

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

JANUARY 15, 2020

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ beginning at 7:39 pm was called to order by Mr. Rabolli, with the reading of the opening statement followed by the flag salute and a reminder that Board of Adjustment meetings are being videotaped and broadcast live.

These minutes are a synopsis of the meeting. A verbatim audio tape recording is on file with the Board Secretary at the Board of Adjustment Office, 475 Corporate Drive, Mahwah, NJ. Copies of the tapes may be purchased for a fee.

PRESENT:	Mr. Calijone	Mr. Montroy
	Mr. Cannava	Mr. Rabolli
	Mr. Jackson	Mr. Straffin
	Mr. Kearney	Mr. Whiteman

ABSENT: Mr. DeSilva

ATTORNEY: Mr. Ben R. Cascio, Esq.

PROFESSIONALS: Mr. Michael J. Kelly, P.E., Township Engineer

I. APPROVAL OF BILLS:

12/4/19 & 12/18/19	\$500.00	Ben Cascio, Esq. – Attendance Two meetings
--------------------	----------	---

A motion to approve the bills was made by Mr. Whiteman, seconded by Mr. Kearney. A roll call vote revealed 8 aye votes by Mr. Calijone, Mr. Cannava, Mr. Jackson, Mr. Kearney, Mr. Montroy, Mr. Rabolli, Mr. Straffin, and Mr. Whiteman.

II. APPROVAL OF MINUTES:

A. MINUTES OF DECEMBER 4, 2019

A motion to approve was made by Mr. Whiteman, seconded by Mr. Jackson. All eligible members voted in favor.

B. MINUTES OF DECEMBER 18, 2019

A motion to approve was made by Mr. Whiteman, seconded by Mr. Jackson. All eligible members voted in favor.

III. RESOLUTIONS AUTHORIZING CONTRACTS FOR PROFESSIONALS:

1. Resolution Authorizing the Award of an Alternate Non-Fair and Open Contract to **Ben R. Cascio, Esq. for Professional Legal Services** for the Year January 1, 2020 – December 31, 2020.
2. Resolution Authorizing the Award of an Alternate Non-Fair and Open Contract to **Boswell Engineering for Professional Engineering Services** for the Year January 1, 2020 – December 31, 2020.
3. Resolution Authorizing the Award of an Alternate Non-Fair and Open Contract to **Maser Consulting P.A. for Professional Planning Services** for the Year January 1, 2020 – December 31, 2020.

A motion to approve was made by Mr. Montroy, seconded by Mr. Kearney. A roll call vote revealed 8 aye votes by M. Calijone, Mr. Cannava, Mr. Jackson, Mr. Kearney, Mr. Montroy, Mr. Rabolli, Mr. Straffin, and Mr. Whiteman.

IV. RESOLUTIONS FOR MEMORIALIZATION:

None to present.

V. OPEN TO THE PUBLIC:

Mr. Rabolli opened the meeting to the Public for general questions or statements. None were received.

VI. PUBLIC HEARING(S):

**1. DOCKET #1470-19 – JON FADDIS & LAURELYN DOUGLAS
195 STAG HILL ROAD, BLOCK 13, LOTS 4 & 5**

Application for “C” Variances/waivers to construct a single-family home and related improvements; construction on a lot that does not have frontage upon an improved or approved street; construction on a roadway that is not improved or approved;

construction on an existing undersized lot; Minimum Lot Depth; Minimum Rear-Yard Setback; Maximum Land Disturbance; Submission of Environmental Impact Statement; and Soil Movement Permit Application for movement over 1,000 cubic yards with a waiver to create slopes up to approximately 1V:3H.

Mr. Cascio stated that the Notice was in order.

The Applicant's attorney, Mr. Bruce Whitaker, Esq. of McDonnell & Whitaker, 245 East Main Street, Ramsey, NJ gave an overview of the Application, stating that the Applicant is proposing the merger of the two lots in the C200 Conservation District with a lot area of 79,113 square feet where 200,000 square feet is required and a lot depth of 119.97 feet where 400 feet is required.

