The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, June 19, 2013. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:00 P.M. Chairperson Murphy presided.

Secretary Probasco read NOTICE OF PUBLIC MEETING.

ROLL CALL: Present: John Murphy, Sally Dankos, Arthur Korn, Susan Richter, James Rodimer, Frank Passucci, Tom Dolan
Absent: Roger Spiess
Prof. Present: Larry Weiner, Esq., Jason Kasler, AICP, PP, John Ruschke, PE

PURCHASING:
Motion to pay vouchers submitted by Hatch Mott Macdonald, subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Larry I. Weiner, subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Kasler Associates, subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by The Buzak Law Group, subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Richter and unanimously approved by all Members present and able to vote.

RESOLUTIONS

BA 13-03: Kenneth R. Spencer
17 Cedar Lake West
Block 60902, Lot 29
A motion was made to adopt the amended resolution by Mbr. Dankos, seconded by Mbr. Korn and unanimously approved by all members able to vote.
Roll Call: Ayes – Dankos, Korn, Passucci, Dolan, Richter, Murphy

PUBLIC HEARINGS

BA 13-06: Richard & Jennifer Ranft
39 Fox Hill Road
Block 31402, Lot 7
The applicant, Jennifer Ranft (39 Fox Hill Road) was present and sworn under oath. Ms. Ranft testified to proposed kitchen addition requiring a variance due to having two front yards.

Chr. Murphy opened to the professionals.

John Ruschke, PE stated that the addition was minor and had no engineering concerns regarding Stormwater.
Jason Kasler, PP stated the proposed addition was minor in nature and that he had no planning concerns.

Chr. Murphy opened to the board members.
June 19, 2013

Mbr. Dolan had no questions.
Mbr. Rodimer had no questions at this time.
Mbr. Dankos had none.
Mbr. Korn commented on there being no sight line problems and that it was a good application.
Mbr. Richter had no questions.
Mbr. Passucci agreed with Mbr. Korn.
Chr. Murphy commented on the proposed addition being good and had no questions.

Chr. Murphy opened to the public and seeing none, closed the public portion.

A motion to approve this application was made by Mbr. Korn, seconded by Mbr. Passucci, and unanimously approved by a majority of members eligible to vote.

Roll Call: Ayes – Korn, Passucci, Rodimer, Dankos, Dolan, Richter, Murphy

BA/PSP/FSPV 12-22: Morris Habitat for Humanity
7 Lake Lenore Road
Block 31109, Lot 13.01

Sean Monaghan, Esq. of Schenck, Price, Smith & King, LLP (220 Park Avenue, Florham Park) represented the applicant, Morris Habitat for Humanity. Mr. Monaghan provided a brief summary of the application. Stating that there is a use variance for six units with a density of 3.33 units per acre n the single family R-1 zone. The proposed would require site plan approval along with variance relief for steep slopes disturbance. The lot is approximately 78,000 sq. ft. where 40,000 sq. ft. is a minimum requirement in the zone. It is irregularly shaped with a long driveway out to Burton Lane with 20’ of frontage on Burton Lane. The property is sloped from Burton Lane towards Lake Lenore and the Contrail Railroad runs 425’ of one boundary line. Approximately 47% is steep slopes. There is a riparian zone buffer.

Sean Monaghan, Esq. stated that there would be four witnesses; Blair Schleicher Bravo, Executive Director of Morris Habitat for Humanity, Bruce Katona as Professional Planner, Marjory Roller as Architect and Fred Stewart as a Licensed Engineer and Surveyor.

Blair Schleicher-Bravo, Executive Director of Morris Habitat for Humanity (274 South Salem Street, Randolph) was present, sworn under oath and accepted as an expert witness. Ms. Schleicher-Bravo explained that Morris Habitat for Humanity is an organization dedicated to building low incoming housing for home ownership. Having built sixty-five units of affordable housing since 1985, with two single family homes in Indian Lake and a six-plex unit off of Peer Place in Denville. Ms. Schleicher-Bravo testified that the affordable housing trust fund money was used to purchase the property from the landowner for $199,000. Stating that the Township of Denville has promised an additional $45,000 from the affordable housing trust fund to assist in the construction of the project. Explaining that these funds are derived from commercial and residential assessed constructions fees and not from tax dollars. Ms. Schleicher-Bravo stated that the Township of Denville would receive six credits under Council for Affordable Housing (COAH) for the proposed project. Further testifying that there is no proposed subdivision for the proposed condominium.

