

Township of Hillsborough – BOARD OF ADJUSTMENT

APPROVED - Meeting Minutes

July 19, 2023 – 7:00 pm

Chairman Herbert called the July 19, 2023, Board of Adjustment meeting to order and led the flag salute.

NOTICE OF MEETING

Chairman Herbert announced 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 2023 Annual Meeting Schedule **and additional meeting dates** have 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 - Present	Frank Valcheck - Present
Helen Haines - Present	Tom Ramsey (<i>Alt#1</i>)- Present
Jarrett Dewelde - Present	VACANT (<i>Alt#2</i>) -
Catherin Payne - Present	

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

CONSIDERATION OF MEETING MINUTES

- **May 31, 2023 – Special added meeting BA-22-12** for Pilgrim River dba The Avalon at Hillsborough.
 - Mr. Stamler a motioned to approve the minutes as written, seconded by Ms. Payne, all were in favor, none opposed.
Motion carries.

CONSIDERATION OF RESOLUTIONS

- Salvatore and Bernice Romano – BA-21-16 – Resolution was adopted at the special added meeting on June 21, 2023. Notice of Decision published in the Hillsborough Beacon on June 30, 2023.

Mr. Anderson explains that since this was initially done at a special meeting, he would like to see it confirmed at a regular meeting.

There was a discussion about who voted on the original resolution available and who is eligible to vote. Since there was not a copy of the original resolution on hand Mr. Anderson recommended taking a vote with all present and the eligible parties would be applied.

Roll Call:

Yes - Ms. Haines
Yes - Mr. Stamler

Yes - Mr. Valcheck
Yes - Mr. Ramsey (*Alt. #1*)

Yes - Mr. Dewelde
Yes - Ms. Payne

Yes - Vice Chairman Wohlmacher
Yes - Chairman Herbert

Motion carries

BOARD OF ADJUSTMENT BUSINESS

- **Resignation of Board Member** – Scott Scherer – Seat: Alt #2, Expiring 12-31-24
 - Chairman Herbert states Mr. Scherer has submitted his resignation due to family obligations.
- **Rong Qiu & Hagen Amwell – File BA-23-06** – Applicant withdrew their Board of Adjustment Application as of July 6, 2023. Relocated the shed to an approved location and was issued a Zoning Permit.
 - Ms. McLaughlin states the applicant is to contact her so she may do a site inspection to ensure it has been moved accordingly.

BUSINESS FROM THE FLOOR

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

- None

PUBLIC HEARING - APPLICATIONS

- **Pilgrim River dba The Avalon at Hillsborough - BA-22-12** (TOD 7/31/23 Ext) Block 199, Lot 44.01 (1 Bayara Court), Lot 45 (381 Amwell Road), Lot 46 (385 Amwell Road), and Lot 47.01 (393 Amwell Road). Applicant seeking minor subdivision approval; preliminary and final major site plan approval; 'd' use variance; 'c' bulk variances, waivers; and submission waivers, to demolish three existing dwellings on Lots 44.01, 45, and 46 to consolidate and subdivide approximately 17.5 acres from Lots 44.01, 45, 46, and 47.01 into three lots: Proposed Reconfigured Lot 47.01 to contain the existing assisted living buildings and associated parking and driveways; to construct two new 6,228 SF on-staff housing apartment buildings with associated parking and site improvement on Proposed Lot 47.02; and to contain the existing stormwater management basin on Proposed Lot 47.03, on Property in the GA, Gateway 'A' Zoning District. ***Carried from the May 31, 2023, Agenda without further notice and on 07/18/2023 requesting to be adjourned to the September 6, 2023 Agenda without further notice.***
 - 1) Chairman Herbert summarizes the previous meeting.
 - 2) Chairman Herbert states the applicant came back with some proposals but are not prepared to present the application this evening so are asking to be carried to the September 6, 2023 meeting.
 - 3) There are no questions or further discussion from the Board.
 - 4) Mr. Anderson states the applicant request no further notice.
 - 5) Mr. Stamler motions to carry the application to the September 6, 2023, meeting without further notice, seconded by Vice Chairman Wohlmacher. All are in favor, none opposed.
 - 6) Motion carries.

- **1122 River Road (Michael Mueller) - File BA-22-15** – (TOD 09-16-23 Ext.) – Block 11, Lot 8 - 1122 River Road. Applicant seeking ‘d’ use variance; and ‘c’ bulk variances (existing nonconforming), to permit the existing dwelling to be used as a two-family dwelling (duplex), and to affirm existing nonconforming standards for the Property identified in the *Historic Preservation Plan Element, Hillsborough Township Master Plan, Township of Hillsborough Somerset County, Adopted April 5, 2001 as the “Shepherd House”, located within the Neshanic Mills Historic District, and located in the AG, Agricultural Zone.*

Participants: Michael Mueller - Applicant; David J. Singer, Esq.- Applicant’s attorney; Wayne Ingram, PE, PLS, PP, CME – Applicant’s Engineer.