The current Applicant is a Contract Purchaser. A previous Application for the same property appeared before the Board of Adjustment in 2016, but did not proceed with the proposed construction of a home. Modifications have been made to the proposed plans. All bulk requirements will be met, except as it pertains to the rear-yard setback; 46.9 feet proposed, where 75 feet is required. A Soil Movement Application is being submitted that includes a pool to the rear of the home, the driveway and septic, along with other related improvements.

Mr. Robert Weissman, Weissman Engineering Company, 686 Godwin Avenue, Midland Park, NJ approached and was sworn in by Mr. Rabolli as an Expert in Engineering, having been before this Board on many occasions. Being questioned by Mr. Whitaker, Mr. Weissman stated that the property remains the same as at the time of the 2016 Application, with no modifications. Referencing the Plot Plan presented on a poster board and marked as **Exhibit A1**, Mr. Weissman commented that the original Plot Plan was dated August 20, 2019 with a revision date of December 20, 2019.

Mr. Weissman continued, providing detail of the lot depth, topography and access from Stag Hill Road. He stated that the property is the same as it was in 2016, has direct access from Stag Hill Road, and can accommodate emergency vehicle access and ingress/egress from the property. The lot coverage on the Application is 3.1%; 2,467 square feet vs 3,806 square feet in 2016. The impervious coverage is 10.9%; 8,608 square feet vs 8,605.4 square feet in 2016. The lot area is 25% of the requirement in the C200 Zone. The disturbance is greater than the 20% permitted; 41%, 32,470 square feet due to the proposed access to the driveway for better sight distance and turnaround. Also incorporated are the well and seepage pit. Behind the property is a very large vacant property. There will be no discernable lot line from surrounding properties. Reference was made to both older and newer homes built on Stag Hill Road that have been granted variances to build on the unimproved street.

Discussions took place regarding soil movement quantity, lot deficiency, variance requests, compliance with Mr. Kelly's January 2, 2020 Boswell Report comments, Environmental consideration, and runoff.

Mr. Kearney requested that issues or restrictions be made clear in the Resolution and that anything on the lot prior is irrelevant – there is to be no re-use of the property.

A motion was made by Mr. Montroy, seconded by Mr. Whiteman to close the Public Hearing of the meeting for this docket and move into Work Session. All voted in favor.

NOTE: Work Session was held immediately after the Public Hearing for this docket.

**2. DOCKET #1468-19 – ARMINE ARUSTAMYAN
15, 17 & 19 MOUNTAIN AVENUE, BLOCK 47, LOTS 28.01, 28.02 & 28.03**

Carried from December 4, 2019. Application for “C” Variances to permit the construction of retaining walls that are greater than 6 feet in height and encroach in the side and rear-yard setbacks across lot lines in connection with the future development of each lot for a single-family dwelling.

Mr. Cascio stated that the Notice was in order.

The Applicant's attorney, Mr. Bruce Whitaker, Esq. of McDonnell & Whitaker, 245 East Main Street, Ramsey, NJ gave an overview of the Application, stating that a variance request was made for three lots in the R-5 Zone which requires a minimum lot area of 5,000 feet. All three lots exceed the requirement. There are unusual topographic conditions present. The Applicant is proposing retaining walls that exceed the 6 foot requirement and are proposed to be a continuous retaining wall across all three lots. The Applicant also requests variance relief for the side-yard setback where 5 feet is required and the continuous retaining wall would result in zero side-yard setback. Cross easements will be stipulated for each property. A request for Soil Movement has been made. The proposed homes will meet bulk requirements. Reference was made to Mr. Kelly's January 2, 2020 Boswell Report; revisions to the Plan were made dated November 15, 2019.

Mr. Whitaker called his first witness; **Mr. Peter Kirch, 43 Spring Street, Ramsey, NJ** approached and was sworn in by Mr. Rabolli as an expert in Surveying. Being questioned by Mr. Whitaker, Mr. Kirch stated that the design had been created in conjunction with Engineer, Mr. Thomas Ashbahian. Mr. Kirch described the lots on the plans displayed on the poster board, stating that there is a 35 foot drop in elevation, requiring the proposed retaining walls of up to a maximum of 8 feet. Retaining wall

height was given for the front and back of each lot. Mr. Kirch commented that if the retaining walls were confined, the land could not be developed.

Further discussion took place regarding development and maintenance of the land, retaining walls, and access through the yard(s). Mr. Kirch stated that the same developer is building all three homes, maintenance will be the responsibility of the homeowners, and one consideration for access is stairs in the 5 foot pass through.