Ms. Schleicher-Bravo provided an overview of the organization. Stating that Morris Habitat is the builder, banker and family partner. Strict criteria is used to select the homeowners including verifying that they are income eligible, credit worthy and willing to provide the sweat equity. Sweat equity of 300 work hours is required before the home can be purchased. Testifying that board approval for anything less than the six homes would be too cost prohibitive for Morris Habitat to proceed with the project.

Chr. Murphy opened to the professionals for questions of the witness.

John Ruschke, PE had none.
Jason Kasler, PP stated he had no questions at this time.

Chr. Murphy opened to the board members for questions.

Mbr. Korn sought clarification on who currently owned the property. Ms. Schleicher-Bravo stated that Morris Habitat was the owner. Mbr. Korn inquired what would happen if the board denied the application. Ms. Schleicher-Bravo stated that since the Township’s trust fund was used to purchase the property and Morris Habitat cannot build, they would need to approach the governing body to determine the next steps. Mbr. Korn inquired about selecting the homeowner from the community. Ms. Schleicher Bravo stated that they market in a four county area but the families typically come from within the area they are built. Mbr. Korn inquired if there would be discussion regarding the deed restriction on the property. Sean Monaghan, Esq. stated it would be addressed if there are questions about it. Mbr. Korn deferred to the board attorney.

Larry I. Weiner stated that the comment from the tax assessor indicates there will be a separate tax lot for the condominium and whether this constitutes a subdivision is a different question. Mr. Monaghan stated that the Condominium Act addresses this as the ‘recording of a deed does not require any action under the Municipal Land Use Law’. Further stating that a condominium is a form of ownership and is not a form of land use of property configuration. The Lots will each be assigned with a tax identifier and qualifier by the Tax Assessor.
Mbr. Korn asked the applicant’s attorney for an explanation of the deed restriction. Sean Monaghan, Esq. stated that the law disfavors ‘restraints on alienation’. Mr. Monaghan stated that there may not be a lot line adjustment that results in additional dwelling units. Since there is no lot line adjustment proposed, this does not apply.

Mbr. Richter inquired about taxes, maintenance and inheritance. Ms. Schleicher-Bravo explained that the taxes are based upon the sale price of the home. A deed restriction will prevent the value of the homes from increasing like other homes. The homes will have to be resold to another income eligible household and the resale value will be limited. Stating that the value of the homes increases annually and is determined by COAH. The homeowners are responsible to maintain their own home. The homes can be inherited by a family member.

Mbr. Passucci inquired about the sweat equity. Ms. Schleicher-Bravo stated that sweat equity of 300 hours is required in lieu of a down payment. This equates to 100 hours on their home and 200 hour on someone else’s home. It includes mandatory attendance at a homeowner’s class and a savings club.

Mbr. Dolan inquired about COAH funds possibly going elsewhere. Ms. Schleicher-Bravo responded funds brought in up to 2008 that was not spent. Stating that there is still staff working at DCA (Department of Community Affairs). Mbr. Dolan inquired about restrictions on family size. Ms. Schleicher-Bravo stated there were restrictions on income as well as household size. Stating that it is often a middle-aged adult with an elderly parent or a single parent with one child or two children of the same gender. Morris Habitat enforces these restrictions and puts the information in an annual report.

Mbr. Rodimer deferred his questions to the engineer's testimony.

Mbr. Dankos voiced concerns about condos versus single family homes, inquired about the location and the happiness of the future families being off the beaten path. Also about the inheritance of the deed restriction along with the home. Having to meet the criteria? Eligible person. Demand on resale. Ms. Schleicher-Bravo spoke to maximizing the costs making single family homes cost prohibitive. Further stating that someone could inherit the home and win the lottery the next day. Someone with more money would not be interested in living in a home of this small a size. The restrictions on price, resale and number of residents can be enforced but not on income.

