

**MINUTES OF THE REGULAR MEETING
OF THE TOWNSHIP OF JACKSON
ZONING BOARD OF ADJUSTMENT
MARCH 3, 2004**

Chairman, Michael Kelly called the meeting to order at 7:33P.M., with a salute to the flag. Attorney Robert Rothstein read the Open Public Meeting Act Statement.

ROLL Call:

Larry Hartman
Scott Weinstein

Alt #1 Peter Clute
Adam Ziobro, V. Chair
Michael Kelly, Chair

ABSENT:

Meredith Acacia
Robert Paneque, Sec'y

ALSO PRESENT:

Richard Megill, Director of Planning and Zoning
Robert Rothstein, Board Attorney
Evan Hill, Board Engineer
Richard Ragan and Leah Fury, Planner
Steve McCrystal, McCrystal Reporting

MEMORIALIZATION OF RESOLUTIONS:

2004 -8- Jose & Ana Tirado- Block 56.73 Lot 5.01- Motion to approve by WEINSTEIN /Ziobro YES: Hartman, Weinstein, Ziobro and Kelly. **VARIANCE DENIED**

2004 -9- Robert Haskins- Block 66.09 Lot 2.19 - Motion to approve by ZIOBRO/Weinstein YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **VARIANCE GRANTED**

2004 -10- Wayne Robertson- Block 9.01 Lot 34- Motion to approve by ZIOBRO/Weinstein YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **VARIANCE GRANTED**

2004 - 11- Lilian Schott - Block 78.24 Lot 5- Motion to approve by WEINSTEIN/Ziobro YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **VARIANCE GRANTED**

2004 - 12- Christopher Broom- Block 85 Lot 7.01- Motion to approve by ZIOBRO/Weinstein YES: Hartman, Weinstein, Ziobro, Clute, and Kelly. **VARIANCE GRANTED**

2004 - 13- Kevin Musto - Block 78.29 Lot 1- Motion to Approve by ZIOBRO/Weinstein YES: Hartman, Weinstein, Ziobro, Clute, and Kelly. **VARIANCE GRANTED**

2004 - 14 –Masters & Edison, Inc. - Block 130.02 Lot 1.01- Motion to Approve by WEINSTEIN/Ziobro YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **SITE PLAN APPROVED**

MINUTES: Motion to approve minutes for 2/4/04 as submitted by: WEINSTEIN/Ziobro YES: Hartman, Weinstein, Ziobro, Clute and Kelly **Motion Approved.**

VOUCHERS: Motion to approve as submitted by: ZIOBRO/Hartman YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **Motion approved.**

Mr. Megill, Board Planner and Board Engineer duly sworn

ANNOUNCEMENTS: Michael Kelly announced that the following applications would be carried to the April 7th, 2004 meeting: #6- Alvear – Block 125.12 Lot 13, #10- Wayne Brown.- Block 128.08 Lot 86, # 13- SDS Recreation LLC- Block 154.32 Lot 25, #14- Citgo/19 Petroleum Distributors- Block 54 Lot 1.01. No additional notice required.

Scott Weinstein will act as Secretary in the absence of Robert Paneque.

APPLICATIONS:

- 1. APPLICANT: JOSEPH & ROBIN SAVONA
BLOCK: 113 LOT: 27.01 ZONE: R-3
LOCATION: CORNER OF BENNETTS MILLS AND MAGNOLIA DRIVE**

