

Minutes of the Board of Adjustment of the  
Township Of Hanover  
MAY 7, 2019

Chairman Benjamin Stanziale, Jr. called the Work Session Meeting to order at 7:13 PM in Conference Room "A" and The Open Public Meetings Act Statement was read into the record.

Board Secretary, Kimberly Bongiorno took the Roll Call.

In attendance were Members: Caruso, Donaldson, Fomchenko, Chairman Stanziale and Walsh.

Absent were Members: Hingos and Neidhardt.

Arriving late were Members: Giorgio with an arrival time of 7:20 pm.

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

**Board**

- Discussed possible training dates for required training

**PUBLIC BUSINESS**

Chairman Stanziale called the Public Meeting to order at 7:31 PM and The Open Public Meetings Act statement was read into the record.

Board Secretary, Kimberly A. Bongiorno, LUA, took the Roll Call.

In attendance were Members: Caruso, Donaldson, Fomchenko, Giorgio Chairman Stanziale, Walsh.

Absent were Members: Alwell

Also present were: Board Attorney Michael Sullivan, Esq.  
Board Secretary Kimberly A. Bongiorno, LUA.  
Township Engineer Gerardo Maceira, PE.  
Township Planner Blais Brancheau

**RESOLUTION TO BE MEMORIALIZED**

- |    |                        |                               |
|----|------------------------|-------------------------------|
| 1) | <b>CASE NO.</b>        | 1839                          |
|    | <b>APPLICANT/OWNER</b> | CLC BUILDERS                  |
|    | <b>LOCATION:</b>       | 38 NYE AVENUE<br>CEDAR KNOLLS |
|    | <b>BLOCK: 3103</b>     | <b>LOT: 1</b>                 |
|    |                        | <b>ZONE: R-40</b>             |

The applicant proposed one new single family dwelling with related driveway, utilities, landscaping and stormwater management infrastructure. The applicant requests a variance for front yard setback, 75' is required, 7.7' is existing and 59' is proposed. APPLICATION APPROVED WITH CONDITIONS APRIL 9, 2019.

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

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

Members Caruso, Fomchenko, Giorgio, Walsh and Chairman Stanziale voted in favor of approving the resolution as written.

**MINUTES** NONE

**PUBLIC HEARINGS**

- |    |                        |                                     |
|----|------------------------|-------------------------------------|
| 1) | <b>CASE NO.</b>        | 1836                                |
|    | <b>APPLICANT/OWNER</b> | 8 EAST FREDERICK PL., LLC           |
|    | <b>LOCATION:</b>       | 8 EAST FREDERICK PL<br>CEDAR KNOLLS |
|    | <b>BLOCK: 2104</b>     | <b>LOT: 7</b>                       |
|    |                        | <b>ZONE: I</b>                      |

Application to restripe parking area, approve existing outdoor storage, including variances for improvement coverage, loading space locations, screening of outdoor storage, parking setbacks, aisle widths, storage of prohibited vehicles.

*Board decision due by: JUNE 27, 2019*

**Attorney for the Applicant Ursula Leo**

**Attorney for the Board Michael Sullivan, Esq.**

- To my understanding you are seeking 'D' varices and we only have '6' Board members as opposed to 7.
- The options you have are to proceed with testimony or you can ask to carry and start with 7 members.

**Attorney for the Applicant Ursula Leo**

- Took a moment to explain to her client what it means.
- Decided to move forward and if it's not finished tonight then would ask a board member to listen to record.

**Chairman Stanziale**

- Read the important safety and procedural items in the OPMA due to their late arrival.

**Attorney for the Applicant Ursula Leo**

- Gave an opening statement.
- Seeking memorialization of the conditions that exists.
- Here for a preliminary and final site approval.
- Seeking a Use variance relief and a Bulk variance relief.
- Seeking outdoor storage in the side yard.
- Seeking design exceptions for parking areas.

**Mr. Joseph Rossi Jr. applicant was sworn in by the Board Attorney Michael Sullivan, Esq.**

**Mr. Joseph Rossi Jr. applicant**

- 8 Frederick Place, Cedar Knolls, NJ

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

**Mr. Joseph Rossi Jr. applicant**

- He is the managing partner of 8 East Frederick Place.
- Owned the building since 1984
- This is a multiuse with tenants building with 2 floors.
- The First floor is 30,000 ft.
- The Second floor has the corporate offices.
- Reviewed the January 22, 2019 letter of the proposed and existing uses.
- Reviewed the report issued by Mike Wynne Director of the HSA dated April 9, 2019.
- Reviewed sheet 3 of 3 titled 'Site Plan' last dated 12/30/2018 and identified the outdoor storage area.

