

**MOORESTOWN TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING
May 16, 2023**

MEMBERS PRESENT:

Walter Fazler
Lynne Schill
Vincent D'Antonio
William Creeley
Joe Hanuscin
Valarie Sirani
Nicolas Repici Alt. 1
Timothy Monahan
Caryn Shaw Alt. 2

STAFF PRESENT

Patty Muscella, Board Secretary
Melanie Levan ESQ, Board Attorney
Danielle Gsell, Recording Secretary
Michelle Taylor, P.P, A.I.C.P Board Planner

Absent: None

Mr. Fazler called the meeting to order in the Council Chambers at 7:03pm by reading the Open Public Meetings Act statement. A moment of silence was followed by the Pledge of Allegiance.

Roll call is as listed above.

RESOLUTIONS:

ZBA#2023-09, Alysia & Robert Harvey, 700 Garwood Road, Block 7100 Lot 12, Bulk Variance Relief from Section 180-85.5 to allow an additional 3 Bay Car Garage (1860 sf.).

- A motion to approve the resolution with a change # 10 on page 4 stating there would be no electric run in the garage where in fact there will be running electric, was made by Ms. Schill seconded by Mr. Hanuscin. The roll call vote of eligible Board members was unanimous in favor. Motion Carried.

ZBA#2022-27, Kyle & Bethany Abrahams, 236 N. Riding Drive, Block 3500 Lot 12, Bulk Variance relief from 180.12B to permit 39.85% impervious where 30% is required to allow for a 1457 sf addition to the existing residential home.

- A motion to approve this resolution was made by Mr. Hanuscin seconded by Ms. Schill. The roll call vote of eligible Board members was unanimous in favor. Motion Carried.

ZBA#2023-10, Douglas & Theresa Murphy, 1 West Oak Avenue, Block 4201 Lot 7, Bulk Variance relief to permit 31.5' front yard setback where 50' is required for improvements of a front porch and entrance with steps. The current front yard setback is at 37.25'.

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- A motion to approve this resolution was made by Mr. Hanuscin seconded by Ms. Schill. The roll call vote of eligible Board members was unanimous in favor. Motion Carried.

MINUTES:

- A motion to approve the April 18, 2023 was made by Ms. Schill seconded by Mr. D'Antonio. The roll call vote of eligible Board members was unanimous in favor. Motion Carried.

SWEARING IN OF PROFESSIONALS:

Ms. Levan swore in Ms. Michelle Taylor to provided testimony on the applications.

NEW BUSINESS:

- **ZBA#2023-13, Brian Smith & Adrienne Hollander, 701 Kimberly Drive, Block 7500 Lot 19, Bulk Variance request from Section 180-9 (c) to allow for the installation of a 4' high aluminum fence within the front yard setback along a major thorough fare.**

Mr. Edward Vidal, attorney for the applicant introduced himself and asked that the applicant be sworn in to provide testimony to the application in front of the Board. The applicant is asking for a 4' high fence to go around the yard and to replace the fencing around the existing pool. They are looking to place the fence around the property since they have small children and a dog. Since their property is adjacent to Hartford Rd. the applicant felt having the fence installed would create ease of mind that they and their family would remain safe from the traffic on Hartford. When asked about how much they would be asking for with the easement on the property they would like to be just inside the easement line. The applicants didn't feel this application would impact the community or the surrounding neighbors in any way.

- A motion to approve this Application was made by Mr. D'Antonio seconded by Mr. Creeley. The roll call vote of eligible Board Members unanimous in favor. Motion Carried.
- **ZBA#2022-26, 227 Fairview 08057 LLC, 227 Fairview Avenue, Block 2107 Lot 15, Interpretation of pre-existing use to allow accessory overnight outdoor parking of vehicles/trailers, consistent with prior uses and/or variance. Alternatively, Use Variance supporting ancillary/accessory parking.**

Mr. Robert Mintz, Attorney for the applicant introduced himself as well as Ms. Tiffany Morrissey, Planner and Ms. Maura Dey, Principal for the applicant. He asked Ms. Levan to