Mr. Megill stated applicant is seeking a use variance with site plan to construct a child care facility "The Little Gym of Jackson" in the R-3 zone where lot depth required is 400 ft. and applicant is providing 145'56" and the front yard setback required is 80 ft. and applicant is providing 74 ft.. Also rear yard required is 50 ft. and applicant is providing 28 ft. also with waivers requested for parking. Atty. Dana Kelly and Joseph Savona duly sworn. Also any approvals will be contingent upon the delinquent taxes being paid. Mr. Savona explained he and his wife purchased a franchise

territory consisting of Jackson, Upper Freehold and Plumstead., since they live in Jackson they want to focus on their home town. They want to bring recreation for the children of Jackson. They tried to lease space but what they needed wasn't available at the time, so they found this site. The exhibit marked as A-1 described franchise. Mr. Savona discussed the franchise has been in existence since 1992 and is in 32 states, they emphasize on motor skills for children, which is a tuition based facility. He explained how school systems are cutting back on gym classes and parents can take their children 14 months to 12 years of age to this facility for structured motor skills indoor activities. Mr. Savona explained the number of children to be at facility at a time would be 15 to 21 plus employees and patrons. The facility hours would be 9:00 am to 8:30 pm, on the weekend the facility would be open for Birthday parties, one exclusive one and a half hour party at a time at the facility with no food prep at facility only outside food brought in by patrons. Dana Kelly discussed the buy/sell letter they received only one response back as a not interested which was marked as exhibit A-2. Planner duly sworn Richard Lapinski, he gave his credentials which were accepted. Dana Kelly discussed use variance requested and Richard Lapinski described context of map which three lots away is a Neighborhood Commercial Zone, the surrounding residential lots and VFW Post on adjacent lot on Magnolia Drive. Richard Lapinski discussed the difference between daycare and childcare facility; this facility would have adults accompanying the children at the facility. He also discussed the bulk variances required. Mr. Ragan requested clarification of distance from proposed facility to adjacent houses. Engineer Chuang Yim duly sworn gave credentials and described the color rendering of landscape plan and the distance between the proposed building to the existing homes. He also described the buffers and placement of septic field. Mr. Ragan questioned the frequency of activity with regard to the noise from children, which was answered by Mr. Savona as only coming and going into the facility not outside activity. Mike Kelly questioned the lighting and how it must not disturb the surrounding homes. Mr. Ragan discussed the height of the light posts need to be only 13 ft. high. Also the only deliveries would be by UPS trucks. Mr. Savona discussed the student sessions would have 15 minutes between sessions and on weekends there would be a half hour gap between and would end at 6:00 pm. **Public Portion.** Doug Porey, 617 Bennetts Mills Road, duly sworn explained he feels this gym is a good idea but the location is not good. He has traffic concerns with the volume of traffic coming and going besides the regular everyday traffic already a problem. He stated it is hard for him to make a left turn into his driveway between 4:30 and 5:00 which is very dangerous. Also he discussed the existing daycare center by Lake Enno on Bennetts Mills Road and the stores, also the multiple fatal accidents in the area which made the County install a traffic light finally. He has concerns for the safety of the children attending the facility. Kiel Eckhardt, 628 Bennetts Mills Road, duly sworn explained he thinks the gym is a good idea but location is not good, he lives on a flag lot and his home would face the back of the facility about 40 ft. from his home. Steve Burns, 636 Bennetts Mills Road, duly sworn explained he lives next door to the lot, he purchased his home 6 years ago and had anticipated a home may be constructed on the vacant lot but not a commercial facility. He has concerns with the 10 ft. buffer of scattered vegetation there had been two accidents already in the area, one in December and another in January. **Public Portion Closed.** Mike Kelly questioned the adjacent property owner if he tried to purchase the land? The adjacent property owners stated they would not have a problem with a home being built but do not want a commercial facility. Atty. Dana Kelly stated that they would like to have the application carried to the May 5th meeting would like to meet with property owners and address their concerns. Evan Hill explained that any revised plan must be submitted at least three weeks prior to the meeting. **Carried to the April 7TH meeting, no additional notice required.**

2. **APPLICANT: THOMAS & JENNIFER AVRORA**
BLOCK: 125.21 LOT: 10.02 ZONE: R-9
LOCATION: 15 VALLEY ROAD

Mr. Megill stated applicant is seeking a variance to construct a 12ft. x 8 ft. shed 5'6" from their side yard property line where 10 ft. is required. Thomas and Jennifer Avrora duly sworn. Thomas Explained they want to put the shed on the side of the house so their children will still have a play area. **No objection from the public.** Motion to approve by ZIOBRO/Weinstein YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **VARIANCE GRANTED**

