Chairman Schwemmer called the regular Meeting of the Board of Adjustment of April 2, 2008 to order at 7:00 p.m.

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

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. March 5, 2008 Regular Meeting

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

RESOLUTIONS

08-09 28 Route 46 Realty, LLC – Block 4, Lot 1 – 28 Route 46 (Diner Property)– C-2 Zone – 1.263 Acres – Approval of Preliminary and final site plan for new car dealership

The resolution was reviewed.

Mr. Ort made a motion to approve the resolution distributed this evening, seconded by Mr. Averett. A roll call vote was taken:

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

08-10 Ackerman – Block 30, Lot 22.02 – Schooley's Mountain Road - R-5 Zone – 5.52 Acres – Approval of Steep Slope, Ridgeline and stream corridor variances – Previously Heard June 6, 2007 and August 1, 2007 -Expires March 5, 2008

The resolution was reviewed. Mr. Averett seconded by Mr. Graziano
A roll call vote was taken:

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

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. Hall – Block 37, Lot 26.01 – 201 Parker Road – R-5 Zone – 2.8 acres -Request for front yard setback variance for addition to home and detached garage and expansion of non-conforming structure

   Robin Hall, Applicant

Robin Hall and John Heyrich was sworn in by Attorney Fraser.

Mr. Schwemmer accepted Mr. Heyrich as an expert witness in the field of architecture.

Ms. Hall stated that she purchased the home in October and she loved the property and gardens and had a vision to enlarge the home to upgrade and modernize the home. The addition is for a new kitchen, family room and master bedroom, wrap around porch and screened porch and a detached garage. She did not want to disturb the gardens on the plan. When she went to have plans drawn up she realized she would need setback variances. The previous owner was in the home for more than 40 years. The gardens and birdhouses are part of the character of the property.

Mr. Heyrich referred to the site plan submitted with the application and a board of photographs, which was marked A-1. He stated he took the photographs. He pointed out the elevations and pointed out the new construction on the side and rear of the house. He referred to the plans of the homes and the proposed new interior. He explained the second level addition is over the existing first floor. He stated that the applicant proposes to remove the old garage and shed. He pointed out the power lines that are on the property, the trees and open fields. The property is long and shallow in depth, which gives a small back yard (100 s.f.). He explained that this is why the applicant would like to remove the existing garage and build a new garage to the side of the home, which would be in the front yard setback. He referred to the plans of the garage. The garage is 22' high with three bays and storage area and an unfinished attic. The location makes the garage accessible to the home and the garage doors face the rear of the property.

Mr. Heyrich answered the board that the addition would not be closer to the road then the existing home. The side porch will follow the plain of the existing line of the house. The entire existing house and most of the addition and the accessory garage are within the setback. He referred to the photos and described the property. The porch is less then 25' from the road.

Mr. Banisch stated his opinion that the applicant has presented a plan and testimony that would allow the board to approve the project.

Ms. Hall stated that the shed close to the side property line is a shed for storage and she was not proposing to do anything with the shed.

The meeting was opened to the public for questions and comments on this application. There were none and the meeting was closed to the public for questions.

Mr. Ort made a motion to approve the application as presented with a setback for the new porch of not less then 23 feet and in line with existing house, seconded by Mr. Averett. A roll call vote was taken:

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

2. 28 Route 46 Realty, LLC – Block 4, Lot 1 – 28 Route 46 (Diner Property)– C-2 Zone – 1.263 Acres – Request for Amended Use Variance and Preliminary and Final site plan for new car dealership

Michael Selvaggi, Applicant's Attorney

Drew Picone, Applicant
David Garval, Applicant's Engineer
P. David Zimmerman, Applicant's Planner

Mr. Selvaggi reviewed the previous approval and explained that the applicant was before the board for an amendment because the applicant has entered into a long term lease on the adjoining property. He stated that this changes the site plan and the use variance (building is smaller) granted by the Board.

Drew Picone was sworn in by Attorney Fraser.

Mr. Picone stated that he was familiar with the lease with Midas. It is a long term lease. If the board grants an approval the light service work will be done at the existing Midas garage. Service hours would continue to be the same as if the addition were put on - 8 – 5 Monday - Friday and 8 -12 Saturday. With this use they will not need an addition and it would remain a parking area. The lease is long term, 20 years, with no option to buy. The Midas property will be repainted.

Ms. Fraser explained that the Midas property is not part of the application and the information being provided by the applicant is for information of the board.

Mr. Selvaggi stated that an approval is not needed on the Midas property because the use remains the same.

