

**South Harrison Township
Planning/Zoning Board of Adjustment
August 11, 2014**

The South Harrison Township Planning/Zoning Board of Adjustment held a regular meeting on August 11, 2014 at 7:00 p.m. in the South Harrison Township Municipal Building.

The meeting was called to order by Joseph Marino, Board Chair and led those present in the Pledge of Allegiance to the Flag.

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

Roll Call: James McCall – present, John Horner – absent, Thomas Sorbello – present, Melvin Robertson – present, Joseph Marino – present, Heather Brown – absent, Joseph Wille – present, Stephen Galati – present, Ronald Ambruster – present, David Wade – absent, John Maybrook – present, Gary Thompson, Board Solicitor – present, Steven Bach – Board Engineer – present, Candace Kanapue – Township Planner – present, Celeste Keen, Secretary – present

Old Business:

Resolution R-14-08

**Resolution Granting Side Yard Setback Variance To
Kenneth Forsha; Block 8, Lot 11.01**

Motion to adopt Resolution R-14-08 was made by James McCall, second by Joseph Wille.

Roll Call: James McCall – yes, John Horner – absent, Thomas Sorbello – abstain, Melvin Robertson – yes, Joseph Marino – yes, Heather Brown – absent, Joseph Wille – yes, Stephen Galati – abstain, Ronald Ambruster – yes, David Wade – absent, John Maybrook – yes

R.C.V.: 6 – yes', 0 – no's, 2 – abstentions. Motion carried.

**Lopes, Frank
002-139-14
Use/Bulk Variance
& Site Plan Waiver**

**Ronald Ambruster signed a Certification of Review of Record.
James McCall stepped down due to conflict.**

Joan Adams, attorney for the applicant, apprised the Board of the application to date.

Frank Lopes advised the Board of some of the particulars of his business: the number and types of trucks, the hours of operation; the number and types of employees; limited, if any, customer activity. Mr. Lopes stated that he has been in contact with the neighboring residents and has worked their comments/concerns into the revised plan.

Mr. Kernan, planner for the applicant, advised that the proposed sign on the corner of State Hwy 45 and Tomlin Station Road will be repositioned to allow for the road right of way and site distance. There are two (2) proposed lights; one (1) above the mandoor and one (1) to illuminate the oil tank. Street trees of approximately 35' to be installed along the roadway along with a split 3-rail fence and flowering shrubbery. Two (2) parking areas with ample parking for residents and employees. Signage is to be a maximum of five (5) feet tall.

Mr. Bach asked if the septic system plan had been approved by the County. Ms. Adams advised that it had. Mr. Bach requested that the plan be amended to allow the system to be relocated a few feet away from the roadway to allow for uninterrupted tree line. Ms. Adams agreed to make the request to the County.

Ms. Kanaplue noted that at the last meeting the applicant agreed that the fencing be extended around the residence as a safety precaution. The applicant agreed to continue the split rail with wire mesh behind.

Mr. Kernan advised that the applicant is seeking a bulk variance regarding the parking requirement. The spaces proposed are more than enough for the applicants needs.

Mr. Bach advised that Bach Associates had not submitted a new review letter and referred to their letter dated June 2, 2014. On page 4 of 6 under Waiver of Site Plan – Section 90-3.06 of the South Harrison Township Code is cited, “A. The rules, regulations and standards set forth in this Part 3 shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Township. However, if the applicant can clearly demonstrate that, because of peculiar conditions pertaining to his or her land, the literal enforcement of this chapter is impracticable or will exact undue hardship, the Planning/Zoning Board may permit such exemption(s) and waiver(s) as may be reasonable, within the general purpose and intent of the rules, regulations and standards established by this Part 3.

Mr. Galati asked if the fuel tanks exist and if so, are there safety precautions in place. Mr. Lopes advised that there are oil tanks on the property and that there are steel boxes custom built to handle an oil spill.

Mr. Bach noted that the stockpile of dirt that was on the premises has since been transferred but that the probability of Mr. Lopes stockpiling product was likely to reoccur. The area in which the stockpiling is to maintained is 25' x 130'. There will be no height restriction mandated.

Mr. Lopes advised that there will be a mechanic on duty from 7:00am to 6:00pm and that all repairs will be done either inside or behind the building.

Open Meeting to the Public:

Motion to open the meeting to the public on this matter only was made by Melvin Robertson, second by Stephen Galati. **Motion carried.**

Melissa Farner of 717 Tomlin Station Road appeared before the Board and was sworn to give testimony. Ms. Farner stated that she has been a resident for four (4) years and Mr. Lopes has repeatedly cleared their driveway of snow in order that their child's handicap accessible bus can come up to the house to pick him up for school. He's a good neighbor.

Rich D'Orazio of 710 Tomlin Station Road appeared before the Board and was sworn to give testimony. Mr. D'Orazio spoke with Mr. Lopes and he seems to be very amenable to appeasing the neighbors concerns.