Chr. Murphy inquired about where Denville is as it relates to COAH. Ms. Schleicher-Bravo didn’t know. Chr. Murphy inquired about the cost prohibition of the property. Ms. Schleicher-Bravo stated that there is a restricted area to be built. The size has been six units. $180K maximum price. Driveway construction may be that alone. Ms. Schleicher-Bravo responded to raising the money on the front end (no bank loan), with 600-700K raised from government funds. Sale of the homes will be approximate $350 per month for approximately 30 years. Inquired about downstairs accessible bedroom. Restricted maximum of four individuals.

Jason Kasler inquired if the downstairs is converted to a bedroom if the unit would be sold as a three bedroom unit. Ms. Schleicher-Bravo did not know the answer.

Chr. Murphy opened to the members of the public for questions and referenced the board protocol. The Board Attorney advised members of the public as to the correct protocol and guidelines. Stating that the opinion of the board can be overturned in court if the judge determines any of the guidelines are not followed. Emphasizing to the public that all questions should be on the direct testimony that the witness has provided.

Richard Vollmar, PE, (16 Lake Lenore Road) was present and not a noticed party. Mr. Vollmar inquired about the zone of the Peer Place and if additional space was available at the Peer Place location. Ms. Schleicher-Bravo was not aware of the zone but indicated that there was no room for an additional building. Mr. Vollmar inquired about the prior projects. Ms. Schleicher-Bravo stated that 28 were single family homes and the rest were multi-family units. Condo Association fees do exist and will have liability insurance. Morris Habitat has a seat on the board for the Condo Association. Mr. Vollmar inquired if the proposed would be indistinguishable in the neighborhood. Ms. Schleicher-Bravo replied yes.

Paul Longo (41 Memory Lane) was present and inquired about COAH and control of stacking. Ms. Schleicher-Bravo confirmed that Morris Habitat is a non-profit entity and stated that they cannot control what takes place in a private residence. Police or zoning officer can be called for any improper behavior. Ms. Schleicher-Bravo stated Morris Habitat has never had a stacking issue in the 28 year history of Morris Habitat. Mr. Longo inquired about the sale of the home. Ms. Schleicher-Bravo stated that the Township of Denville maintains the records and maintains a list of interested parties. Mr. Longo inquired if other properties explored. Ms. Schleicher-Bravo confirmed that other properties were explored but cost is a factor.

Zbigniew Nowacki (37 Memory Lane) was present and inquired about the credits. Larry Weiner, Esq. asked Jason Kasler to provide a summary of COAH. The Township Planner went on to say that there were six credits for this property and if the approval for the proposed does not go
June 19, 2013

forward, the township will be short six credits. Requirements were discussed. Constitutional
need for affordable housing in New Jersey. A set aside percentage of future development as you
grow. Mr. Nowacki inquired about the $45,000 from the Township and asked for an explanation
the structure of the 501C3 tax code of non-profit status. Ms. Schleicher-Bravo spoke to
fundraising and construction fees. Stating that the $45,000 is not tax payer dollars and is only to
offset the cost of the construction. Mr. Nowacki asked for the line of the Deed Restriction be
reread. Sean Monaghan, Esq. asked that the entire Deed Restriction be read. Mbr. Korn
complied and Mr. Nowacki had no further questions.

Robert Belz (7 Memory Lane) asked for Ms. Schleicher-Bravo’s understanding of stacking. Ms.
Schleicher-Bravo stated that it’s when multiple people living in a house that do not have a relation
to the homeowner. She responded to not having experienced a case of stacking in 28 years.
Stating that a zoning officer would be able to verify and provide a legal definition of stacking.
Morris Habitat has a financial interest in the property, ensures proper payments and maintains a
relationship for compliance.

Don Bradley (47 Memory Lane) inquired about the hours spent for sweat equity. Ms. Schleicher-
Bravo confirmed that the homeowners are putting on roofs.