Mr. Picone –stated that the color of the Midas building would change to match Hyundai and the sign would be changed to Hyundai Service with no further changes. He stated that the applicant agreed to repair the fencing around the trash enclosure and re-mark the pavement. He answered the board that the heavy service will be outsourced to their Phillipsburg location. He stated that light service includes oil changes, tire changes and some vehicle prep. The applicant was not proposing any changes to the lighting on the Midas property except bulb replacement. He testified that the applicant would become the leasee as of June 1, 2008. They would not use the Midas for service until the dealership was opened.

Mr. Hall referred to his report of March 27, 2008.

Mr. Picone agreed to comply with the requests in this letter. There is no new air conditioning and heating proposed and the unit will remain on the roof.

Mr. Selvaggi stated that the applicant is trying to comply with the Board of Health requirements and if they cannot meet the requirements they will hook up to the HMUA. He referred to correspondence from Hatch Mott McDonald engineers for the HMUA dated March 27, 2008, which was marked A-1 and stated that Hyundai could hook up and the to the sewer either through Midas or Route 46.

Ms. Fraser stated that the Midas sign would have to be replaced with a sign that meets the current sign ordinance or come back to the board for relief.

Mr. Selvaggi answered Mr. Schwemmer that the Hyundai service area would be open to the public, the same as the current Midas building. He stated that the lighting on the Midas property would go off after the maintenance facility closed.

A discussion was held on the need for a site plan on the Midas property.

Mr. Selvaggi stated that the Midas building landlord would not allow the properties to be interconnected. He concurred with Ms. Fraser that the board could attached conditions to the dealership approval for safety improvements to the off site property that is proposed to be used in connection with the use variance property.

Mr. Banisch recommended the same lighting on both properties.

Mr. Selvaggi stated that the applicant agreed to limit the lighting to the hours of operation.

Mr. Spina was concerned with there being no interconnection between the two properties.

Mr. Picone stated that the average service is ten to fifteen vehicles per day. New cars will be dropped off on the dinner property. The new cars are prepped at the pier (plastic taken off and washed).

Mr. Spina was satisfied with this answer.

The meeting was opened to the public for questions on Mr. Picone's testimony. There were no questions and the meeting was closed for questions of Mr. Picone.

David Garval was sworn in by Attorney Fraser and presented his qualifications to the board.

Mr. Schwemmer accepted Mr. Garval as an expert witness in the field of engineering.

Mr. Garval stated that the with the new plan, without the addition is the existing building is 6,649 s.f. (the walk in refrigerator is being removed and was counted with the original building) and lot coverage is 40,662 s.f. or 73.9%. The previous approval was for 76.9% lot coverage. The variance relief previously requested is still required as well as the design waivers for the parking. The landscape buffer remains the same as previously agreed to. There will no longer be additional impervious coverage. The trash enclosure will remain in the same place but the fencing will be replaced.

Mr. Garval referred to a block and lot map from the HMUA, which was marked A-2 and which showed the areas the applicant could connect with the sewer. There is a sewer easement that would allow the connection through the Midas property. He stated that the HMUA would prefer connection to the HMUA system but they are not mandating it.

The meeting was opened to the public for questions on Mr. Picone and Mr. Garval's testimony. There were no questions and the meeting was closed for questions of Mr. Picone or Mr. Garval.

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

The board deliberated on the application.

Mr. Ort made a motion to approve the amendment to the use variance for the reduced size building, condition that if the properties have common ownership the parking lots be connected, health department approval of the septic system or the septic abandonment, off site improvements, submission of a copy of the sanitary sewer easement and all other conditions discussed this evening. Seconded by Mr. Graziano

A roll call vote was taken:

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

3. Kadish (Neighbor House) – Block 34, Lot 47 – 143 West Mill Road – R-5 Zone – 3.6 Acres – Request for Use Variance for two principal structures and rear yard setback, lot size, floor area and parking variances

Rafi Kadish, Applicant
David Fantina, Applicant's Engineer

The application was reviewed for completeness.

Mr. Fantina stated that a copy the easements on the property would be provided at the time of site plan.

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

Rafi Kadish, John Peel, Thomas Robinson and David Fantina were sworn in by Attorney Fraser.

Mr. Kadish distributed information on his bed and breakfast to the board. He stated that they have lived here for 13 years and have had a bed and breakfast with four guest rooms. In 1996 they approached the Township about expanding the bed and breakfast and in 1998 the historic inn ordinance was passed to allow the expansion and Historic Preservation approved the plan. In 2002 he bought the property from his partner, Jack Borginecht. There is a need for more bedrooms and they would now like to expand the bed and breakfast. They received revised Historic Preservation approval and DEP Highlands approval in January 2008. He explained how the DEP required revisions that made the addition smaller. In order to accommodate his family they must remove the garage and build an apartment for his family. They want to improve the quality of life for their family and guests and be more competitive in the area.

