

Chairman Schwemmer called the regular Meeting of the Board of Adjustment of July 7, 2010 to order at 7:05 p.m.

**MEMBERS PRESENT:** Morris Bauer, Elliott Averett, Craig Schwemmer, John Turick

**Alternate Members:** Frank Baguiao

**Members Absent:** Anthony Spina, Felix Graziano, Harvey Ort, Dorothy Walter

**Others Present:** Attorney Fraser, Clerk Kesper, 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 12, 2010 and posted on the Bulletin Board on the same date. Notices were mailed as there were requests.

Pledge of Allegiance

**MINUTES**

1. April 7, 2010 Regular Meeting

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

2. May 5, 2010 Regular Meeting

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

3. June 2, 2010 Regular Meeting

Tabled to next meeting

**RESOLUTIONS**

10-14Liebenzell - Block 30, Lot 34.02 – Pleasant Grove Road – R-5 Zone  
– 5.696 Acres – Approval of Request for relief from prior conditions  
of approval regarding limitations on use

The resolution was reviewed.

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

Turick.

A roll call vote was taken:

Ayes: Averett, Turick    Nay: None    Abstentions: None

Absent: Spina, Ort

Ineligible: Schwemmer, Bauer, Graziano, Walter, Baguiao

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. Gillette – Block 34, Lot 18 - 66 West Valley Brook Road – R-5 Zone – 1.6 Acres – Request for front yard set back and non-conforming lot and structure variance for second floor addition

Doreen Gillette, Applicant  
Richard Brown, Applicant

Doreen M. Gillette and Richard Brown were sworn in by Attorney Fraser.

Mr. Brown stated that they recently purchased the property with the small home which was built in the early 1900's. The home has only one bedroom and is only 1.5 stories. He stated that they would like to ex[and the 1.5 stories into a full two story structure with a master bedroom, bathroom and closet.

Mr. Brown stated that the house is basically a cottage with a single story living room. The 1.5 story part is an addition that was put on in 1956. He stated that the proposed addition will be the expansion of the half level and the single story will remain a single story. He proposes to take the roof line from 16 feet to 22 feet. He noted that the house next door has already been raised to a full second story. He stated that there is a daylight basement on the street side of the house.

The Board reviewed the elevations submitted with the application.

Ms. Gillette stated that the previous owners had rented the house and that the tenant used the half level as a babies room.

Mr. Brown stated that there is one bedroom and there will be a two bedrooms after the addition and they have Board of Health approval of the septic system for a two bedroom home. He answered Mr. Schwemmer that he is planning to use hardy plank siding and match the current siding or will redo the entire house.

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

Mr. Bauer made a motion to approve the request as presented, seconded by Mr. Averett.

A roll call vote was taken:

Ayes: Averett, Bauer, Schwemmer, Turick, Baguiao

Nays: None          Abstentions: None          Absent: Spina, Ort, Graziano, Walter

2. Belen – Block 3.14, Lot 2 – 3 Shadow Hill Way – R-1 Zone – Request for an improved lot coverage variance

Joseph Belen, Applicant

Hazel Belen, Applicant

Joseph Belen and Hazel Belen were sworn in by Attorney Fraser.

Mr. Belen stated that he is in the process of putting in an 18 x 36 pool. He would like to put in a patio around the pool, which will increase his improved lot coverage beyond the 15%.

Mr. Hall stated that the pool shape on the plan is accurate.

Mr. Hall reviewed his letter of July 1, 2010 and stated that the proposed lot coverage is 4640 exceeding the allowable square footage by 1,117 square feet.

Ms. Belen stated that they could reduce the amount of pavers from 900 s.f. to 600 s.f., if necessary.

Ms. Kesper stated that she had approved the building permit for the pool as it had been calculated that this would be within the 15% improved lot coverage and that the Belen's are before the board for the additional patio coverage.

Mr. Hall was sworn in by Attorney Fraser.

Mr. Hall stated that he looked at the property this evening with the Belen's. He explained to the Board that there is a conservation easement to the rear of the property on which some of the soil from the pool has been stock piled. He stated that aside from this encroachment an area of 20' to 40' along the width of the property in the conservation has been cleared with removal of trees and brush and replaced with grass and a children's swing set. He stated that the violation of the conservation easement is a Township Committee issue as the conservation easement is to the Township.

Mr. Hall explained the terms of a conservation easement and that this is also a wetlands transition area. It was his recommendation that the applicant be directed to the Township Committee for their review of the violation.

Ms. Fraser referred to Mr. Hall's letter and the recommended conditions for a variance approval.