- 1) Ms. McLaughlin introduces the application.
- 2) Mr. Anderson states upon his review of the application he has learned it involves a building that has been in existence for a considerable period of time, and it suggests the house was originally built as a two-family with an implication of grandfathered rights. Mr. Anderson states this is not the application before the Board. The application before the Board is for a ‘d’ variance and so the Board must make a decision on a ‘d’ variance based on the condition they see the property in today.
- 3) **David Singer**, attorney for applicant, introduces himself, the application, gives a brief history of the house and reviews their witness list.
- 4) **Dan Parker** is sworn in and provides his educational and professional background and licenses held.
- 5) The Board accepts Mr. Parker as a witness.
- 6) Mr. Anderson clarifies that Mr. Parker is being presented as a licensed surveyor.
- 7) Mr. Singer confirms.
- 8) Mr. Singer asks if Mr. Parker’s company provided the plan for this property.
- 9) Mr. Parker states they provided the survey.
- 10) Mr. Singer asks him to provide an overview of the property including the current height, available parking, and driveway access.
- 11) Mr. Parker explains the layout of the property which includes but is not limited to being in direct proximity to a railroad which is 20 feet above grade on the northerly side, a shared driveway, and possible access to agricultural land behind the property; it is an odd-shaped property with steep embankments. He states the height of the building is 26.3 feet tall.
- 12) Chairman Herbert asks if the property behind it is preserved.
- 13) Ms. Haines states she believes it abuts up to the Hillsborough Township Greenway which then goes into preserved farmland.
- 14) Mr. Parker states he thinks this is correct.
- 15) Mr. Singer asks if the property can accommodate four parking spaces.
- 16) Mr. Parker states yes.
- 17) There is discussion regarding the factual basis of the parking estimate.
- 18) Mr. Parker continues to describe the property.
- 19) Mr. Stamler asks if they are aware there is a septic system.
- 20) Mr. Parker states one is currently being constructed.
- 21) Ms. Haines states septic systems are generally sized based on potential occupants and asks how many bedrooms it will have.
- 22) Mr. Singer states he can have the property owner sworn in to answer those questions.

- 23) Mr. Stamler notes a short frontage on River Road and asks if the driveway could be placed there in case the common usage cannot be resolved.
- 24) Mr. Parker states it is a safety issue due to the railroad bridge and the lack of site visibility.
- 25) Ms. Haines asks if it is the active railroad or an abandoned line.
- 26) Mr. Parker states it is abandoned.
- 27) Ms. Haines states that section of the railroad is privately owned.
- 28) Mr. Parker agrees and states there is no site distance.
- 29) Mr. Singer asks if the driveway area is large enough to be split for two car widths.
- 30) Mr. Parker states yes.
- 31) There is a discussion of the size and layout of the parking/driveway area.
- 32) Mr. Mayhew points out the survey does not identify the limits of the driveway and states he believes it is an important part of the application to be shown.
- 33) Mr. Parker states they can make the change and submit it to the Board for review.
- 34) Mr. Mayhew states the concern is to show there is space for four parking spots.
- 35) Ms. Haines asks if that 8% impervious in the Agricultural Zone.
- 36) Mr. Parker states they are below the impervious.
- 37) There is discussion about the impervious coverage and if there is a need to review a site plan.
- 38) Ms. McLaughlin states there is 1,908 square feet noted on the impervious calculations form.
- 39) There is continued discussion about the driveway and parking area.
- 40) Ms. McLaughlin confirms 7.02% is the correct calculation.
- 41) There are no further questions for this witness.
- 42) **Wayne Ingram** is sworn in and provides his educational and professional background and licenses held.
- 43) Mr. Anderson asks which areas of expertise Mr. Ingram will be testifying too.
- 44) Mr. Singer states mostly planning with a few engineering questions.
- 45) Mr. Singer asks Mr. Ingram to provide testimony as to why the Use Variance should be granted and the positive and negative criteria to such an approval.
- 46) Mr. Ingram offer Exhibit A-1, a colorized aerial photo, provides a description of the surrounding roads and properties including the adjoining property and abandon rail line. He reviews the proposal and the set-up of the current dwelling. He reviews Purposes I, G and J.
- 47) Ms. Haines asks how much of the current structure is original.
- 48) Mr. Ingram states it does appear to have some additions but based on his review of historic photos the additions seem to predate arial photos and have not taken away from the original character of the house.
- 49) Ms. Haines asks if the applicant has gone or is planning to go before the Historic Preservation Commission.
- 50) Mr. Ingram states he does not know.
- 51) Ms. Haines states they will wait for that.
- 52) Mr. Ingram states he does not see anything to qualify as Negative Impacts of the Use since they are not intensifying it and there were no known complaints pertaining to this structure or property. He states he believes making this a single family will make it less desirable considering its location and proximity to the other multi-family home. He states there is no buildable area on the property if the setbacks is enforced.
- 53) Mr. Ingram states in terms of the Plan and Zone Plan he does not see substantial impairment. He reviews the Preservation Goals from the Master Plan