Mr. Fantina stated that the reason they are before the board is because they have more then one principal structure on the site. When the applicant went to the DEP for a Highlands exemption or approval, because they are in the preservation zone, the DEP would not allow the free standing structure or other amenities such as a pool, as previously proposed by the applicant and approved by the Historic Preservation Commission. There are also several C variances required. The notice included all the variances and waivers, but the main issue this evening is the Use Variance.

Mr. Banisch reviewed the DEP approval/exemption.

Mr. Fantina stated that there is only 70 s. f. of additional impervious coverage available under the DEP plan. He stated that it was his opinion that this project is a Historic Inn under Township Ordinances.

Mr. Fantina reviewed Mr. Hall's letter of March 12, 2008. He explained that the applicant has 3.8 acres and does not meet the conforming lot size of 5 acres but meets the minimum requirement of three acres. He stated that if there is a use variance approval given by this Board the applicant would get Health Department approval prior to site plan approval. The Historic Inn addition is in the rear yard, which is a requirement of the Historic Preservation Commission.

Mr. Kadish stated that the Inn does not exceed 6,000 s.f., the apartment will exceed it. The Inn is now 3,600 and the proposal is an additional area of 2,200 s.f. for a total of 5800 s.f. and the garage is 2000; the basement would be for storage, a playroom and recreation area.

Mr. Robinson stated that the useable portion of the basement is approximately an additional 1000 s.f.

Mr. Banisch stated that the managers' home would not be considered part of the Historic Inn.

Mr. Fantina stated they are not requesting a complete waiver for stormwater management as they will supply some. A variance will be required for parking

Mr. Kadish stated that they would need only ten spaces, one for each guest room and two for themselves.

Mr. Banisch stated that the parking required included space for employees if there was a restaurant, but none is included or proposed with this application. He also stated that restaurants in Historic Inns located in residential districts are not permitted by ordinance.

Mr. Fantina referred to the highlands compliance plan and pointed out the parking and that there are two parking spaces that are closer to the road then the house because of the curve in the road; they will also need a variance for this.

Mr. Banisch stated that because of the location of the lot and the house on the lot it was his opinion that this would be an acceptable variance.

Mr. Kadish stated that he has the proper registrations for the Inn. They collect sales tax and are registered with the State as a Bed and Breakfast. He submitted the registrations, which were marked A-1 (3 pages, hotel and motel tax application, fire department inspection, preferred inns inspection).

Mr. Robinson stated that he came into the project after the initial plan. Historic Preservation requested that the modern connection be removed and the addition not be connected. There is an arbor between the buildings but the buildings themselves do not touch. The building originally approved by Historic Preservation was twice as deep as what the Highlands approved and this required the reuse of the garage for the residence. After the applicant received DEP Highlands approval they resubmitted to the Historic Preservation who approved the current design and issued a Certificate of Appropriateness. This change has required the variance for two principal uses; the residence is the second principal use. The second bed and breakfast structure is an accessory building.

Mr. Banisch stated that technically the applicant's position is correct but he recommended that the board, if they approve the application, grant a use variance for three principal structures.

Mr. Robinson stated that the two rooms on the first floor are handicapped accessible and there is accessibility from the parking area to the building.

Mr. Kadish stated that only breakfast is provided to the guests.

Mr. Peel stated that this is primarily a use variance. He reviewed the size of the additions. The new structure is in the rear of the property but not as far rear as the existing garage, which will become the residence. The architectural changes will improve the entire property. He stated that there are no detriments to the public. He referred to the special reasons this application meets the intent and purpose of the MULU. It is an enhancement to the property and will be a commercial benefit to the community. He stated that there is no harm to the zone plan or community. There are no wetlands near any of the proposed activity. He stated that there is a stream across the street, that could possibly have buffers on this lot.

Mr. Robinson stated that the garage was first shown in the Greek revival style with stucco (which it is now) to bring everything together. He cannot use the small windows because they are not egress compliant. There will be a band across the top of the new windows to bring the line into the new structures.

Mr. Kadish distributed brochures on the Neighbor House, which were marked A-2 and A-3.

Mr. Fantina answered the board that there are no neighbors around this property as it is surrounded by preserved farmland.

Mr. Kadish stated that they plan to start construction as soon as they receive all Township approvals (site plan, health department, etc.). His family will continue to run the business.

The board discussed the application.

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 use variance for more than one principal structure on the property as discussed this evening. Seconded by Mr. Averett

Ayes: Averett, Graziano, Ort, Schwemmer, Spina, Turick, Baguiao,
Nays: None Abstentions: None Absent: Bauer, Walter
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. Ort made a motion to adjourn, seconded by Mr. Turick. A voice vote was taken; all were in favor and the meeting was adjourned at 10:00 p.m.

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Virginia R. Kesper, Clerk