- The property was owned by Flintcote and found out it was contaminated it. I have been working over the years with getting Flintcote to clean up the property.
- The parking is sufficient to meet the building needs.

**Attorney for the Board Michael Sullivan, Esq.**

- Referenced letter January 22<sup>nd</sup> letter and requested clarification of tenants list.
- Requested Mr. Rossi to go over the tenants list on the 4/9/2019 'H.A.S.' review so that the tenants can be identify to know what tenants to go with.

**Chairman Stanziale**

- Tried to get clarification as to how often tenants sublease the space for the desk, kitchenette and bathroom usage and a parking space.

**Attorney for the Board Michael Sullivan, Esq.**

- Attempted to obtain a clear and precise explanation as to what area of the building the tenants are located in.

**Chairman Stanziale**

- Requested clarification and questioned where payments or other correspondence would be sent to for subtenants and the purpose to use the desk.

**Attorney for the Board Michael Sullivan, Esq.**

- Advised Mr. Rossi based on his testimony tenancy seems not be associated with occupancy but with an arrangement to store vehicles on the side.

**Mr. Joseph Rossi Jr. applicant**

- Reviewed the list of tenants and stated they don't have a lease but are allowed to use a desk and a bathroom.
- Stated some tenants pay for a parking spot and have been with for a long time.

**Chairman Stanziale**

- Requested clarification about the name of trucking company.

**Attorney for the Board Michael Sullivan, Esq.**

- Tried to clarify the tenants listed on Mr. Wynne's memo and if they have a similar arrangement with him as the Ecuadorian business that only gets to use the bathroom, among other spaces.

- Attempted to clarify arrangements as just having the right to park on site and pay for the space.
- Questioned if suit 203 is occupied and its use.

**Mr. Joseph Rossi Jr. applicant**

- Suite 203 has desks but no one is working there, it vacant.

**Chairman Stanziale**

- Questioned who or what is missing from either Mr. Rossi's chart or the tenants list.

**Attorney for the Board Michael Sullivan, Esq.**

- The purpose of the question is to identify who is using the property and in what manner.
- We were provided with a list of tenants then the sewer department advised that there are other users in the property.
- Requested a complete list including the ones mentioned on Mr. Wynne's letter.

**Mr. Joseph Rossi Jr. applicant**

- I will provide a complete list.

**Chairman Stanziale**

- Expressed concern with the amount of tenants and the amount of trucks on the site.

**Member Fomchenko**

- To me it sounds like you have an outdoor trucking terminal on your property for trucks to park.
- Confirmed that Mr. Rossi stated this was an outdoor trucking facility.

**Member Fomchenko**

- Questioned the total number of vehicles, trucks, equipment, movers etc...that could be there at the same time.

**Chairman Stanziale**

- Requested a list of each tenant and how many vehicles are on this site.

**Joseph Rossi Jr. applicant**

- Doesn't have a complete list but has never been asked about his trucking or roofing companies in the property.
- I have 12 companies.

- I will provide a complete list with their names.

**Member Caruso**

- Tried to clarify if the 24 pieces of equipment on site are the landscapers.
- Advised not clear which piece of equipment goes with what tenant and how many pieces of equipment each tenant has.

**Joseph Rossi Jr. applicant**

- I will provide the Board with a detailed list containing this information tomorrow.

**Member Walsh**

- The January 22<sup>nd</sup> letter states that the equipment is Claremont Maintenance's equipment but what I am hearing is that it's not that it is the landscaping company's equipment.

**Joseph Rossi Jr. applicant**

- It belongs to the landscaping company.
- Claremont Maintenance manages them and tells them where to park.

**Member Walsh**

- Questioned what is Claremont Maintenance Business?
- Is it subcontracted with these other companies?

**Joseph Rossi Jr. applicant**

- It is a maintenance company and its fully insured.
- My daughter does most of the maintenance and my son in law is works for high end contractors.
- All work is run under Claremont Maintenance.

**Member Walsh**

- Question if Claremont Maintenance owns Ecuadorian Landscaping.

**Joseph Rossi Jr. applicant**

- No, it doesn't own any of the outdoor tenants.

**Member Caruso**

- Questioned who rent checks are made out to.

**Member Donaldson**

- Questioned the fence in the South East area.

**Joseph Rossi Jr. applicant**

- A vehicle damaged the fence so the fence will be redone.

**Chairman Stanziale**

- Questioned the nature of the two boxes under the fence where it says pallet area.