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swear in the witnesses so they would be able to testify to the application and the facts he was going to be presenting for this application. Before Ms. Levan swore them in she gave some guidance to the Board on what they would be considering when being asked to interpret this pre-existing use. She then swore in Ms. Morrissey and Ms. Dey, Mr. Mintz provided testimony about the prior owners and the intention of what the property has been used for. He spoke to the letter written to the Township (Exhibit A-1) regarding this property and the letter dated September 2021 from Ms. Jamanow stating what they had done and were using the property for was permitted. The use for this application predated 1948 ordinance where the overnight parking of large vehicles was not permitted. Ordinance 18099.1 was referenced about the permitted overnight parking of large commercial vehicles over 1 Ton capacity. June 1, 1988 was noted about allowing parking for vehicles over 1 ton being allowed to park on the lot since the property was a pre-existing non-conforming use prior to that. Exhibit A-2 (permit from 1984) showing what the uses of the building were going to be were shown to the Board so they would be able to get a better understanding of the timeline. Mr. Mintz then introduced Ms. Dey and asked her to provide a little background of herself and her ties to the property as well as to Moorestown. She testified the applicant purchased the property in Oct. 2021 and that the garage consisted of 6 bays but could also be considered 8 since the one bay is large and can hold more than the others can. She testified she has reviewed previous resolutions about the use of the property. She did some research about the historical use of the property as well as spoke to a resident who knew the history of the property since she has lived in the town for the last 80+ years. At the current time there are vans, trucks, and cars that are on the property for overnight parking. They have also had trailers that do not have motors there on occasion. Ms. Dey did some research about what vehicles weighed in 1986 compared to what they would weigh now and they are lighter now than they would have been in 1986. On the site there are no visitors, staff or signs and the applicant doesn't plan on making any changes to that. They will continue to rent the spaces/bays as they always have.

Exhibit A-3 (Aerial of property) showing the garage being hidden from the neighbors by the landscaping and buffering. Although there were some gaps in between the trees that you can see through the area is mostly shielded.

Exhibit A-4 (Photo of the property) This photo showed the enclosed trailer being stored on the property, this trailer has no motor. There was also testimony given about there being another open trailer that is sometimes stored on the property. Ms. Dey testified they had planted 20- 5ft. trees along the property line to better shield the property from the neighbors, unfortunately 13 of them died during that summer and they have replanted 6 of them in hopes they will grow enough to continue to shield the property from the neighbors since there is such a large garage.

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Exhibit A-5 (Landscaping Plan) showed the additional landscaping that will be added in order to make the appearance of the area more pleasing to the neighbors. By adding additional landscaping, the applicant will not be changing the foot print or design of the building.

There was discussion about Ms. Taylor's letter and the meaning of the one-ton capacity as it related to the application. Ms. Dey testified when the property was purchased they had 3 tenants occupying the spaces in the garage, they added one and they have since vacated the property and there is no intention to rent the space out to anyone else. There will be no materials stored outside of the property from the tenants that are occupying the units.

Mr. Hare, son of the previous owner, was sworn in and spoke about the hearing in 1984 that sub-divided the property and the use of the property since being purchased by his father. He talked about the different vehicles that would come and go based on who was renting the spaces. In the past there had been a tree service that would store his large utility trucks in the lot over night with no problems.

Ms. Deborah McCarthy, 228 Fairview, was sworn in to speak to the fact that she has been a neighbor since 1972 and doesn't have an issue with the vans and cars that are coming and going from the property. She doesn't feel bothered by the noise or the coming and going of the vehicles during the day. She has never seen or had a problem with any of the tenants occupying the space.

Ms. Tiffany Morrissey, Professional Planner spoke to the violation given to the tenant in 2022 and asked to have Ms. Taylor confirm what the violation was since there was some conflicting information about it. Ms. Levan reviewed the ordinance again to clear up any misunderstanding. Ms. Morrissey also spoke about the resolutions that were written from the meetings approving the use of the property and her opinion about what she felt they meant when they were written and approved. She spoke about the 10/21/1986 meeting minutes where there were clear statements about the use of the property. The history of the property is clear and has remained the same since originally purchased by Mr. Hare in the 1970's. She reiterated the issues being brought before the Board and again what the applicant was seeking with this application.

Ms. Taylor spoke to her letter dated 5/11/2023 and again what the one-ton capacity means in regards to the application. The non-conforming garage should have been required to get a variance in the past but since they didn't when the application was brought before the Board in 1985 that was corrected. The building coverage and allowed footage is already there so there is nothing that would need to be done with that.

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PUBLIC COMMENT:

Mr. Craig Slater & Ms. Julia Slater- 340 W 3rd St.

Ms. Slater read her letter of concern to the Board outlining the concerns that she and her neighbors have about the use of the property. She outlined specific events that have occurred causing this concern. Mr. Slater presented Exhibits 0-1 through 0-3 (various site photos) Mr. Slater testified that he felt the previously granted variance was a mistake and should not have been allowed. There was discussion about the impervious coverage and the percentage of the current use compared to the percentage of the variance granted.

