

# *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

---

- ↘ 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**

**February 11, 2004**

### **CALL TO ORDER**

Chairman Scarneo called the meeting to order at 7:34 PM.

### **ROLL CALL**

**PRESENT:** Commissioner Corsetto, Franco, Kline, Alternate I Michalski  
Alternate II Matias, Vice Chairman Cook (Arrived at 7:34PM) Chairman  
Scarneo

**ABSENT:** Commissioner Bowles, Mizzoni

**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.

**APPROVAL OF MINUTES:** January 7, 2004 –Re-Organization Meeting

A motion to approve the minutes for January 7, 2004 was made by Commissioner Franco, seconded by Commissioner Corsetto, and followed with a Roll Call vote.

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

Noes: None

A motion to approve the minutes of the January 14, 2004 Regular Meeting was made by Commissioner Kline, seconded by Commissioner Franco and followed with a Roll Call vote.

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

Noes: None

## RESOLUTIONS

**19-03-** Shaukat Malik and Naheed Malik; Block 302, Lot 2, also known as 395 West Blackwell Street located in the R-2 Zone. The application is a Use Variance to permit a single family dwelling unit and a professional office us which will be utilized by a non-resident of the property, and any other variances and waivers that may be required.

A motion to approve the Resolution was made by Commissioner Franco, seconded by Commissioner Michalski and followed by a Roll Call vote.

Condition 5 of the Resolution covers the safety requirements, in a broad sense, with regard to the radiation issues as previously discussed.

**ROLL CALL:** Ayes: Commissioner Franco, Kline, Matias, Vice-Chairman Cook, and Chairman Scarneo  
Noes: None

## CASES

**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.

Attorney George Johnson appeared on behalf of the applicant and asked for a continuance to have a full board present.

A motion for continuance was made by Vice-Chairman Cook, seconded by Commissioner Franco and followed with a roll call vote.

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

The Case will be carried to the April 14, 2004 meeting. Commissioner Corsetto and Commissioner Michalski can listen to the meeting in order to vote. Nor further notice is required.

**18-03-** Helena Kernier; Block 1711, Lot 10, also known as 306 South Morris Street located in the R-1S Zone. The application is a Use Variance and Minor Site Plan to convert a preexisting non-conforming three (3) family residential use to a four (4) family residential use, and any other variances and waivers that may be required.

Mrs. Kernier has advised Attorney George Johnson that she has engaged the services of an engineer to address questions regarding the Site Plan. She is requesting the case be carried.

The case will be started over. New notices will be required to be published. The case will be carried to the April 14, 2004 meeting.

A motion to carry was made by Commissioner Franco, seconded by Vice-Chairman Cook and followed with a roll call vote.

**ROLL CALL:** Ayes: Corsetto, Franco, Kline, Michalski, Matias, Vice  
Chairman Cook, and Chairman Scarneo  
Noes: None

**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.

Attorney George Johnson was present for the applicant. Mr. Pedro Zuniga, part owner of the business, was sworn in. Fruti-Mix operates in the building. The building was purchased approximately two years ago. Fruti-Mix supplies fruits and vegetables to stores in Paterson and retail and wholesale. They make a distribution to certain stores in Morristown, Dover, and Paterson. They deal primarily with tropical, Central American, and Mexican and Caribbean fruits. They have been in this business for nine years. He has been looking for a retail space. Part of the present store is being used for warehousing and a small office space. About 400 square feet is available and he would like to use it for store space. He would sell the items that he carries normally. This zone does not permit retail uses, but there are some retail uses in the area. The building is located on a one way street.

Mr. Senesky advised that there are some completeness issues regarding this application. There are six items that are missing that are required for completeness per Mr. Hantson's report. He suggested that the Board consider each item. They are here for site plan because this is a change of use.

Item No.:1- requires a signature on the drawing. Mr. Johnson advised the drawing will be amended.

Item No.2- requires the property owners within 200 feet. The architect, as the plan preparer, shows the plans prepared for Fruti-Mix.

Item No. 3 – Existing and proposed contours and elevations is required when you do construction. Mr. Hantson suggested that this could be waived.

Item No.4 – Delineation of flood plains and wetlands. It is in the flood plain.

Item No.5-Location, design and capacity of solid waste and recyclable materials storage: There should be a place for that and it should be supplied and designed to meet the code. If the applicant provides testimony that all solid waste and recyclable material would be stored indoors, appropriate conditions should be applied.

Item No. 6 – Landscaping plan should be included. There is none proposed and it might not be appropriate. The Board has the option to waive these.

The law permits a site plan to be drawn by an architect, and engineer, or a planner, however, the law precludes survey information from being done by anyone except a surveyor. The law allows a reference note to be made on the plan that it was based on a survey which this indicates, however it requires a sealed copy of that survey to be submitted with the application. We do not have a property (sealed) survey. Mr. Johnson stated that they would provide that. Vice Chairman Cook inquired about disposal regarding waste associated with the retail end of the business. Mr. Hantson suggested that if there is any storage outside in roll-off containers or

