Chairman Schwemmer called the regular Meeting of the Board of Adjustment of March 5, 2008 to order at 7:00 p.m.

MEMBERS PRESENT:	Elliott Averett, Morris Bauer, Felix Graziano, Harvey Ort, Craig Schwemmer, Anthony Spina, John Turick
Alternate Members:	Frank Baguiao, Dorothy Walter
Members Absent:	
Others Present:	Clerk Kesper, Attorney Fraser, Planner Banisch

STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT - Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 18, 2008 and posted on the Bulletin Board on the same date. Two notices were mailed as there were two requests

Pledge of Allegiance

MINUTES

1. February 6, 2008 Regular Meeting

Mr. Spina made a motion to approve the minutes, seconded by Mr. Bauer. A voice vote was taken; all were in favor and the motion carried.

RESOLUTIONS

08-08 Gartelmann – 337 Pleasant Grove Road - Block 50.01 Lot 6 – 2.25 Acres – Approval of request for Front and side yard setback variance and expansion of a non-conforming structure

The resolution was reviewed.

Mr. Spina made a motion to approve the resolution, seconded by Mr. Bauer.

A roll call vote was taken:
Ayes: Averett, Bauer, Graziano, Schwemmer, Spina, Turick, Baguiao, Walter
Nays: None Abstentions: None Absent:
Ineligible: Ort

The meeting was opened to the public for items not on the agenda. There were no comments from the public and the meeting was closed to the public for items not on the agenda.

APPLICATIONS

1. Ackerman – Block 30, Lot 22.02 – Schooley's Mountain Road - R-5 Zone – 5.52 Acres – Request for Steep Slope, Ridgeline and stream corridor variances – Previously Heard June 6, 2007 and August 1, 2007 -Expires March 5, 2008

   Erika Ackerman, Applicant
   Jeff Ackerman, Applicant
   Nichols Wunner, Applicant's Engineer

David Banisch was sworn in by Attorney Fraser.

Mr. Schwemmer reviewed the variances required on this application. He referred to Mr. Hall's letter of February 29th wherein he stated he was satisfied.

Mr. Wunner stated that the applicant would comply with the conditions listed in Mr. Hall's letter.

Mr. Banisch addressed the landscape buffer plan supplied by the applicant. He stated that he has discussed the application and landscape submission with Dr. Keller and Mr. Hall. He stated that the applicant has complied with his recommendations of September 20, 2007. He recommended that the board allow flexibility regarding the placement of the plantings to maximize the benefit of the public to obscure the home from the public way. This would be based on the recommendations of Dr. Keller or himself. He answered Mr. Bauer that the landscaping would not immediately hide the home, but as it grows in it would. He stated that the landscaping plan has both evergreen and deciduous trees. It responds to the ordinance for a landscape buffer.

Mr. Banisch answered Mr. Averett that the clearing in the county right of way will not be obscured and if this application is approved there would be a change to the current viewshed along the road. He stated that this is necessary to have proper line of site for the driveway. The ordinance requires that to the greatest extent possible landscaping would obscure the view of the public. It was his opinion that the remediation proposal is an appropriate level to meet the ordinance. He stated that the applicant has also agreed to the use of materials that would also camouflage the building such as the color of the siding and roof types.

Mr. Wurrner stated that the applicant agreed to meet Mr. Banisch's requirements.

The board reviewed the plans and noted the additional drywells and stormwater management and control of the area of disturbance that have been added to the plan.

Mr. Banisch suggested a condition that the plantings must be maintained.

The applicant agreed.

The board discussed requiring a conservation easement in the area of the driveway and the road prior to a certificate of occupancy and concluded that a condition in the resolution that the plantings be maintained was all that would be required.

Ms. Fraser stated that a condition of approval would be that the resolution be recorded at the Morris County Clerk's office.

The Board and applicant agreed to this condition.

