

**South Harrison Township  
Planning/Zoning Board of Adjustment  
April 14, 2008**

The South Harrison Township Planning/Zoning Board of Adjustment held a regular meeting on April 14, 2008 at 7:00 p.m. in the South Harrison Township Municipal Building.

The meeting was called to order by Marc Nagtegaal, Chairperson and led those present in the Pledge of Allegiance to the Flag.

Requirements of the "Open Public Meetings Act" were met.

**Roll Call:** Robert Schenk – present (L-7:08), Gary Spinner – present (L-7:10), Thomas Sorbello – present (L-7:05), Melvin Robertson – present, Marc Nagtegaal – present, Joseph Wille – present, Charles Tyson, – absent, Robert Campbell – present, Joseph Calabro – present, Matthew Warner – present, Jonathan Roth – present, John Coleman – absent, Gary Thompson, Board Solicitor – present, James Spratt – Board Engineer – absent, Leah Furey, Planner – present, Celeste Keen, Secretary – present.

**Old Business:**

**Resolution R-08-11**

**Resolution Extending Deadline for Filing of Minor Subdivision  
Deeds by Sunnybrook Nursery, Inc.**

Motion to adopt resolution R-08-11 was made by Robert Campbell, second by Joseph Wille.

**Roll Call:** Robert Schenk – absent, Gary Spinner – absent, Thomas Sorbello – absent, Melvin Robertson – yes, Marc Nagtegaal – yes, Joseph Wille – yes, Robert Campbell – yes, Joseph Calabro – abstain, Matthew Warner – abstain, Jonathan Roth – yes **R.C.V.: 5 – yes’, 0 – no’s, 2 – abstentions. Motion carried.**

**Resolution R-08-12**

**Resolution Extending Deadline for Filing of Minor Subdivision  
Deeds by Sunnybrook Nursery, Inc.**

Motion to adopt resolution R-08-12 was made by Robert Campbell, second by Jonathan Roth.

**Roll Call:** Robert Schenk – absent, Gary Spinner – absent, Thomas Sorbello – abstain, Melvin Robertson – yes, Marc Nagtegaal – yes, Joseph Wille – yes, Robert Campbell – yes, Joseph Calabro – abstain, Matthew Warner – abstain, Jonathan Roth – yes **R.C.V.: 5 – yes’, 0 – no’s, 3 – abstentions. Motion carried.**

**Resolution Granting Minor Subdivision Approval to Frank & Dana Durso**

Motion to adopt resolution R-08-13 was made by Thomas Sorbello, second by Robert Campbell.

**Roll Call:** Robert Schenk – yes, Gary Spinner – absent, Thomas Sorbello – yes, Melvin Robertson – yes, Marc Nagtegaal – yes, Joseph Wille – yes, Robert Campbell – yes, Joseph Calabro – abstain, Matthew Warner – abstain, Jonathan Roth – yes **R.C.V.: 7 – yes, 0 – no, 2 – abstentions. Motion carried.**

**New Business:**

**Joseph Maccherone – #003-105-08**  
(Lot Line Adjustment)

Joan Adams, applicant’s attorney, appeared on behalf of Joseph Maccherone to apprise the Board of the applicant’s upcoming application. Ms. Adams explained that Mr. Maccherone owns the property of Block 1, Lot 8 and has applied to subdivide his property to divide his property into three (3) lots (two new lots and the remainder). In order to do that Mr. Maccherone would like to use the new configuration of the lot which exists after the small lot line adjustment with his brother Santo Joseph Maccherone which was approved by the Board previously. In order for Santo Maccherone to be able to carry out his major subdivision he gave Joseph Maccherone a certain amount of square footage in terms of frontage and Joseph Maccherone gave Santo Maccherone square foot in the rear of the lot to square of the lots to make them more uniformly configured.

Ms. Adams reminded the Board that South Harrison Township’s definition of a minor subdivision is the creation of three new lots plus the remainder. Mr. Maccherone will only be creating two (2) new lots. Even if the Board includes the lot line adjustment between the two brothers it will still qualify as a minor subdivision. The minor subdivision has been designed using the new lot line configuration and the applicant would like to perfect the lot line adjustment and consolidation by deed. Ms. Adams, as a courtesy, just wanted to apprise the Board and see if there were any questions. The Board stated that it was understood and that there were no questions.

