

Minutes of the Board of Adjustment of the
Township Of Hanover
January 20, 2022

PUBLIC MEETING 6:00 P.M. VIA ZOOM WEBINAR ONLY

PUBLIC BUSINESS

Board Secretary Kimberly A. Bongiorno, LUA, called the Public Reorganization Meeting to order by Way of Zoom Webinar Only at 6:00 PM and read the Open Public Meetings Act into the record.

I. STATEMENT OF COMPLIANCE Kimberly A. Bongiorno, LUA

II. ROLL CALL Kimberly A Bongiorno, LUA

The Board Secretary, Kimberly Bongiorno took the Roll Call.

In attendance were Members: Alwell, Bartell, Caruso, Corona, Donaldson, Fomchenko, Giorgio, and Stanziale.

Absent were Members: Hingos

Also present were Attorney for the Board, Michael Sullivan, Esq.
Board Secretary, Kimberly A. Bongiorno, LUA
Township Engineer, Gerardo Maceira, P.E.
Township Planner, Blais Brancheau, P.P.

III. CORRESPONDENCE KIMBERLY BONGIORNO, LUA

1. Letters of Re-Appointment/Appointments

Michael Alwell Four (4) Year Term Ending 12/31/25

John Corona Four (4) Year Unexpired Term Ending 12/31/23

Scott Bartell, Alt 1 Two (2) Year Unexpired Term Ending 12/31/22

IV. REORGANIZATION

1. ELECTION OF CHAIRPERSON

Land Use Administrator Kimberly A. Bongiorno

- Called for nominations of Chairperson.
- Member Fomchenko nominated Mr. Benjamin Stanziale for Chairperson for the Board of Adjustment for the year 2022.
- No other nominations were offered, and nominations were closed.

A motion to approve the nomination of Mr. Stanziale as elected Chairperson for the Board of Adjustment for the year 2022 and it was moved by Member Fomchenko and seconded by Member Caruso.

Members Corona, Caruso, Fomchenko, Giorgio, Bartell, and Alwell, voted in favor of approving the nomination of Mr. Stanziale as elected Chairperson of the Board of Adjustment for the year 2022.

Mr. Stanziale abstained his vote.

2. ELECTION OF VICE-CHAIRPERSON

Chairman Stanziale

- Called for nominations of Vice-Chairperson.
- Member Fomchenko nominated Mr. Alwell for Vice-Chairperson for the Board of Adjustment for the year 2022.
- No other nominations were offered, and nominations were closed.

A motion to approve the nomination of Mr. Alwell as Vice-Chairperson of the Borad of Adjustment for the year 2022 was moved by Member Fomchenko and seconded by Member Caruso.

Members Corona, Caruso, Fomchenko, Giorgio, Bartell, and Chairman Stanziale voted in favor of approving the nomination of Mr. Alwell and Vice-Chairperson of the Board of Adjustment for the year 2022.

Mr. Alwell abstained his vote.

3. RESOLUTIONS

- a. Designation of Official Newspaper
- b. Designation of Board Attorney
- c. Appointment of Board Secretary
- d. Adoption of Schedule of Meeting Dates for the Year 2022
- e. Membership in the NJ Federation of Planning Officials for the Year 2022
- f. Designation of Completeness Official

Attorney for the Board, Michael Sullivan, Esq.

- Announced the resolutions. Identified the Official Newspapers as The Daily Record, Star Ledger, and Hanover Eagle, The Board Attorney as Michael Sullivan, Esq., The Board Secretary, as Kimberly A. Bongiorno, LUA, the meeting dates are the first Tuesday and third

Thursday of every month, to be held via Zoom, the Board will have full membership of Planning Officials for the year 2022 and Completeness determinations will be made by Kimberly A. Bongiorno, LUA, Blais Brancheau, PP and Gerardo Maceira, PE.

A motion to approve the resolutions as noted was moved by Member Fomchenko and seconded by Member Alwell.

Members Corona, Caruso, Fomchenko, Giorgio, Bartell, Alwell, and Chairman Stanziale voted in favor of approving the resolutions as noted.

REGULAR MEETING OF THE BOARD OF ADJUSTMENT CALLED TO ORDER

Chairman Stanziale called the Regular meeting to order.