whatever, there should be a plan to hold it, contain it, to shield it, to protect it. Truthfully, it should not be allowed outside, but should be in the building. Maintaining the sanitary condition of the facility falls under the jurisdiction of the Health Department. The site plan aspect of constructing an enclosure is regulated under the site plan ordinance. Commissioner Corsetto voiced concern regarding traffic on this one way street and the parking situation. This zone requires by Ordinance that they have parking; they have a sufficient number of spaces. Commissioner Kline asked if the parking requirements are based on both the retail and warehousing aspect and was advised in the affirmative. They need four spaces and they have five spaces. Mr. Zuniga testified that he would be moving the office space. Vice-Chairman Cook questioned how the product will be displayed to be bought acknowledging that the area for retail would be very small. It would be about the size of an outdoor fruit and vegetable stand but would be inside. Commissioner Kline asked if the applicant has done any projections of sales. There are five employees. They get three deliveries per week, usually by 6:00am, sometimes up until 9:00am, depending on traffic. The door leading into the retail space is next to the overhead door which is used for deliveries. Deliveries are made from the street into the building through the overhead doors. Trucks back up to the door during days of inclement weather. The delivery truck that the applicant uses can be backed up into the building through the overhead because it is small. The wholesale business is located in Paterson. There are times of traffic congestion on the street. The applicant has a twenty-four foot truck which, if parked up against the building, there is still sufficient space on the sidewalk for pedestrian traffic. The delivery is usually a ten to fifteen minute time span. Chairman Scarneo voiced concern regarding cars backing out of the parking area if a retail space were allowed. Vice-Chairman Cook believes the applicant is trying to make the best use of what he has. Mr. Hantson stated that this would be a second – principle use. Mr. Senesky advised that the Board could condition it as being one tenancy. Vice-Chairman Cook asked if the applicant would accept restrictive hours of operation. The applicant stated that he was planning on being open at 7:00AM-4:00PM weekdays and 6:00am-6:00pm on the weekend. People come from all over the area to purchase these specialty items. The applicant realistically requires 2000 square feet with parking but has found it very difficult to locate this type of building in the appropriate location. Commissioner Kline stated that this is a second use to the property, and sees it as an additional load to the current traffic patterns and congestion that already exists. Chairman Scarneo stated that traffic coming down the street does not have clear vision to the car that would be backing out of the parking space. Mr. Hantson stated that the person backing out of the space does not have site distance. From a retail perspective, these parking spaces are not functional. There is a parking problem with the other businesses on the block, but that is an enforcement issue. Mr. Hantson advised that any condition that would be placed on this application would have to be very specific. The applicant advised that ten percent of the shelf space would be used for non-perishable items. Secretary Nee read into the record the report from Marty Reynolds, Fire Official. He requested the installation of a Knox Box. Commissioner Kline was advised that the building would have to meet the code for retail space. The report from the Chief of Police was also read indicating there were no objections with the plans as proposed. Mr. Hantson suggested that the spaces on the left should be left for customers only. The two spaces on the right should be marked employee parking only if the spaces were to be allocated. The applicant stated that he has no plans to change his current sign, no variance for a sign was requested.

This portion of the meeting was opened to the Public. Seeing no hands, hearing no voices, this portion of the meeting was closed to the Public.

Mr. Hantson gave a review of what was before the Board. There are two issues; an issue of a use variance and a minor site plan approval. A survey should be provided and confirmed that the site plan information matches the survey.

Vice Chairman Cook made a motion to grant the Variance for the retail space in accordance with the conditions discussed subject to site-plan approval.

Commissioner Corsetto suggested that possible language that specifies specialty produce specifically might address the situation. To extend the seasonal use at the flea market to year round at this site, consistency dictates that you take what you delivered at the seasonal part of the business and apply it to the retail end since this is the guise under which this application was submitted under. Mr. Hantson advised that you can authorize the attorney to prepare a resolution with language in it and then you can vote after reviewing the language of the resolution; you do not approve it tonight. The parking issue, the safety issues, the access – egress off of the property and onto the property issues are all to be considered in granting the use variance.

Attorney Senesky stated the motion would be for the Board to authorize him to prepare a favorable Resolution which would be subject to conditions relative to hours of operation, site plan approval, and subject to the food and produce that can be sold out of the retail store area.

Commissioner Michalski seconded the motion followed with a roll call vote.

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

A motion to deny the application was made by Commissioner Corsetto, seconded by Commissioner Matias and followed with a roll call vote.

Commissioner Corsetto felt the safety issue was important. He stated that he liked all the positive aspects that the applicant brings to the community, which has tremendous merit, the more important thing to the community would be the issue of safe access by pedestrians, safe traffic access to the property, traffic egress, and the over-all congestion of the neighborhood which is already a pretty difficult situation. Chairman Scarneo was concerned with cars backing out of the lot onto a one way street with heavy traffic. Expert traffic testimony was not given on the safety issue.

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

**OLD BUSINESS:** Mr. Barrett will be presented with his plaque at the March meeting. Members of the Board were asked to meet at 7:00PM. and a cake will be provided by Secretary Nee.

**NEW BUSINESS:** None

**COMMENTS:** Copies of the Waiver have been distributed. The waiver is now included on the applications.

**DATES:** Next Regular Meeting is on March 10, 2004 at 7:30PM.

Procedures of Protocol have been provided by Attorney Senesky. Commissioner Kline requested this to be discussed at the next meeting. She suggested that it be simplified for the sake of the Public.

**ADJOURNMENT** Vice-Chairman Cook made a motion to adjourn, seconded by Commissioner Corsetto, with all in agreement. The meeting adjourned at 9:37PM

**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, looping initial "R".

Regina Nee  
Clerk/Secretary  
Board of Adjustment