**Gary Spinner and Robert Campbell, of the Township Committee, stepped down.**

**Edward Eivich – #002-045-08**  
(Use Variance)

Robert Wiltsee, applicant’s attorney, appeared on behalf of Edward Eivich, applicant. Mr. Eivich and Persefoni Kapotas appeared before the Board and were sworn. Mr. Eivich resides at 129 Rambo Drive, Pitman.

Mr. Thompson asked Leah Furey, Board Planner, if there were any objection to having the application deemed complete? Ms. Furey responded that with use variance application checklists are very general with basic information. Given that this is a use variance application the information is sufficient to give an informed decision as long as additional testimony is given. Mr. Wiltsee concurred. Mr. Thompson stated that Jim Spratt, Board Engineer, had no completeness issues in his review letter dated April 10, 2008. Mr. Eivich testified that the property taxes for Block 2.01, Lot 4 are current.

Motion to deem application complete was made by Joseph Wille, second by Thomas Sorbello. Motion carried.

Robert Wiltsee summarized the use variance application for Block 2.01, Lot 4 located at the northwest corner of the intersection of State Highway 45 and Franklinville Road (CR 538). The lot is 2.86 acres in the Agricultural/Residential (A/R) zone. The applicant is seeking a use variance to construct approximately 11,400 sq. ft. building with professional and retail uses.

Ms. Kapotas stated her education and professional experience and was deemed qualified by the Board. Ms. Kapotas stated that the other three (3) corners of the intersection are all designated as A/R. If the variance is approved the applicant will return with fully engineered and plans with greater detail. These plans were prepared to give the Board an idea as to what the applicant envisions for the site as well as what the site would accommodate. The approximately 11,400 sq. ft. building would contain a mix of office and retail uses with the required parking, stormwater management facilities and landscaping. Mr. Calabro asked if the building was to be one (1) or two (2) stories? Ms. Kapotas answered that it would be one (1) story. She stated that the intent is to gear the center toward mainly office uses but is requesting the flexibility to allow retail and service type uses. The retail and service uses would be intended to serve the immediate vicinity not to be regional in nature and also to serve the office tenants within the building. Mr. Thompson inquired as to the types of services intended? Ms. Kapotas answered mostly personal service(s), i.e. tanning salon. The idea of mixed uses would be to benefit and serve the community as well as to provide for the opportunity to fully lease the center. The planner fears that there may not be enough professional office interest at this time. The mixed uses would help to support each other.

Mr. Schenk asked whether the applicant intended to maintain ownership or to sell? Ms. Kapotas stated that it was her understanding that Mr. Eivich intended to maintain ownership.

Mr. Thompson inquired as to the percentage, if known, of professional vs. retail space? Ms. Kapotas answered that nothing has been proposed as yet, the applicant would like to get the Board's opinion. Mr. Wiltsee stated that the applicant's preference would be all professional, he's just not eager to 'pigeon hole' himself. If the Board felt comfortable with a certain percentage Mr. Eivich would work towards that figure. There would be nine units in the building and Mr. Eivich would be amenable to the Board's discretion as to any ratios.

Mr. Schenk asked if the building would have to be modified differently if built with professional office only as opposed to factoring in retail/service space included? Ms. Kapotas answered that for general building envelope site plan purposes the building would accommodate both standards. Regarding parking, the parking indicated currently would be ample for professional office and general retail. Food service would require additional parking. Regarding septic/well requirements, that too would need to be recalculated and approved by the County if food services are permitted by the Board. The food service industry was not the applicant's intent with this application.

Mr. Schenk inquired as to how the size of the building was determined? Ms. Kapotas answered that from a planning perspective, anything larger would not fit appropriately on the site. Not wanting to speak for the applicant, anything smaller would not be financially feasible.

Mr. Nagtegaal stated that without the proper feasibility study regarding which uses are desired in the area, he fears that Mr. Eivich will be left with space that will be vacant and not able to be leased. Creating what he finds in so many municipalities in the area, which are unseemly vacancies. Mr. Nagtegaal is also concerned regarding adequate parking.

Ms. Furey stated that the application is not at the point where the applicant must give testimony that must be put on the record as to the positive and negative criteria and why this location is favorable. If the Board grants the use variance a condition of approval could be that the applicant appears before the Board for approval of certain issues as mandated. Ms. Furey advised that the Board allow the applicant's representatives proceed with their testimony.

Ms. Kapotas stated that due to the location, at the intersection of SH-45 and CR-538, it an ideal location for types of uses proposed. Through her research, Ms. Kapotas as learned that this is one of the sites that the Board is considering be zoned as Professional Office zone in its 2008 Master Plan Reexamination. Which evidences that the Township itself and its planners have recognized that this location is suitable for this type of commercial uses. Regarding the negative criteria, this proposal is not inconsistent with the Master Plan Reexamination. The granting of this use variance does not represent a substantial detriment to the public good nor does it substantially impair the intended purpose of the Township's zoning ordinance.