**Joseph Rossi Jr. applicant**

- It's a 30 yard dumpster and a pallet area.
- The fence it's a 6 ft. high chain link fence.
- 6 ft. stager cedar wood fence that requires repairs.
- Describe the truck circulation through the site.
- The trucks are 50ft. trailers.
- I will provide the number of flat beds and trailers.
- Everyone has a designated parking area.
- This area is sub paved not paved smoothly.
- Because of the situation with 'Flintcote' and 'EPA' where they may need to dig in different spots this area will not be paved until that is finished and resolved.
- Flintcote buried shiny dried asphalt, building material and different products.
- Provided a description of the cleanup process that I'm trying to get Flintcote to perform.

**Township Planner Blais Brancheau**

- Questioned the outdoor storage approvals and requested proof of them be provided.

**Attorney for the Applicant Ursula Leo**

- Provided 1 copy of the packets with the resolutions.
- On 10/10/2017 the original application was submitted with 19 copies of the resolution

**A-1**

- Series of Resolutions

**Township Planner Blais Brancheau**

- Wants the outdoor storage approvals pointed out.

**Attorney for the Applicant Ursula Leo**

- The Planning Board of 1990 approved 8 outdoor trucks.
- The Planning Board form 2005 approved 10 overnight parking spaces on the south side of the building.

**Township Planner Blais Brancheau**

- Question the 24 trucks (outdoor approvals) for the landscaping and Maintenance.

**Attorney for the Applicant Ursula Leo**

- No proof of 24 outdoor approvals.

**Township Planner Blais Brancheau**

- Questioned then; how the 24 outdoor storage was previously approved.
- Explained just because it currently exists it doesn't mean it was approved.

**Attorney for the Board Michael Sullivan, Esq.**

- Clarified the 1990 resolution approval that applied for 69.633 sq. of the building with various conditions that were not satisfied therefore never constructed and have expired since.

**Township Planner Blais Brancheau**

- No approvals were ever perfected.

**Attorney for the Board Michael Sullivan, Esq.**

- Those approvals have expired under our ordinance.

**Township Planner Blais Brancheau**

- There was annual tolling over the course of 5 years and it stopped
- The tolling had an expiration date and it is years out of date.

**Attorney for the Board Michael Sullivan, Esq.**

- It sounds like the Board was saying instead of asking for a 1 year tolling request a 3 year tolling based on what you're telling me but seemed to end and it hasn't happened for a number of years.

**Township Planner Blais Brancheau**

- The last tolling for case number 01-3-4; the resolution was adopted on July 13th 2010 and it tolled the rights to the approval until June 15<sup>th</sup> 2012.
- Tolling ceased 7 years ago, therefore it has since expired.
- Explained reason for requesting proof and to be able to determine if it is grandfather or they're illegal conditions.
- Explained has reviewed every single approval but cannot find documentation approving what goes on the site today.

### **Member Walsh**

- Reviewed January 18<sup>th</sup> 2005.

### **Chairman Stanziale**

- Suggested information in the resolution should be contained in the plan.
- How the trucks are parked need to be shown in the plans.
- The issues raised by the Township Planner in his report dated May 7<sup>th</sup> 2019 need to be dealt with.
- The ordinance doesn't allow the use of the property for just parking.

### **Attorney for the Board, Michael Sullivan, Esq.**

- Referenced the pending summons to the construction code official for outdoor storage and questioned what it references.
- Summons is dated May 31 2017.

### **Chairman Stanziale**

- Questioned the Patriots path.

### **Township Planner Blais Brancheau**

- A number of resolutions in the past have talked about cleaning up Patriot's Path.
- Case 89-1-3 approved in 1990, limited outdoor storage to 8 vehicles, talked about extending landscaping, cleaning up Patriot's path as per the letter agreement between the Morris County Parks Commission and the applicant.
- Case 01-3-4 approved in 2002 talked about the applicant realigning Patriot's Path.
- Those 2 cases make reference to Patriots Path as an ongoing issue.

### **Joseph Rossi Jr. applicant**

- The path is cleaned every Saturday and Sunday by the landscapers.

### **Township Planner Blais Brancheau**

- There is an open letter in the Township's files that the applicant refused to sign the agreement and will provide the Board with it.

**Attorney for the Applicant Ursula Leo**

- If there is any easement required they will work with the county and get that signed.

**Township Planner Blais Brancheau**

- There is an ambulatory easement that is in place but what is currently missing is the access agreement.

**Chairman Stanziale**

- What is on that path that you own?

**Joseph Rossi Jr. applicant**

- I owned 20 ft. into the River.
- Since the apartments were built in Cedar Knolls Road people walk back and forth often.

