

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REORGANIZATION AND
REGULAR MEETING MINUTES
JANUARY 25, 2016**

Call to Order

The re-organization and regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, January 25, 2016, at 7:30 P.M. in the Municipal Building, 50 Woodland Avenue, Township of Morris.

Statement of Adequate Notice

Sonia Santiago 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 January 19, 2016 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 Ms. Sonia Santiago, Board Secretary

Roll call of Board Members and Professionals

Members Present

Mr. Timothy Kronk
Ms. Kathleen Kalaher
Mr. Thomas A. Luby
Mr. Donnell Williams
Mr. Paul Staudt, Alternate #2

Members Absent

Mr. Paul Woodford
Mr. Rick Haan
Mr. John Christensen
Ms. Joen Luy Ferrari, Alternate #1

Also Present

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

Reorganization

Oath of Allegiance and Oath of Office administered by Mr. Rich Oller, Esquire to the following members:

- Mr. Paul Staudt

Sonia Santiago asked for nominations for Chairperson for the year 2016. Mr. Luby nominated Mr. Kronk as chairperson; no other nominations were made, seconded by Mr. Staudt and unanimously carried, Mr. Kronk was elected Chairperson for the Board.

Mr. Kronk nominated Mr. Luby for Vice-Chairman for the year 2016 with no other nominations made, second by Ms. Kalaher and unanimously carried, Mr. Luby was elected Vice Chairman for the year 2016.

Mr. Kronk asked for a motion to adopt the resolution naming Mr. Richard Oller, Esquire as Board Legal Counsel, for the year 2016; Mr. Luby made a motion to accept the resolution, seconded by Ms. Kalaher and unanimously carried, the resolution was adopted as presented.

DESIGNATION OF BOARD LEGAL COUNSEL

WHEREAS, the Board of Adjustment of the Township of Morris has need for the professional services of Legal Counsel; and

WHEREAS, the practice of law is a recognized profession, regulated by law requiring extensive and specialized training and as such is an exception to the bidding requirements set forth in N.J.S.A. 40A:11-5 et. seq.; and

WHEREAS, the anticipated term of this contract is one year; and

WHEREAS, Rich Oller, Esq. of the firm OLLER AND LUZZI has completed and submitted a business entity disclosure certification which certifies that OLLER AND LUZZI has not made any reportable contributions to a political or candidate committee in the Township of Morris in the previous one year, and that the contract will prohibit OLLER AND LUZZI from making any reportable contributions through the term of the contract; and

WHEREAS, the Chief Financial Officer of the Township of Morris has filed a certificate of availability of funds in the amount of \$3,000.00;

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Morris, Morris County, New Jersey, that the Chairman and Board Secretary are authorized to enter into an agreement dated January 25, 2016, for the period January 1, 2016 to December 31, 2016 to engage Richard Oller, Esq., as legal counsel at the rate of \$144.00 per hour with a minimum of \$216.00 for attendance at regular and special meetings of the Board. The total to be paid shall not exceed \$4,000.00 to be charged to the Board of Adjustment, Other Expense budget.

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

BE IT FURTHER RESOLVED that an official notice of this action shall be published in accordance with the law.

Mr. Kronk asked for a motion to adopt the resolution naming Mr. Paul Phillips as the Board Planning Consultant for the year 2016; Mr. Staudt made a motion to accept the resolution, seconded by Mr. Luby and unanimously carried, the resolution was adopted as presented.

DESIGNATION OF BOARD PLANNING CONSULTANT

WHEREAS, the Board of Adjustment of the Township of Morris has need for the professional services of a Planning Consultant; and

WHEREAS, the practice of land use planning is a recognized profession, regulated by law requiring extensive and specialized training and as such is an exception to the bidding requirements set forth in N.J.S.A. 40A:11-5 et. seq.; and,

WHEREAS, the anticipated term of this contract is one year, and

WHEREAS, Paul A. Phillips, AICP/P.P of the firm Phillips, Preiss Grygiel, LLC has completed and submitted a business entity disclosure certification which certifies that Phillips Preiss Grygiel LLC has not make any reportable contributions to a political or candidate committee in the Township of Morris in the previous one year, and that the contract will prohibit Paul A. Phillips, from making any reportable contributions through the term of the contract, and

WHEREAS, the Chief Financial Officer of the Township of Morris has filed a certificate of availability of funds in the amount of \$1,000.00;

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Morris, Morris County, New Jersey that the Chairman and Board Secretary are authorized to enter into an agreement, dated January 25, 2016, for the period January 1, 2016 to December 31, 2016, with Paul A. Phillips, AICP/P.P. of Phillips Preiss Grygiel LLC at the rate of \$144.00 per hour with a minimum of \$216.00 for attendance at regular and special meetings of the board. The total expenditure shall not exceed \$1,000.00 to be charged to the Board of Adjustment, Other Expense budget.