VI. RESOLUTION TO BE MEMORIALIZED

- | | | |
|-----------|------------------------|--|
| 1) | CASE NO. | 1689-R2 |
| | APPLICANT/OWNER | SETTIMO & THE THREE MUSKETEERS, INC. |
| | LOCATION: | 64 SOUTH JEFFERSON RD., WHIPPANY |
| | BLOCK: 2602 | LOTS: 1.01, 6 & 12 ZONE: I |

Applicant is sought "C" & "D" Variance relief. The applicant had previously been granted site plan and variance approvals for the construction of a new E&S warehouse and distribution building back in 2009. The project was never constructed. The applicant is now seeking preliminary and final major site plan approvals for the development of an approximately 72,553 SF warehouse/distribution building on the subject property and other modifications, including a reduction in the square footage of the existing Building B and the removal of existing Building C. The total proposed square footage, if approved will be approximately 125,602 SF. The current plan differs from the project previously approved by the board in 2009. Application approved with conditions December 7, 2021.

There were no questions, comments or corrections offered by Board Members.

A motion to approve the resolution as written was moved by Member Fomchenko and seconded by Member Alwell.

Members Corona, Caruso, Fomchenko, Giorgio, and Alwell voted in favor of approving the resolution as written.

VII. MINUTES DECEMBER 7, 2021

There were no questions, comments or corrections offered by Board Members.

A motion to approve the Minutes from December 7, 2021, was moved by Member Giorgio and seconded by Member Caruso.

In voice all present voted in favor of approving the Minutes from December 21, 2021.

VIII. PUBLIC HEARINGS

1) **CASE NO.** 1869
APPLICANT/OWNER JEFFREY & MICHELLE LUTTRELL
LOCATION: 63 POPLAR DRIVE, MORRIS PLAINS (CEDAR
KNOLLS)
BLOCK: 502 **LOT:** 3 **ZONE:** R-30

Applicant is seeking a residential “C” variance for rear yard setback in order to remove and replace the existing deck boards and railings on the existing main deck, add a new roof over a portion of the existing main deck and the smaller deck will be removed and replaced with a new landing and stairs as well as a paver patio and hot tub.

Documents for this application can be viewed at the following link:

https://drive.google.com/drive/folders/1WBvG4CupCvW1NVYFCmzczfD_J-XTAmcSl

Board decision due by: January 29, 2022

Board Secretary, Kimberly A. Bongiorno, LUA

- Read letter sent by email into the record, requesting to carry this application until March 1, 2022, with an extension of time until March 18, 2022.

A motion to approve granting extension of time to March 1, 2022, without further notice was moved by Member Fomchenko and seconded by Member Corona.

Members Corona, Caruso, Fomchenko, Giorgio, Bartell, Alwell, and Chairman Stanziale voted in favor of approving the extension of time to March 1, 2022, without further notice.

2) **CASE NO.** 1865
APPLICANT OWNER JOHN CARUSO BUILDERS, LLC
LOCATION: MAR-KIDS PROPERTIES, INC
116 WHIPPANY ROAD, WHIPPANY
BLOCK: 4402 **LOT:** 6 **ZONE:** R-25

Applicant is seeking to amend the allowable uses, hours of operation and signage to accommodate the applicants proposed construction office use. The applicant is proposing to stripe the parking lot and provide a handicap stall for a total of 6 parking spaces as well as 2 wall mounted lighting fixtures and planting of 8 trees.

Documents for this application can be viewed at the following link:

https://drive.google.com/drive/folders/1hPIp5Av4AA2mtrbaBNTq-lfXlguZey_z?usp=sharing.

Board decision due by: January 20, 2022

Chairman Stanziale and Member Caruso recused themselves from this portion of the meeting.

Rosemary Stone-Dougherty – Attorney for the Applicant

- Went over what is being requested through this application.

Attorney for the Board, Michael Sullivan

- Requested that Mr. Caruso turns off his camera to show he is recusing himself from the Board and if Ms. Stone-Daughtery needs him as a witness he will be called back.

Alexander Dougherty, P.P. – for the Applicant and Anthony Marucci, P.E. – for the Applicant were sworn in by the Attorney for the Board, Michael Sullivan.

Anthony Marucci, P.E. – for the Applicant

- 116 Whippany Road, Whippany, New Jersey.

Alexander Dougherty, P.P. – for the Applicant

- 53 Main Street, Chatham, New Jersey.

The Township Engineer, Gerardo Maceira, P.E., and the Township Planner, Blais Brancheau were sworn in by the Attorney for the Board, Michael Sullivan.

Rosemary Stone-Dougherty – Attorney for the Applicant

- Went over what is being requested and gave the reasons for it.
- Introduced the witnesses.

