

Township of Hillsborough – BOARD OF ADJUSTMENT

Approved Meeting Minutes

October 19, 2022 – 7:00 pm

Chairman Herbert called the October 19, 2022 Board of Adjustment meeting to order and led the flag salute.

NOTICE OF MEETING

Chairman Herbert announce the meeting has been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 (“Sunshine Law”). Notice of the 2022 Annual Meeting Schedule has been provided to the officially designated newspapers, the Township Clerk, posted on the Township’s website and available at the Hillsborough Township Municipal Complex.

Application documents have been made available on the Township’s website:

<https://hillsboroughnj.civicclerk.com/> . Complete applications files are available in the Planning and Zoning Department for inspection, in accordance with the public meeting notice.

ROLL CALL

Frank Herbert, <i>Chairman</i> - Present	Jim Wohlmacher, <i>Vice Chairman</i> - Present
John Stamler - Absent	Frank Valcheck - Present
Helen Haines - Present	Kelly Compher (<i>Alt#1</i>)- Present
Philomena Cellilli - Absent	Scott Scherer (<i>Alt#2</i>) - Present

Also in attendance: Marcella McLaughlin, *Zoning Officer/Co-Board Secretary*; Mark Anderson Esq., *Board Attorney (Woolson Anderson Peach, P.C.)*; Drew Di Sessa, PE, *Board Engineer (Pennoni Associates)*; Christina Restuccia, CCR, *Covering Board Court Reporter*.

CONSIDERATION OF RESOLUTIONS

- **Daniel and Jamie Angosto – BA-22-06**

No discussion

Ms. Restuccia announcements who is eligible to vote.

Ms. Haines motions to approve the resolution, seconded by Mr. Valcheck.

Roll Call:

Chairman Herbert - Yes	Vice Chairman Wohlmacher - Yes
Mr. Stamler - Absent	Mr. Valcheck - Yes
Ms. Haines - Yes	Ms. Compher (<i>Alt#1</i>)- Yes
Ms. Cellilli - Absent	Mr. Scherer (<i>Alt#2</i>) - Yes

Motion carries

- **856 Hillsborough, LLC - BA-21-11**

No discussion

Ms. Restuccia announces who is eligible to vote.

Mr. Valcheck motions to approve the resolution, seconded by Vice Chairman Wohlmacher.

Roll Call:

Chairman Herbert - Yes	Vice Chairman Wohlmacher - Yes
Mr. Stamler - Absent	Mr. Valcheck - Yes
Ms. Haines - N/A	Ms. Compher (<i>Alt#1</i>)- Yes
Ms. Cellilli - Absent	Mr. Scherer (<i>Alt#2</i>) - Yes

Motion carries

CONSIDERATION OF MEETING MINUTES

- **None**

Chairman Herbert notes all missing past minutes will be available for their review at the next meeting.

BOARD OF ADJUSTMENT BUSINESS

- **Site plan availability for board members**

- Chairman Herbert informs the board all site plans will now be available through Civic Clerk. If a member would prefer a paper copy they can request it in advance of the meeting.

- **Listing on Civic Clerk for January 1, 2040 meeting**

- Chairman Herbert explains per Civic Clerk's set up this meeting is essentially a folder to post upcoming applications until they are assigned a meeting date. Once they have a meeting date, they will be attached to the corresponding meeting.

BUSINESS FROM THE FLOOR

(Open to public comment for matters not on the agenda)

- **None**

PUBLIC HEARING - APPLICATIONS

- **Harnek and Narinder Dhillon-Athwal – BA-22-10** – (TOD 12/22/22) – Block 175.17 (previously Block 175), Lot 15.05 – 1 Danbury court, Hillsborough Township. Applicant is seeking "c" variance for waiver of impervious coverage to construct a built-in pool with associated 890-sf. patio surround and walkway. Existing impervious coverage is at 15.03% whereas 15% is allowed and 17.08% is proposed on property located in the 'R', Residential Zone. **Applicant not able to notice in time to meet the 10/19/22 hearing date, rescheduled to November 2, agenda with notice.**

- 1) Chairman Herbert states the applicant did not send out notice in time.
- 2) Chairman Herbert recommends rescheduling application to November 2nd with notice
- 3) Mr. Scherer motions, seconded by Vice Chairman Wohlmacher.
- 4) All are in favor.
- 5) Motion carries.