**Township Planner Blais Brancheau**

- The ordinance would allow an 8 ft. fence anything above that would require a variance.

**Chairman Stanziale**

- Request a vinyl solid fence to avoid issues in the future.

**Joseph Rossi Jr. applicant**

- On 8 East Frederick Place there is a serious flooding issue.
- Provided description of the flood issues and the water flow across the property.
- Stated a solid fence would be taken by the water.

**Member Giorgio**

- Questioned durability of a vinyl fence versus using a chain link fence with vinyl slats that would last a lot longer.

**Township Engineer Gerardo Maceira, P. E.**

- Due to the area being in a 'D.E.P' regulated area that might need the 'D.E.P' engineer's approval for fencing.
- Not aware of a flooding issue on this property.
- Stated will speak to Mr. Rossi to get a better understanding of it.

**Attorney for the Applicant Ursula Leo**

- Makes sense to gather all pertinent information and update plans accordingly and comeback another night.

**Chairman Stanziale**

- Advised the Board needs to have revised plans.

**Township Planner Blais Brancheau**

- As per my report the applicant needs to be able to address items 'C' with plan revisions.

**Attorney for the Board, Michael Sullivan, Esq.**

- Explained what the Township Planner Mr. Brancheau is looking for.

**Township Engineer Gerardo Maceira, P.E.**

- There were a number of recommendations for the Board.
- Item 2 the existing conditions of the pavement area and repairs

The board took a short break

Back on record

**Township Engineer Gerardo Maceira, P.E.**

- Continue with revision of May 7<sup>th</sup> 2019 report.
- Describe current poor conditions of pavement in property requiring repairs.

**Joseph Rossi Jr. applicant**

- Currently working with D.E.P unknown status

**Township Engineer Gerardo Maceira, P.E.**

- Item number 3; the pavement areas are not well defined and due to the use of the property the trucks are encroaching into the easement areas and into vegetated areas.
- I request the back edge to be curbed so we can define what the limits are.

**Joseph Rossi Jr. applicant**

- Explained what they type of finished concrete blocks to be used temporarily during the transition area.

**Township Engineer Gerardo Maceira, P.E.**

- Explain reasons for recommending not using them during the transition period.
- It would be excessive and make the site look more industrial.
- They are mostly used for kinds of structural retaining walls.

**Chairman Stanziale**

- Recommended coming up with alternatives.

**Township Engineer Gerardo Maceira, P.E.**

- Item 4; slit fence needs to be reestablish.
- Item 5; status of remediation; I'm requesting a correspondence from the LSRP which Mr. Rossi stated was engaged with for an updated status.
- Item 6; trying to establish if some of the improvements done are legal with D.E.P or a permit from the D.E.P is required.
- Item 7; pertains to how the gravel parking area came about and it is partially in the hazard flood area.
- Item 8; the recycle and refuse areas are typically with in some type of enclosure and what the board requirements would be.
- Item 9; the lighting on the building. The building mounted lights don't meet the township's ordinances.
- A light plan should be submitted and it should also indicate that the site is properly illuminated during dark hours.
- Item 10; the fence in the North East side of the property, proper coordination with the Police and Fire departments should take place to assure easy access to site during an emergency.
- Performance improvement guarantees.

**Joseph Rossi Jr. applicant**

- Few customers go into the Carpet, Gellman group, etc.

**Chairman Stanziale**

- Question parking and loading violations.

**Member Giorgio**

- Referenced Mr. Rossi's testimony about 'locked in baseball' due to concern of trucks being around children.

**Joseph Rossi Jr. applicant**

- '5 Miles per Hour' speed limit signs will be placed.

## Open to the Public

There were no questions or comments offered by the Public.

Closed to Public

## Attorney for the Applicant Ursula Leo

- Requested extension to July 2<sup>nd</sup>, 2019, granted and carried.

## Attorney for the Board Michael Sullivan, Esq.

- Summarized resolution.
- Extension to carry to July 2<sup>nd</sup> 2019 without any further notice granted.

A motion to grant extension to carry to July 2<sup>nd</sup> 2019 without further notice was moved by Member Walsh and seconded by Member Fomchenko.

Members Caruso, Fomchenko, Giorgio, Donaldson, Walsh and Chairman Stanziale voted in favor to grant extension to carry to July 2<sup>nd</sup> 2019.

## ADJOURNMENT

A motion to adjourn was moved by Member Walsh and seconded by Member Fomchenko.

All present by voice in favor to adjourn the meeting.

Meeting Adjourned at 9:14 P.M.

---

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