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution. and

BE IT FURTHER RESOLVED that an official notice of this action shall be published in accordance with the law.

Mr. Kronk asked for a motion to adopt the following resolution naming Mr. Ronald Graiff as the Radio Frequency Consultant, for the year 2016; Mr. Williams made a motion to accept the resolution, seconded by Ms. Kalaher and unanimously carried, the resolution was adopted as presented.

RADIO FREQUENCY CONSULTANT – RONALD E. GRAIFF, P.E.

WHEREAS, the Township of Morris Board of Adjustment has need for the professional services of a Radio Frequency Engineer; and

WHEREAS, this practice is a recognized profession, regulated by law requiring extensive and specialized training and as such is an exception to the bidding requirements set forth in N.J.S.A. 40A:11-5 et. seq.; and

WHEREAS, charges incurred at the rate of \$ 220.00 per hour will be billed solely to the developers escrow account;

NOW, THEREFORE, BE IT RESOLVED by the Township of Morris Board of Adjustment that Mr. Ronald E. Graiff, PE be hired as a consultant to the Board of Adjustment to particularly discuss the Wireless site plan applications with the Board, applicant's and professionals to clarify certain issues and concerns of the Board. His appearance before the Board may be required in connection with this consultation.

BE IT FURTHER RESOLVED that an official notice of this action shall be published in accordance with the law.

On a motion made by Mr. Luby and second by Ms. Kalaher, and unanimously carried, the following Professionals were appointed for the year 2016.

Professional Appointments

Board Engineer – James R. Slate, P.E.

Alternate Board Engineer - David Hansen, P.E.

Alternate Board Engineer – Bernard G. Senger III, P.E.

Board Secretary – Sonia Santiago

On motion made by Mr. Luby, seconded by Kronk and unanimously carried, Mr. Woodford was appointed as the Board designee to the Open Space Committee.

On motion duly made by Mr. Staudt, seconded by Mr. Luby and unanimously carried, the following

resolutions were adopted setting meeting dates for the year 2016 / January 2017 and designating the newspaper for the 2016.

**NOTICE OF SCHEDULED MEETINGS
FOR THE YEAR 2016 AND JANUARY 2017**

BE IT RESOLVED, that the Board of Adjustment of the Township of Morris, County of Morris, State of New Jersey, will meet to consider and act upon public business at 7:30 P.M., prevailing time, on each of the dates set forth below, for the year 2015, in the Municipal Building, 50 Woodland Avenue, Township of Morris, New Jersey:

January 25th, 2016
February 22nd
March 28th
April 25th
May 23rd
June 27th
July 25th
August 22nd
September 26th
October 24th
November 28th
December 12th
January 23rd, 2017

BE IT FURTHER RESOLVED that additional meetings, if required, will be at the call of the Chairman with the proper notification, and

BE IT FURTHER RESOLVED that the Secretary is authorized and directed to:

- a.) Post said meeting schedule and maintain the same posted throughout the year 2016 on the bulletin board in the Municipal Building of the Township of Morris on Woodland Avenue;
- b.) Mail a copy of same to the Morris County Daily Record, the Morris News Bee and the Star Ledger.

DESIGNATION OF OFFICIAL NEWSPAPERS

WHEREAS, Chapter 231 of the Public Laws of the State of New Jersey for 1975 (N.J.S.A. 10:4-6 to 10:4-21) known as the "Open Public Meetings Act", requires adequate notice of meetings of public bodies, as therein defined, and in the manner therein set forth, and prescribed certain other procedures to be followed by such bodies.

BE IT HEREBY RESOLVED by the Board of Adjustment of the Township of Morris, Morris County, New Jersey, this 9th day of February 2016, as follows:

- 1. The Morris County Daily Record is the official paper of the Board of Adjustment (as an alternate, the Morris News Bee or the Star Ledger) and is hereby designated as the newspaper to receive notice of meetings as required by any and all sections of the Open Public Meetings Act, said newspapers are most likely to inform the local public of such meetings.
- 2. The location of posting of notice of meetings shall be the bulletin board in the Municipal Building of the Township of Morris, located at 50 Woodland Avenue, where notices of this kind are normally posted.