Mr. Kelly advised that drainage must be maintained during construction of the retaining walls and that a detailed drainage plan is required. Mr. Kelly also requested that a pre-construction meeting take place with the Engineers and the Construction Official. As-Builts will also be required to be submitted.

Mr. Whitaker called his next witness; **Mr. Thomas Ashbahian, 39 Spring Street, Ramsey, NJ** approached and was sworn in by Mr. Rabolli as an expert in Engineering and Planning. Mr. Ashbahian provided detail of the two 8 foot retaining walls to be constructed, stating that they would be constructed in segments – blocks that interlock. The design has a strict set of criteria. Construction will be done in stages; footings blocks, backfill, in 6-8 inch lifts, using a geo-technical material. A third-party inspector will be on site during construction on an interval basis. The blocks will be an earth tone beige and will be the same on all three lots. All retaining walls will be constructed simultaneously. There will be no poured concrete and no mortar between blocks; no chance of cracking walls.

Mr. Rabolli commented that the purpose of the C1 Variance is to deal with hardship and there is no question that hardship has been established. Discussion took place regarding the appearance of the retaining walls, retaining wall height, positioning, 10 foot evergreens to obscure them, and cross easements. Mr. Whitaker stated that landscaping, integrity of the retaining wall, and the fence were to be filed like a Deed as requirements that run with the land ownership. It was suggested that a three-owner Association be established.

Discussion took place regarding the sewer, which will run through the third lot to Railroad Avenue with an easement over it. The easement is to the Township.

The Application was carried to the January 22, 2020 Board of Adjustment Meeting due to a request for copies of revised plans, with no further notice being required.

VII. WORK SESSION

1. DOCKET #1470-19 – JON FADDIS & LAURELYN DOUGLAS 195 STAG HILL ROAD, BLOCK 13, LOTS 4 & 5

NOTE: Work Session was held immediately after the Public Hearing for this docket.

Application for “C” Variances/waivers to construct a single-family home and related improvements; construction on a lot that does not have frontage upon an improved or approved street; construction on a roadway that is not improved or approved; construction on an existing undersized lot; Minimum Lot Depth; Minimum Rear-Yard Setback; Maximum Land Disturbance; Submission of Environmental Impact Statement; and Soil Movement Permit Application for movement over 1,000 cubic yards with a waiver to create slopes up to approximately 1V:3H.

Mr. Rabolli summarized the Application and commented that it had come before the Board in 2016 and was approved for the construction of a single-family home at that time. Some requests on the current Application are less, some more. If the Application is not approved, the lot will be undevelopable. The lot conditions are pre-existing and predate Ordinances; Codes have changed over time, increasing the minimum requirement for lot size. A hardship has been established considering the Zone size issue. Mr. Rabolli requested a vote on the Environmental Impact Study.

A motion to vote on the waiving of an Environmental Impact Study was made by Mr. Whiteman, seconded by Mr. Kearney. A roll call vote revealed 7 aye votes by Mr. Calijone, Mr. Jackson, Mr. Kearney, Mr. Montroy, Mr. Rabolli, Mr. Straffin, and Mr. Whiteman, and one (1) nay vote by Mr. Cannava.

A motion to approve the Application, with conditions and restrictions placed on the record was made by Mr. Whiteman, seconded by Mr. Montroy. A roll call vote revealed 8 aye votes by Mr. Calijone, Mr. Cannava, Mr. Jackson, Mr. Kearney, Mr. Montroy, Mr. Rabolli, Mr. Straffin, and Mr. Whiteman.

A motion to go out of Work Session and return to Public Hearing was made by Mr. Montroy, seconded by Mr. Kearney. All voted in favor.

Mr. Rabolli called Docket #1468-19 and moved back into the Public Hearing portion of the meeting.

VIII. ADJOURNMENT:

A motion to adjourn was made by Mr. Montroy, seconded by Mr. Whiteman. The meeting adjourned at 9:45 p.m.

These minutes were prepared by Sylvia Gerou, Zoning Board Recording Secretary. The minutes were provided to the Board of Adjustment on February 14, 2020 for approval at the Regular Meeting to be held on February 19, 2020.