Mr. Wiltsee asked Ms. Kapotas if she foresaw any detriment to the surrounding home owners? Ms. Kapotas answered that although the aerial depiction that she has before the Board does not include the home in question; the closest home is approximately 300 feet away. The landscaping and positioning of the structure would minimize any impact on residents.

Mr. Warner asked if Ms. Kapotas has taken into account the County road widening? Ms. Kapotas stated that they are subject to all County and State requirements.

Mr. Robertson inquired as to whether any perk and core testing has been performed on the property? Ms. Kapotas answered that the previous Eulich application had tested. Mr. Nagtegaal asked whether a Letter of Interpretation (LOI) from the Department of Environmental Protection (DEP) has been received. Ms. Kapotas stated that the have received an LOI, there is a small pocket of isolated wetlands within the state right-of-way and there is no buffer required.

Thomas Sorbello asked Ms. Furey to advise as to her understanding as to the intent of the 2008 Master Plan's zoning of the parcel in question. Mr. Thompson placed Ms. Furey under oath. Ms. Furey advised, as per her review letter dated April 9, 2008, the Board has been in the process of Re-examining the Master Plan and in doing so have considered where professional office or commercial may be appropriate. The lot in question was considered but determined not appropriate for rezoning due to site size and also the area surrounding this lot is not conducive to glomeration. The septic capabilities is an issue, a professional office on this site would not be a problem. Uncertainty arises when you include retail which create more flow. Regardless of what is being proposed they will require approval. If 11,400 sq ft is the maximum and the use mix that is proposed cannot be handled by a septic system, the application will have to either change the use mix or reduce the size of the building.

Jonathan Roth questioned whether or not there are lighting requirements or other regulations that would impact the surrounding residents. If so, is the Board able to minimize the impact. Ms. Furey responded that there is a certain level of security lighting required. The Board has also discussed design standards in the Master Plan to require attractive, traditional style lamps in parking lots to limit the spread of light.

Mr. Thompson reviewed Jim Spratt's review letter dated April 10, 2008. Mr. Thompson asked Ms. Kapotas if the use variance conditioned on their not being any need for bulk variances, particularly as to surrounding residential buffers, etc. Ms. Kapotas answered that the applicant would respect any requirements regarding transitional buffers and currently no setback bulk variances would be required.

Mr. Sorbello suggested tabling this matter until the applicant has an opportunity to speak with the surrounding residents to consider their ideas.

Motion to open the meeting to the public on this matter only was made by Thomas Sorbello, second by Matthew Warner. Motion carried.

Robert Campbell, Deputy Mayor, of 1 St. John's Lane, previously stepped down from Board due to conflict asked if he was able to ask questions? Mr. Thompson stated that Mr. Campbell is not automatically precluded. Mr. Wiltsee stated that he had no objection.

Mr. Campbell of 1 St. John's Lane appeared and was sworn. Mr. Campbell stated that the previous application which was submitted by the applicant's brother and father for a tire center was not well received by the residents and believed that the residents will be equally opposed to any retail establishments. He agreed with Mr. Sorbello on tabling this issue until the concerns of the residents could be addressed and the professional/retail ratio is established.

Christopher Kudless of 9 Raccoon Creek Court appeared and was sworn. Mr. Kudless referred to Mr. Eivich's previous statements of his concern for the community and the families surrounding the lot in question. Mr. Kudless advised that when the former Eivich application for a tire center was denied their concern for the residents and community was apparent by them bringing in equipment, tearing down a section of the tree line, uprooting trees. The Eivich's subsequently toasted with champagne on the lot. As a matter of principle Mr. Kudless believes that family should be barred from building anything in this community because of the way the surrounding residents were treated after the last application was brought before this committee. Mr. Thompson interjected to advise the Board that they do not have the authority to make that decision. Mr. Kudless stated that he understood. Mr. Kudless suggested that no retail space be approved and that the surrounding residents would probably be amenable to professional offices.

Lester Shoemaker of 609 Franklinville Road appeared and was sworn. Mr. Shoemaker stated that he once farmed the lot in question and advised that the ground is wet. If there is a basin installed it would affect the capability of the septic system. Mr. Shoemaker was advised that the well and septic would have to be approved by the County prior to receiving Township approval.

