

**South Harrison Township  
Planning/Zoning Board of Adjustment  
March 10, 2008**

The South Harrison Township Planning/Zoning Board of Adjustment held a regular meeting on March 10, 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, Gary Spinner – present, Thomas Sorbello – present, Melvin Robertson – present, Marc Nagtegaal – present, Joseph Wille – present, Charles Tyson, – absent, Robert Campbell – present, Joseph Calabro – absent, Jonathan Roth – present, John Coleman – absent, Gary Thompson, Board Solicitor – present, Marty Sanders – Board Engineer – present, Leah Furey, Planner – present, Celeste Keen, Secretary – present.

**Minutes:**

Motion to approve the regular minutes of December 6, 2007, was made by Joseph Wille, second by Thomas Sorbello. Motion carried.

Motion to approve the closed session minutes of December 6, 2007, was made by Melvin Robertson, second by Robert Campbell. Motion carried.

**Old Business:**

**Resolution R-08-10**

**Resolution Granting Final Major Subdivision Approval to Valley Green Development**

Motion to adopt resolution R-08-10 was made by Robert Campbell, 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 – absent, Jonathan Roth – yes, John Coleman – absent **R.C.V.: 8 – yes', 0 – no's, 0 – abstentions. Motion carried.**

**New Business:**

**Sunnybrook Nursery – #005-113-07  
(Minor Subdivision)**

John Moustakas, attorney for the applicant, appeared before the Board. Mr. Moustakas advised the Board that this application was approved at the July 12, 2007 Planning/Zoning Board meeting. Mr. Thompson stated that the deadline for filing the minor subdivision deeds was February 18, 2008 and asked Mr. Moustakas, "What is the basis for the request for the extension under N.J.S.A. 40:55D-47?" Mr. Moustakas replied that the former attorney for the applicant had been appointed to the bench of GC Superior Court. Therefore his cases were reassigned, which resulted in time lost. An outside agency approval of the Department of

Transportation to make a jurisdictional determination regarding sight triangle easements. Mr. Thompson asked Mr. Moustakas, in his estimation, how much time would the applicant need to obtain all approvals. Mr. Moustakas requested six (6) months.

Motion to grant six (6) month extension was made by Thomas Sorbello, 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 – yes, Joseph Calabro – absent, Jonathan Roth – yes, John Coleman – absent **R.C.V.: 8 – yes’, 0 – no’s, 0 – abstentions. Motion carried.**

**Sunnybrook Nursery – #008-172-07**  
(Minor Subdivision)

John Moustakas, attorney for the applicant, appeared before the Board. Mr. Moustakas advised the Board that this application was approved at the August 2, 2007 Planning/Zoning Board meeting. Mr. Thompson stated that the deadline for filing the minor subdivision deeds will be March 14, 2008, which will not be enough time to get the deeds recorded. All outside agency approvals have been obtained therefore Mr. Moustakas is requesting a three (3) month extension for this application.

Motion to grant three (3) month extension was made by Joseph Wille, 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 – absent, Jonathan Roth – yes, John Coleman – absent **R.C.V.: 8 – yes’, 0 – no’s, 0 – abstentions. Motion carried.**

**Frank & Dana Durso – #001-036-08**  
(Lot Line Adjustment)

Frank and Dana Durso and David Vasso appeared before the Board and were sworn. David Vasso is the owner of Block 28, Lot 6.02 which is adjacent to the applicant. Mr. Thompson advised the Board that this is a lot line adjustment; no new lots are being created and no variances are being requested therefore notice to property owners within 200’ is not required. The Board has jurisdiction to proceed with this hearing.

Dana Durso testified that she and her husband approached Mr. Vasso and offered to purchase a portion of his lot to create more of a buffer between their home and the new homes being developed.

Mr. Thompson advised that there is one (1) waiver issue, the applicant’s need a waiver as to the key map on the plan. The key map is drawn at a scale of 1” equals 2000 feet where the requirement is 1” equals 1000 feet. The Durso’s advised that the plans have been redone to specifications. That being the only completeness issue Mr. Thompson advised that Board may deem this application complete.

Motion to deem application complete was made by Joseph Wille, second by Robert Campbell. Motion carried.

Mrs. Durso also advised that there will be no additional building or disturbance to the property which includes some wetlands. Their sole intention is to create a larger buffer between their home and the new ones.

The matter of the Lippincott designation on the plans was questioned. Mr. Durso advised that in his extensive investigation of this label, to the best of his knowledge, the local historical society believes that there used to be a home on that portion of the property. There are no visible remnants of that building.

Marc Nagtegaal inquired as to the wetlands on the property, are there monuments delineating the wetlands. Mr. Durso advised that there is currently no monumentation. Mr. Vasso advised that his lot was part of the Ashford Estates subdivision that he purchased from Lennar. Ms. Furey advised that these lots are across State Highway 45 and were not a part of the major subdivision but a separate minor subdivision by Lennar. Joseph Wille inquired as to whether there was anything in the resolution that granted the minor subdivision that required wetlands monumentation to be installed? Mr. Thompson read from the resolution, "The applicant shall provide all monumentation of wetlands and wetlands buffer areas in accordance with the prior approval granted by the Board for major subdivision approval for the subject property. A point of purchase disclosure as to wetlands and wetlands buffer areas shall be prepared by the applicant and included in the contract and deed for each lot." At the time of adoption of the resolution the applicant was Group Land Development, Ltd.