William Nelson of 753 Tomlin Station Road appeared before the Board and was sworn to give testimony. Mr. Nelson advised that he is the resident of the house on the site and he does not believe the truck noise is an issue.

Edward Swank of 740 Tomlin Station Road appeared before the Board in June and remains under oath. Mr. Swank has changed his opinion since the June meeting due to his conversations with Mr. Lopes and the changes he has made to the plans for the site.

William O'Malley of 712 Tomlin Station Road appeared before the Board in June and remains under oath. Mr. O'Malley advised that his concerns stated at the June meeting have been alleviated after meeting with Mr. Lopes.

April D'Orazio of 710 Tomlin Station Road appeared before the Board and was sworn to give testimony. Ms. D'Orazio stated that she has been watching the truck traffic along Tomlin Station Road and little to none of the trucks were attributed to Mr. Lopes' business.

James McCall of 46 Cedar Grove Road appeared before the Board and was sworn to give testimony. Mr. McCall explained the process of stockpiling dirt during construction.

Tom Farner of 717 Tomlin Station Road appeared before the Board and was sworn to give testimony. Mr. Farner advised that he attended the meetings to alleviate his concerns and thanked the Board for setting parameters of Mr. Lopes' business.

Joseph Lopes of 725 Station Road appeared before the Board and was sworn to give testimony. Mr. Lopes advised that he is the father of the applicant and assured the Board and those present that family has been on the property for generations and the family want the characteristics of the area to remain agricultural in appearance.

Catrina Yucis of 727 Station Road appeared before the Board in June and remains under oath. Ms. Yucis lives next to the site and is the sister of the applicant. The intention of the family is that the property stays in the family for generations to come.

Close Meeting to the Public:

Motion to close the meeting to the public on this matter only was made by Joseph Wille, second by Ronald Ambruster. **Motion carried.**

Ms. Adams noted a recent ruling from the Supreme Court that has changed the standards by which Use Variances are weighed. No longer must an applicant prove that there is no other property within the municipality that is suitable for the use.

Regarding the hours of operation (7:00am to 6:00pm; extended during summer daylight hours) and the extenuating circumstances. What constitutes "extenuating circumstances"? The Board elected not to define "extenuating circumstances".

Mr. Thompson assessed the conditions of the Use Variance with Mr. Lopes' agreement to said conditions.

Motion to approve use variance was made by Melvin Robertson, second by Thomas Sorbello.

Roll Call: James McCall – abstain, John Horner – absent, Thomas Sorbello – yes, Melvin Robertson – yes, Joseph Marino – yes, Heather Brown – absent, Joseph Wille – yes, Stephen Galati – no, Ronald Ambruster – yes, David Wade – absent, John Maybrook – yes

R.C.V.: 6 – yes', 1 – no's, 1 – abstentions. Motion carried.

Motion to approve bulk variance regarding parking was made by Ronald Ambruster, second by Joseph Wille.

Roll Call: James McCall – abstain, John Horner – absent, Thomas Sorbello – yes, Melvin Robertson – yes, Joseph Marino – yes, Heather Brown – absent, Joseph Wille – yes, Stephen Galati – yes, Ronald Ambruster – yes, David Wade – absent, John Maybrook – yes
R.C.V.: 7 – yes, 0 – no’s, 1 – abstentions. **Motion carried.**

Motion to approve site plan waiver was made by Thomas Sorbello, second by Joseph Wille.

Roll Call: James McCall – abstain, John Horner – absent, Thomas Sorbello – yes, Melvin Robertson – yes, Joseph Marino – yes, Heather Brown – absent, Joseph Wille – yes, Stephen Galati – yes, Ronald Ambruster – yes, David Wade – absent, John Maybrook – yes
R.C.V.: 7 – yes, 0 – no’s, 1 – abstentions. **Motion carried.**

Open Meeting to the Public:

Motion to open the meeting to the public was made by Ronald Ambruster, second by Joseph Wille. **Motion carried.**

No public spoke.

Close Meeting to the Public:

Motion to close the meeting to the public was made by Ronald Ambruster, second by Thomas Sorbello. **Motion carried.**

Payment of the Bills:

Motion to approve payment of the bills was made by Stephen Galati, second by Joseph Wille.

Roll Call: James McCall – yes, John Horner – absent, Thomas Sorbello – yes, Melvin Robertson – yes, Joseph Marino – yes, Heather Brown – absent, Joseph Wille – yes, Stephen Galati – yes, Ronald Ambruster – yes, David Wade – absent, John Maybrook – yes
R.C.V.: 8 – yes, 0 – no’s, 0 – abstentions. **Motion carried.**

Mr. McCall inquired as to the expansion of the fire house. Mr. Wille stated that they fire company was advised that they do not meet the 50’ rear yard setback. He has not heard back from them.

Adjournment:

Motion to adjourn was made by Ronald Ambruster, second by James McCall. **Motion carried.**

Respectfully submitted,

Celeste Keen
Board Secretary