Regular Meeting

Consideration for approval of minutes of the November 23, 2015 and December 14, 2015 regular meetings.

On motion duly made by Mr. Luby, seconded by Mr. Staudt, and unanimously carried, the minutes of the November 23, 2015 meeting were approved as circulated and placed on file in the office of the Board of Adjustment. The December 14, 2015 minutes were tabled for further review and to be presented at the next Board meeting.

Resolutions

Consideration of the following resolutions thereby memorializing the action taken by the Board at the November 23, 2015 and December 14, 2015 meetings.

BA-05-14

Madison Gas Mart

Block 8301, Lot 5, 219 Madison Avenue, B-11 zone. Section C & D.

Applicant proposes to construct a small addition to the rear of the existing service station and convert a portion of the building to a convenience store.

Mr. Luby moved, seconded by Ms. Kalaher, roll call as indicated that resolution of approval, attached hereto and by reference made part of the officials minutes of this meeting, be adopted as presented, memorializing the action taken by the Board at the November 23, 2015 meeting.

Approval

Roll Call: (Voting Members) Ms. Kalaher, Mr. Luby, Mr. Kronk

BA-15-15

James & Leslie VanDerhoef

Block 8101, Lot 9, 31 Bennington Road, RA-15 zone.

Applicant proposes to construct a one story family room creating a front yard setback on Crestview Terrace of 30.91 feet where 50 feet is required.

Mr. Williams moved, seconded by Ms. Kalaher, roll call as indicated that resolution of approval, attached hereto and by reference made part of the officials minutes of this meeting, be adopted as presented, memorializing the action taken by the Board at the December 14, 2015 meeting.

Approval

Roll Call: (Voting Members) Ms. Kalaher, Mr. Luby, Mr. Williams, Mr. Staudt, Mr. Kronk

John Street Associates, LLC – modification of previous resolution of approval

Mr. Williams moved, seconded by Mr. Luby, roll call as indicated that resolution of approval, attached hereto and by reference made part of the officials minutes of this meeting, be adopted as presented, memorializing the action taken by the Board at the December 14, 2015 meeting.

Approval

Roll Call: (Voting Members) Ms. Kalaher, Mr. Luby, Mr. Williams, Mr. Staudt, Mr. Kronk

Public Hearings

BA-16-15

Hans Manning

Block 8003, Lot 63, 4 Hoffman Court, RA-15 zone. Section C.

Applicant proposes to construct a deck creating a side yard setback of 15.85 where 20 feet is required.

Proof of Publication and Affidavit of Service filed and approved by the Board Secretary and Board Attorney.

Mr. Manning and Mr. Matt Wendorff entered their appearance and being sworn in by the Board attorney presented the application to the Board members.

The following professional being sworn in by the Board Attorney appeared to be heard.
Matthew Wendorff-RPI Contractor

No exhibits were submitted as evidence during testimony.

Summary of Testimony – Matt Wendorff, Contractor

Mr. Wendorff stated that the proposed application is to seek relief for the construction of a wood deck on the side of the house. Over the past year Mr. Manning has made a significant improvement to his house which makes the neighborhood much more desirable. The construction of the deck is to continue the improvements; the deck is to create a seamless transition between the interior and the exterior spaces. The construction of the deck will create a side yard setback of 15.85 feet where 20 feet is required. The side yard setback is called out due to the fact that the property is located on a corner lot. The proposed deck dimensions are 16 x 12 with two sets of stairs; this is in up keeping with what is in the neighborhood. The 12 foot dimensions projects out to the property line and it will create a side yard setback of 15.85 feet. In order to comply with the current code Mr. Manning will be left with a 7 foot unusable deck; currently the side yard that is actually the rear yard of the home is considered the side yard because of the two front yards, the property is a corner lot which creates a hardship for the homeowner to build the deck within the required setbacks.

Mr. Hans also stated that due to construction cost the front deck was unable to be connected to the proposed deck.

The meeting was opened to the public; no one appeared to be heard.

Mr. Williams moved, seconded by Mr. Staudt that approval be granted to the application of Hans Manning thereby permitting on Block 8003, Lot 63 the construction of a deck creating a side yard setback of 15.85 feet and that the Board Attorney be authorized to prepare a formal resolution memorializing the action taken by the Board, same to be presented for consideration at the February 22, 2016 meeting.

Roll Call: (Voting Members)

Ms. Kalaher	YES
Mr. Luby	YES
Mr. Williams	YES
Mr. Staudt	YES
Mr. Kronk	YES

Application approved 5 Ayes, 0 nays, 0 Abstained.