Mrs. Durso asked for clarification regarding what constitutes monumentation. Mr. Sanders answered that monumentation can be a steel pin or a concrete monument. Mel Robertson asked the Board Professionals, regarding the buffer, the buffer is basically the same thing as the wetlands as far as not being able to encroach on them. Would it not be better to delineate the buffer as opposed to the wetlands themselves? Ms. Furey answered that this lot has a footprint of disturbance which means the applicants are only allowed to disturb a particular portion of the lot. Mr. Thompson advised that the Board make it a condition of approval. Mr. Schenk suggested that the only obligation that be imposed on the applicant is to allow Lennar access on the property to install the monumentation as stated in their approval resolution. The applicants agreed. Mr. Thompson added that the Board may make a requirement to restate the wetlands prohibition and the monumentation in the deeds when the minor subdivision deeds are prepared; it should state what is already in the prior deeds as well.

Marty Sanders and Leah Furey were sworn. Mr. Sanders reviewed James Spratt's letter dated February 28, 2008. Mr. Sanders stated that the only zoning issue is the setback of the garage which is a pre-existing condition that is not affected by the lot line adjustment. Mr. Thompson advised the applicants that the garage is within 20' of the property line. The structure is a pre-existing non-conforming structure therefore the building cannot be expanded upon, if it is destroyed it cannot be replaced in that location. The applicants consented.

Applicants advised that the plans now denotes both parties as owners/applicants and provides certifications for owners signatures. Applicant agrees that plans are to be amended to correct discrepancy of .02 acres. Applicant has not received a Letter of Interpretation (LOI) from the Department of Environmental Protection Agency and therefore requests a waiver. Mr. Thompson stated that the applicant should locate a copy of the LOI and then revise the plan to show that the DEP verified the line along with the date of verification and the DEP file number.

Items 5 and 6 waived as per the Board. Item 7, information to be provided by Mr. Vasso. Items 8 through 10 are all standard conditions for minor subdivisions to be filed by deed.

Ms. Furey reviewed her letter dated March 6, 2008. Two items of discussion which have already been raised, the first being the driveway access which they have agreed to add as per Mr. Vasso's existing plan. Secondly, Ms. Furey recommends that conservation easement be placed on the wetlands and wetlands buffer which has been discussed at length and Mr. Thompson has recommended that it be put into the deed.

Motion to open the meeting to the public on this matter only was made by Joseph Wille, second by Gary Spinner. Motion carried.

No public spoke.

Motion to close the meeting to the public on this matter only was made by Gary Spinner, second by Robert Schenk. Motion carried.

Motion to grant minor subdivision approval was made by Gary Spinner, 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 – yes, Joseph Calabro – absent, Jonathan Roth – yes, John Coleman – absent **R.C.V.: 8 – yes', 0 – no's, 0 – abstentions. Motion carried.**

#### **Open Meeting to the Public:**

Motion to open the meeting to the public was made by Gary Spinner, second by Jonathan Roth. Motion carried.

Irina Yurchenko of 581 Franklinville Road has been before the Board in the past regarding water runoff damage due to the Deer Run major subdivision. Mrs. Yurchenko and her husband hired a company and had a drainage system installed on her property which alleviated the problem. Now the Yurchenkos have a new neighbor building a home which is creating a new problem of water runoff with clay running onto their property. Mr. Sanders advised Mrs. Yurchenko that she should actually be in front of the Committee with this issue. The Board reviewed the pictures that Mrs. Yurchenko provided showing the influx of clay and rain water. Mr. Wille stated that he will contact Bach Associates, Township Engineer, to go out to the site and evaluate the situation.

Ryan Richards of 8 Greenbriar Road thanked Joe Wille for his assistance with his DEP issue. Mr. Richards updated the Board as to the status of the DEP wetland buffer issue. There is no deed restriction on his deed regarding wetlands and wetlands buffers, likewise with some of his neighbors. There are also no consistencies regarding his plot plans and the ones with the state. He has a surveyor coming out to resurvey his lot.

Walter Driver of 1834 State Highway 45 advised the Board that his neighbor has blocked stormwater on their property which is causing excess runoff onto his property. Mr. Sanders advised Mr. Driver that this is a civil matter and neither this Board nor the Township Committee has any jurisdiction.

#### **Close Meeting to the Public:**

Motion to close the meeting to the public was made by Robert Schenk, second by Joseph Wille. Motion carried.

**Payment of the Bills:**

Motion to approve payment of the bills was made by Robert Schenk, 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 – absent, Jonathan Roth – yes, John Coleman – absent **R.C.V.: 8 – yes’, 0 – no’s, 0 – abstentions. Motion carried.**

**Adjournment:**

Motion to adjourn was made by Thomas Sorbello, second by Robert Schenk. Motion carried.

Respectfully submitted,

Celeste Keen  
Board Secretary