3. **APPLICANT: JOHN & SUZANNE AVINO**
BLOCK: 135.08 LOT: 58 ZONE: R-1/R-3
LOCATION: 4 KENSINGTON COURT

Mr. Megill stated applicant is seeking a variance to construct a 21 ft. x 36 ft. in-ground pool, filter/heater 10 ft. from side yard where 20 ft. is required and a 10 ft. x 14 ft. shed 10 ft. from side yard where 15 ft. is required. John Avino duly sworn explained he has a 50 ft. wetlands buffer on property and due to that he needs the variance to situate the pool on the property and also is requesting a variance for the shed to be 5 ft. from both side yards not 10 ft. **No objection from the public.** Motion to approve by ZIOBRO/Hartman YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **VARIANCE GRANTED**

Mr. Megill stated that Mr. Tirado of White Road who had his application denied at last months meeting came into the office and applied for a Zoning permit to move the pool to the permitted setback location.

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Applications Continued

4. **APPLICANT: ERIK & DEBRA JONES**
BLOCK: 137.02 LOT: 11 ZONE: R-3
LOCATION: 722 HYSON ROAD

Mr. Megill stated applicant is seeking a variance to construct a two-story addition approximately 800 sqft. Where the left side yard setback required is 20 ft. and applicant is proposing 12 ft. and where the right side setback required is 20 ft. and is proposing 18 ft. Also front yard setback required is 60 ft. and is proposing 29'4". Erik Jones duly sworn explained the size of the existing house and wants to expand and wants a wrap around porch. Evan Hill questioned sewer hook up which Mr. Jones stated he is hooked into the public sewer system. **No objection from the public.** Motion to approve by WEINSTEIN/Ziobro YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **VARIANCE GRANTED**

5. **APPLICANT: KARL & LINDA PIFF**
BLOCK: 128.01 LOT: 27.01 ZONE: R-3
LOCATION: 189 BARTLEY ROAD

Mr. Megill stated applicant is seeking a variance to construct an addition approximately 1,044 sqft. Where the side yard setback required is 20 ft. and is providing 15 ft. Karl & Linda Piff duly sworn. Linda explained they need the addition they have a garage and want to square off the house will not add any bedrooms they want to expand what is existing and add a sunroom. **No objection from the public.** Motion to approve by WEINSTEIN/Hartman YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **VARIANCE GRANTED**

- 6(7). **APPLICANT: DARREN J. NEWFIELD**
BLOCK: 80 LOT: 11.07 ZONE: R-3
LOCATION: 1 AMBASSADOR COURT

Mr. Megill stated applicant is seeking a variance to construct a 6 ft. solid fence and in-ground pool with filter/heater in front yard on this corner lot. Toni Ann Newfield duly sworn explained they want to install a 6 ft. fence for safety of their child since Butterfly Road is a busy road. The Board stated the fence must be 20 ft. from property line. But, Mrs. Newfield requested to be closer. The Board decided that 15 ft. from property line would be sufficient. Evan Hill stated that the Township Forester faxed a letter dated March 2, 2004 that the Newfield's were cutting down trees without a permit. Mrs. Newfield stated that she was told on December 17th 2003 she didn't need a permit to cut down trees. She wasn't aware until the Forester's assistant knocked on her door, she then called her attorney. She then received a letter in her mail box. Mike Kelly stated that the Board could make a decision tonight but it would be contingent upon satisfying the Forester's concerns. Mrs. Newfield stated she used Dion's Tree Service who did not tell them they needed a permit. Mr. Rothstein explained that they must resolve the issue by the April 7th meeting when the Resolution will be memorialized. **No objection from the public.** Motion to approve by WEINSTEIN/Ziobro YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **VARIANCE GRANTED WITH STIPULATIONS**