**Mr. Kronk and Mr. Staudt recused themselves from the following application.
Mr. Luby is seated as Chairman
Certified Shorthand Reporter was present for the application
See attached transcript.**

BA-12-14

Morristown Unitarian Fellowship

Block 9401, Lot 6, 21 Normandy Heights Road, RA-25 zone. Section D.

Continuation from the October 27, 2014, February 23, 2015, March 23, 2015, May 11, 2015, May 18, 2015, July 27, 2015, August 24, 2015, September 28, 2015 October 26, 2015 and November 23, 2015 public hearings, applicant proposes to construct a new fellowship hall addition to the existing structure with other related site improvements.

Mr. Lawrence Calli, attorney for the applicant entered his appearance and presented the application to the Board members.

Mr. Calli informed the Board that the design consultants along with the engineer are working on plan updates which they think are responsive to Board suggestions and concerns that have been raised along the way. There will be no major changes to the plans, but the updates will be significant enough that relief may change and dimensional deviations may change; and we feel that we should go to the TCC and have TCC look at those plans and issue an updated report to the Board.

We think we are three hours or so of direct testimony from concluding this application between three witnesses after tonight. You will hear again from James Chi, our architect, Rusty Schommer and then you will hear from Michael Tobia on planning.

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

Dr. Laurel Kearns, Sociologist in Religion Expert

No exhibits were submitted as evidence during testimony.

Summary of Testimony – Dr. Laurel Kearns, Sociology of Religion Expert

Dr. Kearns stated that within the Sociology of Religion, it is commonplace that churches use their buildings for more than just worship. In the social, logical and congregational literature, there is a widespread understanding that churches also reach out to their community. They see their buildings as best used by the whole community. Churches see these accessory activities as outreach in services to the community and it's integral to mission identity.

In her analysis, the proposal from the Morristown Unitarian Fellowship, the activities of the congregation serve the purpose of caring for their members. And through providing space, they provide outreach and services to the larger community in a way that fits the national norm. The accessory uses benefit members and nonmembers. Ms. Kearns proceeded to review with the Board and members of the public a report Doing Good In American Communities: "Congregations and Service Organizations Working Together by Nancy Ammerman", states that, "Congregations are highly connected to the rest of their community voluntary and social service sector reporting on average more than six connections to groups that provide for the wellbeing of a community in a variety of ways."

In the study, the congregations were most involved in helping the needy people, by providing education, culture and health related activities, followed by community development, personal growth, evangelism

and advocacy. She further stated that Ms. Ammerman concludes in that report, "In helping to provide for the social health, educational and cultural needs of the community, congregations, working through affiliated organizations of all sorts, play an important role in enhancing community life."

Ms. Kearns stated that in further preparing for her presentation she consulted five congregational surveys conducted by the Hartford Institute of Religious Research under their Faith Communities Today project, called FACT for shortness. The FACT studies included data from a total of 32,000 congregations surveyed since 2000. Different faith groups participated in designing questions, thus the questions and assumptions reflected the input from a very broad and diverse array of faith communities. Some of the questions were like how often did our congregation hold special events or programs to attract people from the community such as concerts, fairs, seminars, plays, special meals, et cetera. Only 10% said no, 90% said yes. A similar question asked about ecumenical and interfaith activities such as worship activities, fairs, meals, cultural events, joint celebrations, educational or fellowship activities, and community service activities. And the majority answered yes in every category. In the survey, AA and support groups are so common that they are listed in the questionnaire along with programs such as Sunday school, scripture studies, music programs, parenting and marriage enrichment, adult religious formation, spiritual retreats, prayer groups, youth and young adult groups. This is to show that they are considered so essential, that they are listed with the things that many people consider what houses of worship do.

The most recent research report, Faith Community Today, 2015, American Congregations Thriving and Surviving, is based on a survey of 436 congregations. It contains a very important summary comment, "The traditional design of church buildings, with large fellowship halls, kitchens and a wide array of meeting rooms, provides a unique resource for a whole host of typical community service type activities. Some run by the congregation, some not. Food pantries, AA meetings, scouting programs and homeless shelters, for example, often occupy sacred space." It also mentions the various forms of childcare and preschool and after care education.

She then turned to a profile of Unitarian Universalists Congregations. She stated that the 40 faith group members then pulled out the same questions, but only have them addressed to their congregation so they can get a sort of profile of their congregations nationwide. The congregational activities and long history of community support, advocacy and support for social justice and those in need or who experience discrimination as well as support for educational, instructional and spiritual growth are clear expressions of the social principals of the Unitarian Universalists.