Mr. John Burton-35 Beechnut Ln, Willingboro

Mr. Burton was a renter of one of the units during the time (2003-2020) Mr. Hare owned the property and how he used to store his large trucks in the lot overnight and there was not an issue. He would be allowed to park in front of his bay and not all over the parking lot since each unit had parking specifically for their unit. There was daily access for Mr. Burton and his employees for the duration of his time renting.

Mr. Joe Crespo, JC Construction Owner- 48 Walton Way Delanco, NJ

Mr. Crespo spoke to his rental unit and how he does store his work van overnight on the property. He spoke about the dump trailer that was referenced during the hearing and how he had to remove some debris from his old unit but that the trailer was there for less than 24 hours. He has a few employees that come and go throughout the day depending on what is needed from the rented units. They typically work from 8am to 4:30pm during the week and he didn't feel there was an issue with any neighbors.

Mr. Doug Lynch- 230 Fairview

Mr. Lynch moved in to his property in 2018 and felt there were safety concerns around the property and having the larger vehicles parked overnight and during the day. He voiced additional concerns about kids in the area being hurt if they were to get on the property and mess with the vehicles parked in the lot.

Mr. Reynold Guida- 220 Mannion Ave

Mr. Guida moved in to his property in 2015 and felt the same concerns as many of his fellow neighbors about safety and appearance of the property. He voiced concern about the air and noise pollution and how it would be affecting those who lived around the applicant's property. He didn't feel overnight parking was a good idea and would ask the Board to deny the application.

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Mr. Dennis Welsh- 207 Mannion Ave

Mr. Welsh moved into his property in 2017 and felt this application would negatively impact the beautiful neighborhood that has been created and by allowing the overnight vehicle parking the neighbors would continue to feel unsafe and concerned about the traffic and safety of those in the neighborhood.

Mr. William Rose- 349 W 3rd St

Mr. Rose moved into his property in 1994 and was able to speak to the previous uses of the property and how there used to be trucks with running refrigerator units on overnight that would annoy him since they were loud and ran all night.

Mr. Jeffrey Oppenheim, M.D.- 401 E Camden

Mr. Oppenheim has lived in the property for the last 42 years and since he has moved in the street has been significantly narrowed due to a tree being planted some years ago. The street now measures about 24 feet wide and this makes it hard for cars and trucks to come and go on that street. He testified that when cars are parked on the sides of the street during events in the town it makes the street even more narrow and more difficult to go down that street without side swiping vehicles. He spoke about the damage that has been done to his vehicle and asked that the traffic be minimized by not allowing large trucks to access the property.

Mr. Gary Snyder- 332 W 3rd St

Mr. Snyder moved into his property in 2015 and spoke about the narrow street of Fairview and he felt it would be unsafe for larger work trucks to be going up and down the street. He thought by allowing the applicant to have trucks park overnight it was changing the beauty of the street and the neighborhood. He would like the Board to deny the applicants request.

Mr. Robert "Jason" Sherwood- 347 W 2nd St

Mr. Sherwood moved into his property in 2018 and also expressed the same concerns as his neighbors about the safety and security of those living around the property. Although he has not had any issues since moving in he is fearful that by allowing the applicant to have the overnight parking there will be issues that arise.

Ms. Virginia Wescott- 215 Mannion, Ms. Eileen Barrett-220 Fairview, Ms. Julie Kligerman-401 Camden Ave. Have lived in the town for many years expressed their concerns about the application and it causing problems for the neighborhood and the safety concerns of the large trucks coming and going down the street. They also expressed additional concern about the small kids being outside and being hit buy the trucks coming and going. Since

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there are so many senior citizens walking around the neighborhood there is fear they will be hit and not be able to enjoy themselves while out walking.

Mr. Mintz summed up the application and what he felt would be the reasons approving this would be beneficial for not only the applicant but for the neighbors as well. Mr. D'Antonio asked about what clear thoughts he needed in order to decide on this application. Mr. Mintz asked for a 5-minute recess (10:17pm) to speak to his client regarding the application and how they would like to proceed since the Board was asking about a site plan so they would be able to look at that should the interpretation application not be approved. When the Board re-adjourned at 10:26pm Mr. Mintz asked to have the matter carried until the June 20, 2023 with no new notice required, the Board agreed to his request.

DISCUSSION ITEMS:

NONE

With no further business to discuss, Mr. Monahan made a motion, seconded by Ms. Schill to adjourn the meeting. The voice vote was unanimous in favor. The meeting was adjourned at 10:32pm