Nick Nicoletta (55 Memory Lane) inquired who approached the seller. Ms. Schleicher-Bravo
responded that a Realtor approached Morris Habitat. Inquired about the work required such as
grading, the costs of preparing this location versus another location and using the funds to build
the structure instead of preparing the site (i.e. clearing the trees, grading, etc.) Ms. Schleicher-
Bravo responded $1.3M with $245 from Township with balance through fundraising. Mr. Nicoletta
asked for more detailed information. Ms. Schleicher-Bravo stated this information was not handy,
pro forma.  

Agreed to send this budget.

Paula Amato (43 Memory Lane) was present and inquired about square footage. The units will
be 1,000 sq. ft. with a maximum occupancy of four people. Ms. Schleicher-Bravo responded it
would be in writing. Affirmative Marketing Program must be adhered too and it has specific
criteria. Augustine Amato (43 Memory Lane) spoke to sublet. Ms. Schleicher-Bravo stated that
the deed restriction will prohibit subletting for all generations.

Mbr. Dolan inquired about COAH. Larry Weiner, Esq. stated that the township planner can
prepare something for the next meeting to explain COAH and the townships obligations.

Renee Vollmar (16 Lake Lenore Road) was present and inquired about Morris Habitat’s research
and determination that the property would work. Ms. Schleicher-Bravo stated that a feasibility
study was performed. Ms. Vollmar inquired about the conversation with the Township of Denville
and why Morris Habitat didn’t consider this a risky move. Ms. Schleicher-Bravo stated she
doesn’t have all the details from conversations during the last three years. Morris Habitat has
partnered with the Township on other successful projects and the funds were available in the
Townships affordable housing trust fund. Ms. Vollmar inquired if the Township made a promise
that this application would go through. Ms. Schleicher-Bravo stated there were no promises
made.

Ken White (4 Weetucket Road) was present and inquired why a single family home was not feasible. Ms. Schleicher-Bravo stated it would be cost prohibitive.

Colonel Frank Tenico (4 Lake Lenore) was present and inquired about an additional bedroom.
Chr. Murphy indicated that the dining room could be converted to a bedroom. Stating that the
question would be more appropriate for the architect. Ms. Schleicher-Bravo indicated this could
be done for handicapped access.

Rick Vollmar spoke again inquiring costs and about a contract with Denville. Ms. Schleicher-
Bravo answered that the cost was $199,000 for the lot which were funds out of the trust fund.
Additional amount of $45,000 to offset the cost of construction for a total of $244,000.

Paula Amato spoke again and inquired about Ms. Schleicher-Bravo’s attendance at the meeting
and if she would be billing for, or be paid by the township. Ms. Schleicher-Bravo stated that she
was a salaried employee of Morris Habitat for Humanity.

Zbigniew Nowacki spoke again and inquired about parking. He was deferred by the board
attorney to defer his questioning for the planning testimony.

William Percell (34 Memory Lane) was present and just purchased the home on Memory Lane.
Mr. Percell inquired if a study has ever been done on the effect of the effect of a multi-housing
unit in a residential zone. Ms. Schleicher-Bravo stated that multiple studies have been done and
that there is no effect of affordable housing on the property owners.

Don Bradley spoke again and inquired about overseeing the homes and management of the
property. Ms. Schleicher-Bravo responded that since they are the bank they have a financial
interest to ensure that the homeowner is maintaining the property. The management company
will assess the costs and they will be divided by the homeowners.
Chr. Murphy asked for other members of the public and seeing none, closed the public portion.

After a ten minute break, the meeting resumed at 9:40 p.m.

Marjorie Roller, AIA, PP (9 Brook View Road, Boonton Twp.) was present, sworn under oath and accepted as a professional witness. Ms. Roller spoke to minimizing the impact to the steep slopes on the site. Each unit is accessible by both a man door and a garage door. The units are handicapped accessible to meet the COAH requirements of adaptability. The first floor has all wide hallways, the dining room can be converted to a bedroom. There is a covered porch but it is not raised.

Chr. Murphy opened to the board professionals.

John Ruschke, PE had no comments.