The meeting was opened to the public for questions and comments on this application. There were no questions or comments and the meeting was closed to the public

Mr. Averett made a motion to approve the application subject to the conditions discussed and letters of the professionals. Seconded by Mr. Graziano. A roll call vote was taken:

Ayes: Averett, Graziano, Schwemmer, Spina, Turick, Baguiao,
Nays: Bauer Abstentions: None Absent:
Ineligible: Ort, Walter

2. 28 Route 46 Realty, LLC – Block 4, Lot 1 – 28 Route 46 (Diner Property)– C-2 Zone – 1.263 Acres – Completeness review and if deemed complete public hearing on Preliminary and final site plan with variances for new car dealership

Michael Selvaggi, Applicant's Attorney
Jay Brichke, Applicant
Joe Mele, Applicant's Engineer
Andy Bartushak, Applicant's Engineer
P. David Zimmerman, Applicant's Planner

Mr. Selvaggi reviewed the previous use variance granted by the Board of Adjustment. He reviewed the site walk and a meeting with Mr. Hall and the applicants' engineer. He referred to Mr. Hall's letter of March 3rd regarding completeness.

Mr. Banisch stated that the lighting has been addressed with the plans and it was his opinion that noise could be addressed through testimony and a Development Impact Statement could be waived.

Mr. Bauer made a motion to deem the application complete, seconded by Mr. Ort. A voice vote was taken; all were in favor and the application was deemed complete.

Mr. Selvaggi explained that since the use variance and previous completeness hearings the applicant has entered into discussions with the adjoining property owner, a Midas Muffler dealership. They are confident that a lease will be signed and eliminate the need for an addition to be built. He was asking for a possible phasing of this project. If the Midas transaction does not happen they would build the addition but if they are successful in the lease the addition to the rear would not be built. He answered the board that they would be leasing the property, there would not be a purchase and therefore the lots could not be combined. He asked that the addition be a phase II – approve addition, but it would not be built if they lease the property form Midas.

Joseph Mele and Jay Brichke were sworn in by Attorney Fraser.

Mr. Brichke stated that he is a partner with Hackettstown Hyundai and that he has been involved in the negotiations with Midas Muffler. He stated that Hyundai would use the Midas Muffler shop for the new car prep, tires and oil changes. He stated that the heavy work such as transmissions would still be done at their other dealerships.

Mr. Mele stated the impervious coverage would be reduced with the use of the Midas Muffler building because the additional driveway would not be needed and it would actually be reduced from what currently exists by 300 square feet; 74.4% to 73.9%.

Ms. Fraser addressed the conditional use variance granted that was for a building of less then 10,000 square feet or 8,994. She was concerned that the use variance would not be being followed, as the size of the building would be further reduced by this proposal.

Mr. Mele answered the board that the building approved with the use variance was 8,278 square feet. If the addition is not built the size of the building would be what is existing or 7,122 square feet.

The board discussed this issue.

Mr. Selvaggi stated that the applicant was going to proceed this evening as if the Midas option does not exist tonight and if the lease negotiations are successful they would be back before the board next month for amendments to the plan.

Mr. Mele stated that the plans were revised to address the boards professional letters and environmental commission and fire department letters. They have increased the buffering, reduced the amount of light on the property and eliminated a light pole in the northeast portion of the site. The five floodlights currently on site will be removed. There is no string lighting proposed. He referred to Mr. Hall's letter of March 3rd. The applicant acknowledges the variances as outlined in section II of Mr. Hall's letter.

Mr. Mele reviewed the requested waivers as outlined in section three of Mr. Hall's letter of March 3rd. He referred to Mr. Maltz's letter of February 27 that did not object to the parking waivers because of the improvements over the current conditions.

Mr. Mele stated that the applicant agreed to repair and repave the site to the extent required by the Township engineer. He referred to page 21.01 of the plans and noted that the hatched areas are full depth paving repairs. He stated that the customer parking area would get over-laid with new macadam. The entire area would receive a uniformly seal coated surface and stripped where necessary.