Anthony Marucci, P.E. – for the Applicant

- Has testified before this Board several times.
- All his licensing is current and in good standing.
- He is currently the owner and operator of the property; it is in a mix used zone.
- Went over the Plan packet submitted to the board with a revision date of October 11, 2021, no changes have been made.
- The left side is the office, and the right side is the one-bedroom apartment.
- Went over the improvements that are being proposed, including the number of parking spaces.

Rosemary Stone-Dougherty – Attorney for the Applicant

- Addressed Member Alwell question regarding the number of uses for this office.

Member Fomchenko

- Stated, the reason that we gave a use variance for the office to be approved for Engineering was because we wanted it to be specific for engineering to ensure that any other use for any other type of business would be acceptable and I would like to know why we should deviate from that scenario so that if Mr. Caruso decides to sell the building to a different type of use then it would have to come back to the board for approval.

Rosemary Stone-Dougherty – Attorney for the Applicant

- If we have a use that it is almost identical to the current use, it becomes an issue of whether an engineer's office is any different than a contractor's office if it has the same number of employees, etc., and further elaborated on it.
- We are not proposing to open this up.

Attorney for the Board, Michael Sullivan

- The issue is obvious, if we approve this, in a couple of years the construction office and then an accountant comes in, and they can comply with what is in the resolution then the applicant is going to say why do I need to comeback for that kind of application.
- On the other hand, I do not think we can just say, there are nine hundred uses in the planner's April report and we are just going to allow any one of those, so we are going to wait for the planner's report.

Alexander Dougherty, P.P. – for the Applicant

- Gave his professional and educational background.
- Has testified before several other boards.
- Accepted by the Board.

Exhibit A – 1

- A photograph that shows the front of the office as it currently stands, it also shows its sign.

Exhibit A – 2

- Another head on image of the structure.

Exhibit A – 3

- It is a picture taken on the rear of the property at an angle of the parking, showing that there is adequate parking.

Exhibit A – 4

- It is a photograph showing where the proposed plantings will be located.

Exhibit A – 5

- It is a photograph of Whippany Road, because it is important to know the character and trades of it.

Exhibit A – 6

- It is a picture of the freestanding sign, and we would like to request to keep the sign illuminated.

Exhibit A – 7

- It is a photograph showing two parcels over, it has an illuminated sign, it is a dentist office.

Exhibit A – 8

- It is photograph of an office space across the street, I know it is a different zone.

Alexander Dougherty, P.P. – for the Applicant

- Continued with his testimony, gave the location of the site, it is a use that does not depend on foot traffic.
- Went over the conditions of the site internally and externally, explained where the ingress and egress are for the commercial and residential use.
- The impact is minimum if any. The site has been designed to function effectively and safely.
- There is no outdoor equipment.
- This is a support use similar of an engineer use.
- If we keep within the building itself with 621 sq. ft., adhere to the performance standards, pretty much of what we see here is within the same use category at least from the North American classification system and we use this as an administrative office any of these uses can occupy that space and adhere to an engineering contractor building narrative, but as administrative office.
- We reviewed his memo dated December 18, 2021, we are going to go with the stripped parking, and enlisted all the other proposed improvements.
- We are seeking to also get approval for the sign to continue to be illuminated, and the other condition that we are asking for is a two-hour extension of the hours of operation on the weekdays the weekends what it was approved previously.
- No other improvements are being requested.
- I believe the proposed improvements will have no negative impact on the neighborhood or the area and gave his reasons to believe that.

Open to the Board

Anthony Marucci, P.E. – for the Applicant

- Addressed member Fomchenko's questions regarding the types of trees that will be planted.

Alexander Dougherty, P.P. – for the Applicant

- Addressed Mr. Brancheau's question regarding the medical use with four employees and two residents and how the parking would be accommodated.
- Addressed Mr. Brancheau's question regarding item 'six,' following the list of potential medical uses in sections 'A' and 'B'

Township Planner, Blais Brancheau

- Went over some of the restrictions that would apply depending on the use that is being permitted and further elaborated on it.

Rosemary Stone-Dougherty – Attorney for the Applicant

- My client is willing to withdraw item number 'six' altogether.

Attorney for the Board, Michael Sullivan

- Blais, if the resolution limited the use to General office use, non-medical that cannot involve high volumes of customer visitation, would that cover it?

Township Planner, Blais Brancheau

- It does, the problem with the term low volume or customer visitation. You need to be more specific than that and further explained it.