Jason Kasler, PP had a few and inquired how a handicapped individual accesses the basement laundry facilities. Ms. Roller stated that a handicapped individual would not be living alone. Circuit breakers are in each unit and all have fire separated walls. Mr. Kasler inquired about the bedroom one has a door over the stairs. Ms. Roller indicated that it’s to access the closet space.

Chr. Murphy opened to the board members.

Mbr. Dolan had none.

Mbr. Rodimer inquired about the design as it relates to the
Mbr. Dankos had none at this time.

Mbr. Korn inquired about the design and if the architect was familiar with dwellings on steep slopes. Ms. Roller responded no as she typically designs additions and telecom projects.

Mbr. Richter inquired about an accessible attic. Ms. Roller responded there would most likely be a pull down stair.

Mbr. Passucci referenced the two doors, parking in front and what was in the back. Ms. Roller stated she added a door.

Chr. Murphy stated that there is a person door next to the garage door. Inquiring about the depth of the building. Ms. Roller stated it was 32’. Inquiring about the decreased stagger from 12’ to 8’ making a reduction of the stagger on the rear of the building. Ms. Roller confirmed.

Larry Weiner, Esq. inquired if the applicant was sensitive to the neighbors. Ms. Roller stated that the cascading roof was to assist in those viewing it. Overall tried to minimize the size of the building. The windows, shutters, roof lines and covered porches are more in character with a single family home.

Chr. Murphy inquired about other areas on the lot for the building. Ms. Roller confirmed that the engineer provided the location to soften the disturbance.

Ken White again inquiring about the structure fitting in with the surrounding community. Ms. Roller stated that the proposed project will be set nicely and not be seen. Stating in her professional opinion that the proposed building would be similar in style with the neighborhood.

Don Bradley spoke again and inquired if there would be more houses in the future. Ms. Roller responded she doesn’t know and it was not her area of expertise. Mr. Bradley inquired about the types of people who would be eligible and if Veterans would be considered. Ms. Roller stated she was not qualified to answer the question. The applicant’s attorney stated that the Affirmative Action program does not discriminate.

Nick Nicolletta spoke again and inquired about the height of the building. Ms. Roller responded 32’ in the back and 25-27’ in the front to the average roof. Six units that are designed to look like three.

Michele Shaffer (18 Memory Lane) was present and was not a notified party. Inquired about 47’ and the applicant’s attorney stated it was 47% steep slopes not 47’.

William Percell spoke again and inquired about the treatments on the building. Ms. Roller stated a vinyl siding, with 40 year asphalt fiberglass shingles, overhangs and returns on the gutters for detail.

Colonel Frank Tenico spoke again and his traffic question was deferred.

Paula Amato spoke again and inquired about two floors making 2,000 square per unit and the third floor. Ms. Roller stated that the garage and small utility area isn’t really a basement. Mr. Ruschke spoke to garage area not constituting another story for building code purposes. Site access will be deferred to the engineering testimony.

Zbigniew Nowacki spoke again and inquired about materials used by Morris Habitat. Ms. Roller stated that the materials used will be neighborhood friendly. Mr. Nowacki questioned Ms. Roller’s qualifications.
Paul Longo spoke again and inquired about septic and gas utilities. His questions were deferred to the engineering testimony.

Dale Frediani (7 Gunston Court, Parsippany) was present and is an adjacent property owner. Mr. Frediani inquired about the footprint. Ms. Roller responded that the whole footprint would be 3,840 sq. ft. Mr. Frediani stated his home is 1,700 sq. ft. and inquired about the driveway. The driveway question was deferred to the engineer.

Chr. Murphy asked if there were other members of the public and seeing none, closed the public portion of the meeting.

John Ruschke, PE inquired about the number of windows in the basement. Ms. Roller confirmed that one window for egress was acceptable. Mr. Ruschke referenced the double window in the kitchen that should be reflected in the dining room.

Chr. Murphy stated that this would conclude the meeting for tonight. A carry date of August 7, 2013 was announced to the public. There will be no further notice.

**New Business**

Chr. Murphy reminded everyone of the Special Meeting on June 26, 2013. The governing body is currently interviewing for the zoning board member opening. The annual report comments have not been addressed by the governing body.

**Motion to Adjourn.**