Matthew Warner asked Chris Kudless whether any of his neighbors would like to have retail, specifically a coffee shop or deli? Mr. Kudless stated that the residents he spoke with do not want retail. Mr. Warner stated that all of his neighbors that he spoke with are in favor of a deli on that lot. Mr. Kudless asked Mr. Warner if those same neighbors would want it in their backyard. Mr. Warner stated that they probably would not. Mr. Kudless suggested that prior to approval the Board observe the Crescent Moon, a coffee shop near the Harrison Township ShopRite, on a Friday or Saturday night. He stated that the Board would probably be surprised at who is hanging out in front of the coffee shop and to also keep in mind that South Harrison Township has a part time police department.

Motion to close the meeting to the public on this matter only was made by Thomas Sorbello, second by Joseph Wille. Motion carried.

Motion to continue the hearing to the May 12, 2008 meeting was made by Thomas Sorbello, second by Matthew Warner.

**Roll Call:** Robert Schenk – yes, Gary Spinner – abstain, Thomas Sorbello – yes, Melvin Robertson – yes, Marc Nagtegaal – yes, Joseph Wille – yes, Robert Campbell – abstain, Joseph Calabro – yes, Matthew Warner – yes, Jonathan Roth – yes **R.C.V.: 8 – yes’, 0 – no’s, 2 – abstentions. Motion carried.**

**Gary Spinner and Robert Campbell resumed their seats.**

Gary Thompson reviewed Board Engineer Jim Spratt’s letter dated March 25, 2008 regarding revision of Sunnybrook Nursery Minor Subdivision. Mr. Thompson advised that when the minor subdivision was granted the applicant was required to provide sight triangle easements on each side of the proposed driveway. The right of way for Marl Road has been slightly changed instead of having an angle point there is a curvature in one area. As a result of that there is a change of .008 acreage. Mr. Thompson stated that the Board must first approve the curvature of the right of way would be approved instead of an angle point. Secondly the sight triangle easement is no longer necessary so that condition must be eliminated. Therefore Mr. Spratt recommends the Board approve the administrative change.

Motion to approve the administrative change was made by Matthew Warner, second by Thomas Sorbello.

**Roll Call:** Robert Schenk – yes, Gary Spinner – yes, Thomas Sorbello – yes, Melvin Robertson – yes, Marc Nagtegaal – yes, Joseph Wille – yes, Robert Campbell – yes, Joseph Calabro – yes, Matthew Warner – yes, Jonathan Roth – abstain **R.C.V.: 9 – yes’, 0 – no’s, 1 – abstentions. Motion carried.**

**Open Meeting to the Public:**

Motion to open the meeting to the public was made by Joseph Wille, second by Thomas Sorbello. Motion carried.

Debbie Stanton of 9 Greenbriar Road inquired as to the DEP dispute with 8 Greenbriar Road. Ms. Stanton stated that there is a rumor in her neighborhood that the Township is planning to buy the property and raze the home. The Board advised that that is definitely not the case.

**Close Meeting to the Public:**

Motion to close the meeting to the public was made by Robert Campbell, second by Thomas Sorbello. Motion carried.

**Payment of the Bills:**

Motion to approve payment of the bills was made by Robert Schenk, second by Joseph Wille.

**Roll Call:** Robert Schenk – yes, Gary Spinner – yes, Thomas Sorbello – yes, Melvin Robertson – yes, Marc Nagtegaal – yes, Joseph Wille – yes, Robert Campbell – no, Joseph Calabro – yes, Matthew Warner – yes, Jonathan Roth – abstain **R.C.V.: 8 – yes’, 1 – no’s, 1 – abstention. Motion carried.**

**Resolution Excluding the Public – Litigation Matters**

Motion to adopt resolution R-08-14 was made by Gary Spinner, second by Thomas Sorbello.

**Roll Call:** Robert Schenk – yes, Gary Spinner – yes, Thomas Sorbello – yes, Melvin Robertson – yes, Marc Nagtegaal – yes, Joseph Wille – yes, Robert Campbell – yes, Joseph Calabro – yes, Matthew Warner – yes, Jonathan Roth – abstain **R.C.V.: 9 – yes’, 0 – no’s, 1 – abstention. Motion carried.**

Motion to return to open session was made by Gary Spinner, second by Matthew Warner. Motion carried.

**Adjournment:**

Motion to adjourn was made by Joseph Wille, second by Joseph Calabro. Motion carried.

Respectfully submitted,

Celesse Keen  
Board Secretary