Mr. Hall stated that the soil is a temporary new incursion into an already disturbed conservation area with the soil stock pile from the pool.

Ms. Belen stated that dirt was removed from the site but some did get into the easement. She explained that the pool is being located close to the house so it does not encroach on the easement. She explained that the pool was moved away from the conservation easement initially at the request of Ms. Kesper.

Mr. Hall answered the board that disturbance and structures can go up to but not into the conservation easement. He asked that a copy of the applicant's deed should be sent to him and the Township Attorney for a determination on whether the Belen's have violated the conservation easement.

Ms. Belen stated that the soil that has violated the conservation easement with the building of the pool will be removed once the pool is back filled.

Mr. Hall requested that the current soil disturbance be staked out with orange fence before anymore work is done so that the disturbance does not go any further.

Ms. Belen stated that when they moved into the house some of the conservation easement had been cleared by Hovanvian. They did know that they could not put permanent structures in the easement and the play set is not in cement. She stated that they had taken down some trees for safety reasons and stated that they did not realize that putting down grass and cutting the trees were in violation of the conservation easement. She stated that they would reduce patio area closest to the conservation easement so that it is no greater then 2' from the pool.

Mr. Hall answered the board that the 15% has been on the books for a long time and its main purpose is to limit the amount of covered area on a lot.

Mr. Hall stated that reducing the pavers to 600 square feet will reduce the impervious coverage to 18% from the 19.8%. He stated that even with a reduction in the pavers he would still recommend drywells to maintain the runoff and also that the roof gutters from the home be piped to the drywell.

Mr. Hall stated that a surveyor should certify that there is no incursion into the conservation easement with the pool or patio.

Ms. Kesper explained that the approved building permit had the pool located closer to the home and further from the conservation easement then the plan presented to the board.

Mr. Banisch's report of July 7, 2010 was reviewed.

Mr. Belen stated that they wanted to enclose the conservation easement in their yard. They proposed a four foot fence.

Mr. Hall stated that they could not put fencing in the conservation easement. He stated that Mr. Banisch's letter suggested a six foot fence/landscaping along the property line with lot 1 to afford privacy to the owners of lot 1. He stated that plantings in the conservation area would have to be approved by the Township Committee.

Attorney Fraser stated that a fence that meets code for a pool must be installed, but only the Township Committee could authorize the fence in a conservation easement.

Ms. Belen stated that they planed on landscaping for privacy as well.

Mr. Hall suggested a condition that a landscaping plan be provided to him and Mr. Banisch for review and approval.

Mr. Hall pointed out the required location of the drywell, which is on the opposite side then shown on the plan (southwest side). He asked that a new plan be drawn by an engineer with a drywell designed by an engineer as well. He asked that an inspection account be established (\$1000.00). He also recommend that the applicants engineer should contact him before any more work begins and that before any pavers or backfilling be done the current area of the soil disturbance be marked with a fence so it is not disturbed further. He explained how the dirt could be removed without further disturbing the conservation easement.

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

Mr. Bauer made a motion to allow the increase in the improved lot coverage subject to the discussion this evening but not to exceed 900 s.f., not to exceed a 2' patio area at the conservation easement line, a fence \landscape buffer along the property line of 1 Shadow Hill Way to be approved by Mr. Hall and Mr. Banisch as well as the recommendations of Mr. Hall and Mr. Banisch's correspondence, including the applicant seeking the Township Committee's recommendation on the remediation of the conservation area. Seconded by Mr. Averett.

A roll call vote was taken:

Ayes: Averett, Bauer, Schwemmer, Turick, Baguiao

Nays: None Abstentions: None

Absent: Spina, Ort, Graziano, Walter

3. Ort – Block 8, Lot 6 – 51 Drakestown Road – 3 Lot Minor Subdivision -Request for an Extension of time to complete the conditions of Resolution 2010-09 and file the deeds

Mr. Selvaggi's letter of June 16, 2010 was reviewed.

Mr. Hall stated that revised plans were submitted and he met with the engineer again today and the applicant is working of submitting deed descriptions.

Mr. Bauer made a motion to grant the requested 190 day extension, seconded by Mr. Schwemmer. A voice vote was taken; all were in favor and the motion carried.

***DISCUSSION - CORRESPONDENCE***

## 1. Vouchers

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

Mr. Averett made a motion to adjourn, seconded by Mr. Bauer. A voice vote was taken; all were in favor and the meeting was adjourned at 8:30 p.m.

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Virginia R. Kesper, Clerk