- 54) Mr. Ingram reviews the C-variances.
- 55) Ms. Haines asks about two vertical markings on the plan.
- 56) Mr. Ingram states it appears to be Flagpole Access to the preserved land.
- 57) There is discussion about if this is correct or if it is a shared driveway or property line.
- 58) The property line is discussed.
- 59) Mr. Stamler states he is concerned with the septic and parking space placement.
- 60) Ms. Payne asks if the existing footprint will be altered in any way.
- 61) Mr. Ingram states it will not.
- 62) Ms. Payne asks if this will remain the case despite what they find during construction.
- 63) Mr. Ingram confirms, stating the application is to not change anything about the footprint of the structure.
- 64) Ms. Payne asks if it is named anywhere historically speaking.
- 65) Mr. Singer states it is named as part of Hillsborough's Historic Preservation Plan from 2001.
- 66) Mr. Stamler asks if when the outside of the building is restored if they will have to go back to the Historic Preservation Commission to make it look like it used to in the past.
- 67) Mr. Singer states he will let the applicant answer that question.
- 68) There is further discussion about the shared driveway.
- 69) Mr. Ingram offers as Exhibit A-2 a survey from the neighboring property that shows the property line dividing the driveway which allows enough space for both properties.
- 70) Driveway discussion continues.
- 71) Chairman Herbert opens to public questions for this witness.
- 72) There are none.
- 73) Mr. Singer calls upon the property owner as his next witness.
- 74) **Michael Mueller** is sworn in.
- 75) Mr. Singer asks if he is the owner of this property and when he purchased it.
- 76) Mr. Mueller confirms he is the owner and states he purchased it approximately summer 2022.
- 77) Mr. Singer asks how the Historic Preservation Commission may interplay with the renovations to the house.
- 78) Mr. Mueller states once he receives approval from the Board he will obtain an architect to draw up plans. He states the house has been abandoned for a long and there is extensive damage including but not limited to roof deterioration, leakage on one side of the house, structurally unsound and mold due to flooding, most recently during Hurricane Ida. Mr. Mueller explains the work they have done thus far.
- 79) Ms. Haines asks how many bedrooms it is.
- 80) Mr. Mueller states it is four bedrooms, two per unit and explains it has an odd layout.
- 81) Mr. Stamler asks about the existing septic.
- 82) Mr. Mueller explains what he is referring to is the well and points out the septic & cess pool.
- 83) Ms. Haines asks what parts of the building is historical, it seems it needs to be gutted.
- 84) Mr. Mueller explains his personal interest in historic homes and his plan to retain as much as he can to keep it as similar to what it was.
- 85) Ms. Haines asks if this is approved and Mr. Mueller feels he has to demolish it, how does that impact what they decide this evening.
- 86) Mr. Anderson states the fact the Board approves an application does not require the applicant to follow through.

- 87) Mr. Mueller states he intends to put it back together, has already begun this process and spent a considerable amount of money thus far. He would like to improve it.
- 88) Mr. Mueller explains how the property has more parking than what has already been approved.
- 89) Mr. Stamler asks if they can approve this application with a statement saying township engineers' guidance and approval is required or do they have to wait for site plans.
- 90) Chairman Herbert states they do not have to wait for a site plan but there should be a stipulation about the driveway.
- 91) Mr. Anderson confirms a site plan is not required.
- 92) Mr. Mayhew states his concern is until they see a site plan, they will not know how the site accommodates four cars or how it impacts the impervious coverage.
- 93) There is a discussion about the estimated impervious coverage.
- 94) Chairman Herbert opens to public question for this witness.
- 95) There are none.
- 96) Mr. Singer states he has no further witnesses and requests the Board grant their D-variance for Use on this property along with the reaffirming of the existing non-conforming areas; two side-yard setbacks, front yard setback, minimum lot area and minimum lot width.
- 97) Chairman Herbert asks if there is further Board discussion.
- 98) Ms. Haines request they go before the Historic Preservation Commission.
- 99) Chairman Herbert states he would like a plan regarding the driveway and such.
- 100) Mr. Stamler concurs it should be with the Township Engineer's approval.
- 101) Mr. Mayhew states his concerns with the gravel driveway.
- 102) There is a discussion about available square footage and estimated impervious coverage.
- 103) Chairman Herbert reopen to public comment, there is a seconded. All were in favor. Motion carries.
- 104) Mr. Ingram comes forward with an explanation of a plan for the driveway and parking area.
- 105) Mr. Stamler motions to approve the application for the B and C variances on condition the Hillsborough Township Board Engineer satisfied with the parking layout, seconded by Ms. Haines.