- **Scott Carlisle – BA-22-09** – (TOD 12/09/22) – Block 153, Lot 3 – 374 Triangle Road, Hillsborough Township. Applicant is seeking two "c" variances to construct a 372-sf. master bedroom and master bath in addition to their single-family dwelling for relief of an existing non-conforming side yard setback to the proposed 10'.3" side yard setback where 25' is required and 22'.11" currently exists and relief of existing impervious coverage where 21.24% is proposed and 15% is allowed and 19.55% currently exists, on property located in the 'R', Residential Zone.

Participants: Cindy Carlisle, homeowner and John. J. Sullivan Jr., Esq., applicant attorney.

- 1) John J. Sullivan Jr., Esq. attorney for the applicant, describes the application.
- 2) Mr. Sullivan states Ms Cindy Carlisle is the only witness and further explains the Carlises' filed the application on their own without understanding of the process and did not arrange for any professionals to attend.

- 3) Chairman Herbert interrupts and asks if they would like to request an adjournment so they may retain professionals to speak on their behalf.
 - 4) Mr. Sullivan states they planned to proceed with Ms. Carlisle and if they reached a situation where a professional was needed, he would ask for a continuance.
 - 5) Chairman Herbert allows him to proceed.
 - 6) Cindy Carlisle, home owner, is sworn in.
 - 7) Ms. Carlisle answers questions pertaining to length of ownership, residents of the house, description of property and house currently, description of proposed improvements and possible future plans.
 - 8) Ms. Carlisle explains reasons for and location of the addition.
 - 9) Ms. Carlisle states neighboring homes are also improved with limited lot size further showing their own limits to for expansion options.
 - 10) Mr. Sullivan references Ms McLaughlin's August 23, 2022 report specifically addressing raingardens and asks if the applicant is willing to comply, have plans prepared by an engineer and submit for assessment by the township engineers.
 - 11) Ms. Carlisle explains what they currently have in that area and agrees they would comply.
 - 12) Mr. Sullivan references general comments in Mr. Di Sessa's report, asking Ms. Carlisle to provide testimony how runoff and drainage currently occurs on the property.
 - 13) Ms. Carlisle explains the swell near their property.
 - 14) There is discussion about Ida flooding and wells.
 - 15) Ms. Carlisle agrees they will comply with items three through five in Mr. Di Sessa's report.
 - 16) Ms. Compher asks for clarification of types of rooms in the house as it pertains to the septic systems.
 - 17) Ms. Carlisle explains and confirms their septic will be remaining the same size.
 - 18) There is discussion regarding the property details; trees bordering the neighboring property, well location, shed location, pool type, patio size.
 - 19) Mr. Sullivan requests carrying so they may consult a planner.
 - 20) Chairman Herbert explains to the public they may question the applicant regarding only her testimony.
 - 21) **Yvette Smith**, 370 Triangle Road, asks for clarification of impervious coverage as it pertains to the patio and the pool.
 - 22) No further public comment.
 - 23) Chairman Herbert asks for a motion to move this applicant to December 7, 2022 without notice. All were in favor.
 - 24) Motion carries
- **Fountain Plaza, LLC – BA-22-13 Appeal to Administrative Decision/Interpretation**
(TOD 2/02/23) – Block 163.22, Lot 35 – 425 Amwell Road, Hillsborough Township. The applicant is requesting an Interpretation of "Commercial Instructional Activity" for a Montessori School in the TC, Town Center Zone.
Participants: Art Skaar, Sole Member of Fountain Plaza, LLC; Leslie S. Meldrum, President of Meldrum Associates, Inc. t/a The Cherry Blossom Montessori School; Donna A. Fiumara, Heard of School of The Cherry Blossom Montessori School.
 - 1) Mr. Anderson asks Mr. Skaar to clarify, since he is also a licensed attorney at law, if he is appearing as the applicant, witness and or attorney in this hearing.