- 7(12). **APPLICANT: LEIGH REALTY/ROBERT PELSANG- A1 JDK SPECIALTY**
BLOCK: 111 LOT: 27 ZONE: HC
LOCATION: N. COUNTY LINE ROAD

Atty. Dennis Galvin representing the applicant requested the application be carried to the April 7th meeting and would waive any time restraints. **Carried to the April 7th meeting, no additional notice required.**

8. **APPLICANT: RICKY BAILEY**
BLOCK: 141 LOT: 7.02 ZONE: NC
LOCATION: JACKSON MILLS ROAD

Mr. Megill stated applicant is seeking a variance to construct an attached garage and covered porch, where the side yard distance required is 20 ft. and applicant is providing 6' 5". Ricky Bailey duly sworn explained he wants a garage with a porch out back. Michael Kelly questioned the size of the garage? Which Mr. Bailey submitted pictures to the Board to show the distance. Evan Hill questioned if any encroachment on the well or septic, which Mr. Bailey answered no. **No objection from the public.** Motion to approve by WEINSTEIN/Ziobro YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **VARIANCE GRANTED**

- 9(11). **APPLICANT: ANN L. CLAYTON MC CARTY/ CB BROKER**
BLOCK: 96.01 LOT: 25.03 ZONE: R-3
LOCATION: CORNER OF TRENTON CASSVILLE ROAD AND LEESVILLE ROAD

Mr. Megill stated applicant is seeking a variance to construct a single family dwelling in the R-3 zone, 3 acre required and providing 1.367 also variance required for lot depth, 400 ft. required and providing 190 ft. Application carried from the February 4th meeting. Applicant and representing attorney did not show up for meeting. **Public made aware of applicant not showing up for meeting.** Motion to dismiss without prejudice by WEINSTEIN/Ziobro YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **DISMISSED WITHOUT PREJUDICE**

- 10(9). **APPLICANT: OMNIPOINT COMMUNICATIONS**
BLOCK: 32.02 LOT: 5 ZONE: PV
LOCATION: 785 MILLER AVENUE

Mr. Megill stated applicant is seeking site plan with use variance approval to co-locate additional antennas on an existing tower in the PV-Zone. Michael Learn Attorney representing applicant duly sworn discussed the co-location and how they will comply with the comments of the Board Engineer. Mr. Megill questioned if there would be room for Police antennas to be placed on the tower? Which the Engineer confirmed yes, there would. Michael Learn stated that they do not control the tower and would give the phone number of who to call. Ms. Janice Talley Professional Planner duly sworn described photos marked as exhibit A-1 pictures of existing tower and proposed antenna placement. David Stern Engineer duly sworn discussed compliance with FCC regulations and site existing conditions. Exhibit A-2 marked with overlay of deficient area of service. Exhibit marked as A-3 2/26/04 report to show site will comply. Professional Engineer Peter Tardy duly sworn discussed existing compound and proposed equipment Evan Hill discussed landscape and 5 ft. existing fence and requested a 8 ft. security fence. Michael Learn stated that they don't own the fence and will have to contact owners to get approval to change at this time they request that if they do not acquire permission to change the fence they will come back to the Board. **NO objection from the public.** Motion to approve by HARTMAN/Weinstein YES: Hartman, Weinstein, Ziobro, Clute and Kelly. **USE VARIANCE GRANTED WITH SITE PLAN APPROVAL WITH STIPULATIONS**

ADJOURNMENT: Motion to adjourn meeting at 9:43pm. by ZIOBRO/Hartman YES:
UNANIMOUS

The next meeting of the Zoning Board of Adjustment will be April 7th, 2004 at 7:30 pm. at the Municipal Building, 95 West Veterans Highway, Jackson

Respectfully submitted,

Dawn D'Agostino, Recording Secretary