Roll Call:

Yes - Ms. Haines	Yes - Mr. Valcheck
Yes - Mr. Stamler	Yes - Mr. Ramsey (<i>Alt. #1</i>)
Yes - Mr. Dewelde	Yes - Vice Chairman Wohlmacher
Yes - Ms. Payne	Yes - Chairman Herbert

Motion carries

Chairman Herbert calls a five-minute recess

Chairman Herbert calls the meeting to order

- **Michael and Marie Avolio – File BA-23-07 –** (TOD 10/6/23/) – Block 150.01, Lot 13 – 35 Van Zandt Drive. Applicant seeks three “c” variances for impervious coverage of 32.8% where 25% is permitted, side yard of 13 feet where 15 feet is permitted; and rear yard set back for attached deck of 8 feet where 11.06 feet is permitted with a rear-yard reduction, to

construct a first-floor 7' x 33.83' addition to the existing rear of the dwelling located in the Hillsborough Township "R"/Residential Zone – with court mandated bulk requirements granted for the "New Center Village" development.

Participants: *Michael and Marie Avolio*

- 1) **Michael Avolio** is sworn in and gives a summary of the history of their property and describes their intention and application.
- 2) Mr. Mayhew asks if they are no longer proposing to relocate the deck steps as shown in the plans.
- 3) Mr. Avolio explains where he would like the deck steps.
- 4) Mr. Mayhew asks Mr. Avolio to confirm on the record that this evening he is modifying tonight to not proposing relocate the deck steps and therefore not proposing the relocated walkway.
- 5) Mr. Avolio states correct.
- 6) Mr. Mayhew asks if they will be maintaining the existing walk and existing steps to the existing deck.
- 7) Mr. Avolio states correct.
- 8) Ms. McLaughlin states she calculates the existing impervious coverage to 32.1% and the new proposed as 33.76%, leaving in the 110 square feet.
- 9) There is a discussion about impervious coverage.
- 10) Mr. Avolio states as far as drainage they have had no issues including during Hurricane Ida. He states he does not understand the necessity of taking it out.
- 11) Mr. Anderson states it is a requirement of the Municipal Land Use Law that a property owner provide notice of what they intend to do and what he is now proposing is a greater increase in impervious coverage than originally provided in their notes.
- 12) Chairman Herbert states if he continues with taking out the walkway as originally proposed he can proceed this evening.
- 13) Ms. Payne asks Ms. McLaughlin to clarify what is impervious.
- 14) Ms. McLaughlin states they had proposed to remove 110 square feet.
- 15) Ms. Payne asks if it is possible for the applicant to replace the rotund at the end of the steps with rocks thus making up the 110 square feet.
- 16) There is discussion about Ms. Payne's suggestion.
- 17) Mr. Mayhew states for the record, the applicant points out on the plan there is room for a third car in the driveway and thus area which can be removed to help reduce the impervious coverage.
- 18) Chairman Herbert opens the meeting to public questions.
- 19) **Susan Gulliford**, 7 Hunt Club Road – asks how the impervious coverage went from 15% to 32%.
- 20) Chairman Herbert states 15% was a type-o in the agenda, 25% per court order is the correct number.
- 21) Ms. Gulliford asks if a rain garden is a possibility.
- 22) There is a discussion about rain gardens.
- 23) There are no further questions from the public.
- 24) Chairman Herbert opens the meeting for public statement. There are none. Chairman Herbert closes public statement.
- 25) Mr. Stamler motions to approve all variances plus include a requirement for a revised plan approved by the engineer and Planning and Zoning, seconded by Ms. Payne.

Roll Call:

Yes - Ms. Haines
Yes - Mr. Stamler
Yes - Mr. Dewelde
Yes - Ms. Payne

Yes - Mr. Valcheck
Yes - Mr. Ramsey (*Alt. #1*)
Yes - Vice Chairman Wohlmacher
Yes - Chairman Herbert

Motion carries

ADJOURNMENT

A motion to adjourn was made by Mr. Stamler, seconded by Ms. Payne. Motion carries unanimously.

8:43 p.m. the meeting is adjourned.

*Submitted by Robyn Bittle-Abramo
Recording Secretary*