

# *Town of Dover Board of Adjustment*

- ↘ Michael Scarneo - **Chairman**
- ↘ **William Cook – Vice-Chairman**
- ↘ Cephas Bowles
- ↘ Robin Kline
- ↘ Joseph Corsetto
- ↘ Charles Franco

COUNTY OF MORRIS  
37 NORTH SUSSEX STREET  
P.O. BOX 798  
DOVER, NEW JERSEY 07802-0798  
Telephone: 973-366-2200 (Ext. 115)  
Fax: 973-366-0039

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- ↘ LuAnn Mizzoni
- ↘ Walt Michalski (Alternate I)
- ↘ Carlos Matias (Alternate II)
- ↘ Kurt Senesky - Board Attorney
- ↘ Michael Hantson - Town Engineer/Planner
- ↘ Regina Nee - Clerk/Secretary

## **REGULAR MEETING OF THE BOARD OF ADJUSTMENT**

**March 10, 2004**

### **CALL TO ORDER**

Chairman Scarneo called the meeting to order at 7:30 PM.

### **ROLL CALL**

**PRESENT:** Commissioner Corsetto, Franco, Bowles, Mizzoni, Kline, Alternate Michalski, Alternate II Matias, Vice Chairman Cook Chairman Scarneo

**ABSENT:**

**ALSO PRESENT:** Board Attorney Kurt Senesky and Town Engineer Michael Hantson

**PLEDGE OF ALLEGIANCE:** was recited by all

**ADEQUATE NOTICE OF MEETING** was read by Clerk/Secretary Nee.

**APPEAL TIME** was read by Clerk/Secretary Nee.

A special presentation was made to Mr. William Barrett, a former member of the Board of Adjustment, who served for many years as Commissioner and also as Chairman.

**APPROVAL OF MINUTES:** February 11, 2004 Meeting

A motion to approve the minutes for February 11, 2004 was made by Commissioner Kline, seconded by Commissioner Franco, and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Corsetto, Franco, Kline, Michalski, Matias, Vice-Chairman Cook and Chairman Scarneo

Noes: None

## **RESOLUTION**

**20-03-** P & G Realty, Inc.; Block 1312, Lot 3, also known as 77 North Morris Street located in the C-3 Zone. The application is a Use Variance and Minor Site Plan approval to use a portion of an existing warehouse and distribution use for retail, and any other variances and waivers that may be required.

A motion for Resolution of Denial was made by Commissioner Corsetto, seconded by Commissioner Matias and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Corsetto, Kline, Matias, and Chairman Scarneo

## **CASES**

**01-04-** Manuel & Luz Maria Gonzalez; Block 1211, Lot 3, also known as 45-47 East Blackwell Street located in the C-1 Zone. The application is a Use Variance and Minor Site Plan for the operation of rooming or boarding house with 12 single room occupancy units on the second floor, and any other variances and waivers that may be required.

Chairman Scarneo advised that he had a letter from Attorney Lovas asking to table Case 01-04. Mr. Hantson suggested that the Board would not want to extensively carry an application that has pending violations associated with it that are waiting for the outcome of this Board. This just prolongs the process for this Board to reach a decision; and waiting for it to advance to the Court on current summons, if you wind up denying it; on the advice of the Board Attorney, the Board needs to be reasonable in carrying the case. Now that the applicant has been advised of the items he needs to provide in order to be deemed complete, a specific date should be established. Based on the agenda already in place for the next meeting, the applicant was advised he would be heard in sixty days as opposed to thirty. Attorney Senesky advised that the applicant's attorney should be advised of the completeness issues and should be taken care of before the scheduled next date and that there will be no further adjournments of this matter. He should be prepared to go forward on May 12, 2004. If the applicant does not come in sixty days, the Town's position to the Court is that he has not acted in good faith in pursuing his application before the Board. It was also suggested that the applicant needs a Use Variance as well as Site Plan approval. He is asking for a waiver of it, which he has a right to ask for, but if the Board determines you do not want to waive the site plan, and you require a site plan, that does not preclude you from acting on the use variance portion of it, which is the key issue to this application. He cannot get site plan approval if he does not get a use variance. The fire suppression issue is with the Fire Official, it is separately being pursued. The rooming units are the violation. The applicant is in violation of fire safety in relation to how the church facility is functioning right now. The original summons was issued in 2002. The case was not heard tonight because he submitted an application that in accordance with our checklist is incomplete. They only filled out an application. Attorney Senesky advised that the Board must look at this application as if it has just been presented.

Rooming houses and Boarding houses are regulated by the state. There are state issues that are involved. He was pursuing an application with the state to get state approval. The State could provide approval; however, the applicant requires requisite local approvals first in order to do

that; namely zoning. The zone does not permit it, and the only way he can get zoning approval is through a variance from this Board. He also appeared before the Court in Newark as a direct result of the violations that we sited and brought to state end. Attorney Senesky advised that if the Board denies the application for an adjournment, then the applicant would be required to file it again. He would have to pay the filing fee again, he would have to reserve the property owners within two hundred feet and he would have to republish it in the newspaper. A denial of the adjournment request is not a denial on the merits of the application. By not granting the adjournment request, you are not disposing of the application on its merits. The first issue that the Board should deal with is whether it is a permitted use.