The activities of the Morristown Unitarian Fellowship fit very much within the profile nationally. Unitarian Universalists Congregations do not see themselves as inward focused, taking care of their own, but rather outward focused.

Of those congregations surveyed, 31% had membership ranging from 150 to 549 members. All congregations were asked about activities. The vast majority has prayer, meditation and faith groups, religious education classes, choir or other related music programs, study or discussions groups, fundraising activities, support groups, community service, and they sponsor events or programs to attract nonmembers. A lengthy discussion was carried regarding the activities held on the various congregations nationwide.

Ms. Kearns further stated that in addition to consulting the national surveys, she went about gathering data on what specific congregations do as a way of administering the ways that Morristown Unitarian Fellowship lives out its covenant and spiritual values. She stated that a quick survey of Unitarian Universalists activities nationally yield numerous examples of holding AA and related meetings. A scan of other Unitarian Universalists congregations in Massachusetts, New Jersey, New York, Pennsylvania, North Carolina show a similar profile of usage to the Morristown Unitarian Fellowship with support

groups, groups related to musical, cultural, educational, social justice, spiritual concerns and also preschool, after school, meditation and yoga. But in order to host these kind of programs, the area churches, the Unitarian Universalist congregations and congregations nationally, they tend to have large amounts of space and large social gathering space with kitchens.

It is Ms. Kearns professional opinion that the third party uses currently and historically being made in the Morristown Unitarian Fellowship building is accessory to the building's primary use as a church.

The meeting was opened to the public; the following persons appeared to be heard.

David Dunham	9 Normandy Heights Road
Bob Riccardi	44 Normandy Heights Road
William Stitt	30 Normandy Heights Road
Larry Kotler	1 Woodruff Road
Florence Graham	5 Normandy Heights Road
Roger Merrick	28 Normandy Heights Road

Public portion closed at 9:07 pm

Mr. Calli stated that concluded the testimony for the night; he stated that he was glad to have had Ms. Kearns testimony as to the relationship, the nexus, between the house of worship use and what he as an attorney will call accessory, ancillary related and subordinate uses on the property, such as AA. He appreciated the neighbors trying to raise zoning issues with Dr. Kearns. I think it is more of a tactic than anything else. These studies are national and that is why you heard the studies that you did from Dr. Kearns. This is a study as to what people believe, how they believe it and how they express those beliefs. That is why you may appreciate some limitations in Dr. Kearns response to members of the public, these studies do not focus on a lot of things that the neighbors would think important and would hope they did focus on. It was really the nexus between our congregations use and those accessory uses and that was the limited need for this sort of exercise.

You will hear from our planning expert at the conclusion of our application that the zoning does work here for our existing use and our proposed amendments to this site plan for our future use of this site with a bigger parking field and our fellowship hall. He further stated that they will be submitting revised architectural and engineering plans to the TCC for further review and after the TCC review, they will submit revised plans to the Board 10 days in advance of the next hearing. He also stated that the Engineer and the Architect will be recalled and made available to the Board and public. And then we will hear from Mr. Tobia, our planning expert. Mr. Calli asked the Board to adjourn the application to the next available meeting.

Ms. Kalaher moved seconded by Mr. Williams and unanimously carried, the application is carried to the March 28, 2016 Board meeting without further notice.

Ms. Young stated that she is part of the Historic Preservation Commission and in light of prior testimony where the expert witness declared that the mansion was not historic, it is historic. It was placed on the national registry and the State registry in 1978 instead of 1996. We hope that in light of the conversation that we have heard that any changes to the historic property, including the new design, should be in scale, size and materials used to be made under the Secretary of Interior standards for rehabilitation.

Mr. Oller stated that when we get the revised plans a copy will be sent to the Historic Commission for further review and report.

Other Matters

2015 Annual Report – was reviewed by the Board no additional recommendations were made; Mr. Williams moved, seconded by Ms. Kalaher and unanimously carried the annual report was approved and Ms. Santiago was directed to submit to the Township Committee for consideration.

Award for additional funds for 2015 for Mr. Rich Oller, Board Attorney – Ms. Santiago informed the Board that due to litigation matters held during the year additional funds were required in order to cover the Board attorney's representation at litigation. Mr. Staudt moved seconded by Mr. Luby and unanimously carried the resolution 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 9:18 P.M.

Respectfully submitted,


Sonia Santiago, Secretary

Township of Morris Board of Adjustment
Approved: April 26, 2016