Attorney for the Board, Michael Sullivan

- It is self-limiting based upon the square footage of the office area; I would be comfortable with that.
- I do believe it is self-regulating to a great extent based on the parking and the square footage.

Board

- Member Giorgio, if you leave it too open ended then you could have problems later down the road and if the applicant is willing to remove the request for medical, could we just accept it that way?

Township Planner, Blais Brancheau

- I had stipulated that the illuminated sign be turned off when the business is closed and if we could make that hourly.

- A detail of the sign should be added to the plan.
- The conditions of the original conditions of approval except specifically modified be carried forward as well.

Rosemary Stone-Dougherty – Attorney for the Applicant

- No problem to that.
- Understood, I think we have addressed them all.

Anthony Marucci, P.E. – for the Applicant

- Addressed Member Giorgio’s question regarding when vehicles leave the parking area and access Whippany Road.

Open to the Public for comments and or questions

After hearing none after seeing none

Close to the Public

Member Fomchenko

- I have no problem with John being granted a variance for the construction office but what troubles me is, why are we adding other uses when in the past the resolution specifically said any other use had to come before the Board of Adjustment.
- I am trying to think of the people in the residential neighborhood if all these other uses are granted then these people would have no say in the future about the changes that are being made or how it would affect them.
- I am trying to understand why we must add more uses along with the construction office, it is just my opinion.

Attorney for the Board, Michael Sullivan

- The applicant is just trying to avoid the duplication of these substantially similar uses and if certain parameters are put in place the public would be protected, that is their position.
- I think I would say administrative or professional, non-medical office that does not involve high volumes of customer visitation that is kind of the language with which we would work. Whether that satisfies the board that is up to you.

Board

- Ms. Fomchenko, I think the use would have to be substantially similar.

Attorney for the Board, Michael Sullivan

- We could add that also.

- Ms. Stone-Dougherty, do you have any conclusions?

Township Planner, Blais Brancheau

- In response to my suggestion and your agreement to comply with the conditions of Case 1667 except as specifically modified.
- The sewerage authority had conditions related to an application, related to a service contract and a control manhole. Did the sewerage authority issue a report to that?
- I would just suggest that just as a matter of law it would have to go to the HSA to determine if an application is needed or the prior application suffices and further elaborated on it.
- The one that is concerning to me is condition 'eleven,' it says the following, conditions recommended by the construction code official, he recommended barrier free access, rear stairs repaired or replaced, and handicap parking.

Anthony Marucci, P.E. – for the Applicant

- After we purchased it in 2008, after we got the approval, it was inspected by the construction office and all I needed to do was to bring the fire extinguisher and it got approval.
- Addressed Mr. Brancheau's question regarding the smoke detectors.

Attorney for the Board, Michael Sullivan

- If this application is approved and we include the four conditions of your report, the fourth one says, 'carrying forward all the prior conditions,' we would just make a note that with respect to comment 'eleven,' that the barrier free access is only if required by building code.
- This is an application for a use variance, sign variance, a site plan approval, a 'D' variance for the use and a 'C' variance for the sign if the board is going to act favorably, we would make it subject to compliance with the four items in Mr. Brancheau's December 7, 2022, memo, that are set forth in section 'B' under additional comments and recommendations except noting that with respect to four which carries forward those previous conditions from the 2008 resolution, item number '11' that barrier free access would only be required if by it is necessitated by building code.
- It will institute the conditions suggested in Mr. Dougherty planning memorandum of page 'two,' except that item 'six' we are going to change it so that its uses are listed to administrative and professional office of substantial similar to the contractor's office that does not involve high volume of customers through visitation.
- The sign illumination will be turned off when the business is closed.
- They will obtain 'HSA' approval if necessary.
- All medical uses are excluded.

A motion to approve this application with conditions was moved by Member Giorgio and seconded by Member Bartell.

Corona, Fomchenko, Giorgio, Bartell, Donaldson, and acting Chairman Alwell voted in favor approving this application with conditions.

For the record Chairman Stanziale is back on the record.

Board Secretary, Kimberly A. Bongiorno, LUA

- Gave an update on future meetings.

IX. ADJOURNMENT

A motion to adjourn the meeting was made by Member Fomchenko and seconded by Member Corona.

In voice all present voted in favor of adjourning the meeting.

Meeting Adjourned at 7:34 PM.

KIMBERLY A. BONGIORNO, LUA.
BOARD SECRETARY
PLANNING BOARD
TOWNSHIP OF HANOVER
COUNTY OF MORRIS
STATE OF NEW JERSEY