A motion to carry this application for a period of two months to May 12, 2004, conditioned upon: 1) authorizing the Board Attorney to advise Mr. Lovas in writing that it has been carried but he has to deal with the completeness issues and be ready to proceed on May 12; and condition 2) that he be required to Re-Notice and Re Publish with regard to the general public and anyone within the 200' property list. Mr. Hantson suggested including that, should he not be prepared to proceed at the May meeting, we would request his presence to appear before us anyway. The Board expressed concern that the applicant would look at this as an opportunity to have the case carried an additional month. If the applicant does not show up, Mr. Hantson would make a case to the judge and advise that the applicant is not diligently pursuing his application and let the judge deal with it. Attorney Senesky advised that the applicant should be treated as any other applicant. You do not want to pre-judge. If the applicant did not appear, he would have to reapply. There is a history to this property and that will be addressed at the public hearing of the application. If the applicant was not ready to proceed on the 12<sup>th</sup> and the Board determines that it wants to deny the application, in effect, for failure to prosecute the application, the matter would then be returned to the Municipal Court and a determination would have to be made by the Municipal Court Judge on the summons that have been issued to the owner of the property. The judge has a number of ways to deal with this. The other aspect of it is that if he does not show up, the judge finds him guilty; he can still file with this Board. Our immediate need is to get the applicant here.

A motion to carry this application for a period of two months to May 12, 2004, conditioned upon: 1) authorizing the Board Attorney to advise Mr. Lovas in writing that it has been carried but he has to deal with the completeness issues and be ready to proceed on May 12; and condition 2) that he be required to Re-Notice and Re Publish with regard to the general public and anyone within the 200' property list. 3) If the applicant is not prepared to go, he risks the determination of the Board to have the application dismissed was made by Vice-Chairman Cook, seconded by Commissioner Corsetto and followed with a Roll Call vote.

ROLL CALL: Ayes: Commissioner Corsetto, Franco, Bowles, Mizzoni, Kline,  
Michalski, Matias, Vice-Chairman Cook, and Chairman Scarneo  
Noes: None

This portion of the meeting was opened to the Public.

Margaret Greenan came forward and wanted to know if they will be re-noticed. She was advised in the affirmative.

Wilmer Correa came forward and asked what will happen next. He was advised that he would have an opportunity to be heard during the public portion of the meeting.

This portion of the meeting was closed to the public.

**17-03-** Stanley Votruba; Block 1217, Lot 5, also known as 8 West Blackwell Street located in the C-1 Zone. The application is a Preliminary and Final Major Site Plan and Use Variance to construct a two (2) story, 2,280 square foot addition to the rear, for a laundromat use and two (2) additional dwelling units, and any other variances and waivers that may be required.

The case will be carried to the April 14, 2004 meeting.

The Board requested the applicants who requested to be carried to be notified that should they ask to be carried that they come to the meeting and advise why the request is being made.

The Kernier Case will be started over.  
The Votruba Case will be available on a CD.

**OLD BUSINESS:** Thanks were extended to Attorney Senesky for the information he supplied to the members.

**NEW BUSINESS:** Identification Cards – The camera was accidentally cleared.

Information flyers, for members of the public so that they can understand the procedures of this Board and the process of the meeting, were put together by Commissioner Kline. Attorney Senesky advised that from a legal standpoint, there are some aspects that are incorrect. It was suggested that Council review it. This was supposed to be placed on the back of the Agenda. Attorney Senesky stated he would redo one or two paragraphs and would forward it to Mr. Hantson.

E-Mails that come to Mr. Hantson and Ginger are no different than correspondence, public information. They can be requested to be seen. Treat them at the same level as you would if you wrote a letter to the Board. We are required to maintain them as records. Every E-Mail that is sent to the Board members is copied to Ginger and goes into a file to be saved. They are being saved electronically and are being backed up.

Minutes and agendas will be available from the Town's site if the Boards so choose. Mr. Hantson advised that he can give a demonstration of what is on the Web page and what is available on it.

Citi-Net has been contracted with to set up the Web site. Each department can alter their area. Currently, one of the Aldermen is working on a change to the logo header. We should go live in a few weeks.

**COMMENTS:** Commissioner Kline expressed a positive experience from the NJ League of Municipalities seminar that she attended.

**DATES:** Next Regular Meeting is April 14, 2004 at 7:30PM.

**ADJOURNMENT** Vice-Chairman Cook made a motion to adjourn, seconded by Commissioner Bowles, with all in agreement. The meeting adjourned at 8:34PM

**IF ANY MEMBER CANNOT ATTEND THE MEETING, PLEASE CALL CLERK/SECRETARY NEE AT 366-2200 Ext. 115.**

Respectfully submitted,

A handwritten signature in black ink that reads "Regina Nee". The signature is written in a cursive style with a large initial 'R' and a long, sweeping underline.

Regina Nee  
Clerk/Secretary  
Board of Adjustment