for questions from the Board. Ms. Rothman asked Mr. Clark if the property has been swept for underground tanks and were any found? Mr. Clark responded that it has been removed and there is certification stating so. The property is currently hooked up to the sewer. Regarding the grading plan, Ms. Rothman asked Mr. Clark to elaborate on the conflict between trees saving and grading plan, and the limits of disturbance of the site. Mr. Clark stated that the trees are located outside of the soil disturbance area. Ms. Rothman stated that the plan does not have exterior sidewalks, have you considered pedestrian elements? Mr. Clark answered no.

Mr. Woodford, asked if the bollards are to protect playground area? Mr. Clark answered yes. Mr. Woodford asked if there was any thought to putting those along the parking lot area next to the roadway? Mr. Clark answered that it was not within the parking plan but could be added.

Mr. Quillan asked regarding size of parking stalls, needing a variance. Mr. Clark stated that it is more common to have 9x18 parking stalls instead of the 10x20, and that 10x20 are more for shopping parking lots but even those are more commonly 9x18 now. Regarding LED lights, Mr. Quillan asked if the Board wanted to request the color temperature of lights would the applicant be open. Mr. Clark responded yes.

Mr. Slate asked regarding the neighbors' concern on Woodside Rd, could you give more detail on storm water management and do you anticipate if there will be any increase in runoff from the site. Mr. Clark responded no there will not be any increase in runoff from the site, and that we are north of Woodside Rd, and will not impact him at all. We are reducing the conditions. Mr. Slate stated he is satisfied with the lighting and how it will be turned off an hour after closing. Mr. Goldberg, asked if there were any concerns having monument sign that close to the road? Mr. Clark responded no, that it is out of the line of sight.

Ms. Rothman asked regarding lights on the exterior of the building are there any other lights except for those on the façade and sign? Mr. Clark stated that the site lights are wall mounted the lights around the building are there according to building code and will be off overnight. Mr. Jarmel stated the building

lights have to be on all the time and we suggest a temperature of 3000 kelvin, but will work with planning staff and professionals to find the right color. 3000 kelvin is the lighting you would find in your living room lamp.

Mr. Woodford asked what speed you calculated that would be acceptable for cars exiting to be able to see vehicles approaching. Mr. Clark stated it was 25 MPH, based on posted speed limit. Our traffic consultant will expand on this during his testimony.

Mr. Phillips asked him to discuss refuse pickup, frequency and specs on enclosure in terms of materials. Mr. Clark stated that the specs and materials are based on the prototype, the architect typically has the detail on his plan, and he can speak more specific to this; it is a block enclosure and it complements the building façade. The frequency of refuse pickup is once per week. Mr. Phillips asked for the details regarding the materials to be included in the plan. Mr. Phillips also expressed concern with circulation system is one way and no ability to recirculate within the site. The parking experts should spend some time going through the adequacy of the circulation of traffic.

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

Tyler Whitehouse	2 Kary Way
Derek Reed	5 Woodside Road
Rob Mutzenback	7 Woodside Road
John Irwin	16 Morris Ave

Public portion closed at 9:29pm

Mr. Goldberg asked what the pervious versus impervious difference. Mr. Clark responded that there is 16,000 square feet of new impervious coverage. By disturbing 1.2 acres, and more than 10,000 square feet, this means this is a major site plan.

Recess taken 9:30 pm
Meeting reconvened at 9:46 pm

Mr. Calli stated the Board's traffic consultant is not here this evening and the Board would like him here when our traffic engineer testifies. For this reason we ask that the application be put off to the next available meeting. Mr. Oller informed Mr. Calli that the application was deemed complete on the 6th of December, in case something happens to the date is the applicant willing to grant the Board an extension of time, applicant's attorney granted the Board an extension of time for action until May 31, 2019.

Mr. Staudt moved seconded by Mr. Christensen and unanimously carried, the application is carried to the April 22, 2019 meeting without further notice.

Other Matters

- 2018 Draft Annual Report – Mr. Staudt moved, seconded by Christensen and unanimously carried the 2018 Draft Annual Report is approved.

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 9:52 P.M.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sonia Santiago". The signature is written in black ink and is positioned above the printed name and title.

Sonia Santiago, Secretary
Township of Morris Board of Adjustment
Approved: March 25, 2019