- 2) Mr. Skaar explains he is not representing The Cherry Blossom Montessori School since he is their landlord but rather is representing his own company, Fountain Plaza LLC which is the applicant.
- 3) Mr. Anderson explains how they can proceed.
- 4) Leslie Meldrum, President of Meldrum Associates is sworn in.
- 5) Art L. Skaar, Jr., owner of Fountain Plaza LLC is sworn in.
- 6) Mr. Anderson asks Mr. Skaar to verify this is a request for interpretation.
- 7) Mr. Skaar confirms.
- 8) Mr. Anderson explains to the Board the difference between a request for interpretation and a variance, reminding them it is their obligation to determine what the ordinance means and states their decision will be, in perpetuity, as long as the ordinance is not changed.
- 9) Mr. Skaar explains his motivation for the request.
- 10) Mr. Skaar asks Ms. Meldrum give detail on her association and time with The Cherry Blossom Montessori School.
- 11) Mr. Anderson asks Mr. Skaar to adjust his question toward the use of the property.
- 12) Mr. Skaar asks to switch the order of the witnesses.
- 13) Donna A. Fiumara, Head of School of The Cherry Blossom Montessori School is sworn in.
- 14) There is discussion between Mr. Anderson and Mr. Skaar as to the type of witness Ms. Fiumara is intended to be.
- 15) Mr. Skaar asks Ms. Fiumara to give her qualifications as it pertains to her position.
- 16) Ms. Haines interrupts ask to why on the Zoning Application the question pertaining to "State or Local License associated with Use" is marked "no".
- 17) Mr. Skaar explains his understanding of why it is marked as "no" and state this is where he is heading with the current witness.
- 18) Mr. Skaar asks Ms. Fiumara if The Cherry Blossom Montessori School is registered as a Non-Public School with the NJ Department of Education and if she communicates with the NJDOE on a regular basis.
- 19) Ms. Fiumara confirms.
- 20) Mr. Skaar asks Ms. Fiumara to explain the items A-1 and A-2, Enrollment Reports.
- 21) Ms. Fiumara explains Enrollment reports, curriculum and how it relates to the requirements of the NJDOE.
- 22) Ms. Fiumara next explains the philosophy of Montessori and how The Cherry Blossom school is associated under the Montessori umbrella.
- 23) Ms. Haines asks how much money in aid The Cherry Blossom school gets from public sources.
- 24) Ms. Fiumara answers with their current totals for Textbook Aid, Technology Aid, Security Aid and Nursing Aid.
- 25) The Board expresses confusion over significance of the testimony.
- 26) There is discussion regarding the difference between and definition of a public, private and non-public school and where in the ordinance it states private schools are not permitted.
- 27) Mr. Anderson reminds the Board the question before them is if this use is permitted in the zone and specifically is it a Commercial Instructional Activity.
- 28) There is discussion if the ordinance reference to primary schooling or after-school individual activity classes.
- 29) Mr. Skaar explains the property and the needs of The Cherry Blossom School.

- 30) Chairman Herbert expresses his concern with designating The Cherry Blossom School as commercial Instructional Activity.
- 31) Mr. Anderson reminds the Board their decision will be binding across the Township.
- 32) Mr. Skaar states he resists getting a non-conforming use at the plaza.
- 33) Mr. Anderson acknowledges he understands Mr. Skaar's reason and states that is not the application here.
- 34) Mr. Anderson questions Ms. Fiumara regarding the starting age range of The Cherry Blossom School's students verses public school.
- 35) Ms. Haines questions Ms. Fiumara on when various ages received educational instruction verses providing what would commonly be called childcare.
- 36) There is further discussion between Mr. Anderson and Mr. Skaar about public school verses private school as it pertains to the ordinance.
- 37) Ms. Compher asks if they are trying to determine if the Cherry Blossom School has younger children in it, would it be considered day care as opposed to educational purposes. And asks to define pre-kindergarten.
- 38) Mr. Anderson explains how that is irrelevant. And states the Board's focus needs to be on if it is Commercial Instructional Activity, reviewing that definition and if this use falls in the intention of that definition.
- 39) There is continued discussion to understand the use of The Cherry Blossom School determine if it fits in the ordinance.
- 40) The Board expresses their thoughts on deferring the application.
- 41) Ms. Haines asks if the public portion needs to be closed before motioning.
- 42) Mr. Anderson states if any Board member intends to investigate legality outside of the meeting, then the public portion should remain open till the next meeting.
- 43) Mr. Scherer motions to carry the application to November 2, 2022, seconded by Ms. Compher. All present were in favor. Motion carries.

ADJOURNMENT

A motion to adjourn was made by Vice Chairman Wohlmacher, seconded by Ms. Compher. Motion carries unanimously.

Meeting is adjourned at 9:06 pm.

*Submitted by Robyn Bittle-Abramo
Recording Secretary*