Mr. Mele answered the board that the full depth pavement would be at the north driveway to East Avenue; overlay customer parking spacing backing up to the existing diner; everywhere else is as shown on the plans.

Mr. Banisch recommended a three year inspection by the Township Engineer and if it is in disrepair it be milled and repaved. If the applicant ends up re-milling and repaving everything now, then there would not be a three year inspection requirement.

Mr. Mele agreed to the condition for sight easements for each driveway onto East Avenue.

Mr. Mele reviewed the Site Plan comments of Mr. Hall's letter and he stated that the applicant would comply with requirements A through E. They agreed to supply the requested information under his soil disturbance comments.

Roberto Martinez was sworn in by Attorney Fraser and presented his qualifications to the board and was accepted by the Board regarding the sign and façade detail.

Mr. Martinez referred to an exhibit marked A-1 an architectural regarding of the signs. There would be two wall mounted signs on the front elevation. The proposed Hyundai sign would be 44.5 s. f. and the logo and brand sign would be 23.6 s. f., which is below what is allowed under Township ordinances, 100 s. f. The current pylon would be reused and the sign detail was shown on sheet 22.08. The size would be 52 s. f., including the metal piece holding the sign. The sign itself would be 31.5 s.f.

Mr. Martienz stated that the proposed signs are the smallest the franchise will allow and complies with the township ordinances. He stated that there would not be a sign on East Avenue.

Mr. Mele reviewed the Environmental Commissions letter and stated that the motor oil would be stored in containers inside the building, vehicles would be parked only on impervious surfaces, a stormwater management has been included and approved by the Township Engineer, the lighting has been reduced and buffering is included on the plans. The have specified native plants the fence will be 6 feet high. The applicant will comply with the Township noise ordinance and agreed to adhere to the ordinance. HVAC is on the roof now and will remain on the roof.

Mr. Mele stated that if they needed additional employee spaces they would use the new car storage spaces. He stated that he would revise the plans to show four more employee spaces where car storage is shown.

Mr. Mele agreed to comply with all the comments in Mr. Maltz's February 27, 2008 letter. He stated that they would accept a restriction that vehicles larger than WB-40 would be prohibited.

Mr. Selvaggi stated that the septic system will be inspected Friday and a report will be sent to the Board of Health for approval. He would like this condition to be prior to Certificate of Occupancy. He asked the board to allow interior renovations prior to signing the site plan but agreed to no site work until after the site plans were signed.

Ms. Kesper advised the applicant that the building department would not release permits for building without approval of the Health Department.

Dr. Keller's e-mail was addressed and the applicant stated that they would comply with the requested changes to the curb detail.

The Schooley's Mountain Fire Department letter of March 1 was addressed and the applicant stated that they would comply with the letter.

Mr. Mele stated that the plans would be revised to comply and they would provide the requested electronic interior drawings at the time they submit for a building permit.

The meeting was opened to the public for questions and comments. There were no questions or comments and the meeting was closed to the public on this application.

Mr. Spina made a motion to approve the application for preliminary and final site plan with the waivers and variances as outlined and the conditions discussed this evening. Seconded by Mr. Ort.

Ayes: Averett, Bauer, Graziano, Ort, Schwemmer, Spina, Turick,
Baguiao, Walter,
Nays: None Abstentions: None Absent: None Ineligible: None

DISCUSSION - CORRESPONDENCE

1. Vouchers

The vouchers were reviewed. Mr. Averett made a motion to approve the vouchers reviewed by the Chairman and found in order and send same on for payment. Seconded by Mr. Spina. A voice vote was taken; all were in favor and the motion carried.

Mr. Bauer made a motion to adjourn, seconded by Mr. Turick. A voice vote was taken; all were in favor and the meeting was adjourned at 9:30 p.m.

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Virginia R. Kesper, Clerk