

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

OCTOBER 21, 2020

The combined public/work session meeting of the Board of Adjustment of the Township of Mahwah held via Remote Zoom Conference was called to order at 7:31 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. It was noted that adequate notice of the meeting was provided specifying that this meeting would be held remotely and that electronic notice of both general access instructions and specific meeting invitations were posted to the Township Website.

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.

PARTICIPANTS:

Mr. Calijone	Mr. Montroy
Mr. Cannava	Mr. Rabolli
Mr. DeSilva	Mr. Whiteman
Mr. Jackson	

ABSENT:

Mr. Kearney
Mr. Straffin

ATTORNEY:

Mr. Ben R. Cascio, Esq.

PROFESSIONALS:

Mr. Michael J. Kelly, PE, Boswell Engineering
Mr. Thomas O'Neill, LSRP, Boswell Engineering
Ms. Debbie Lawlor, FAICPP, PP, Maser Consulting

I. APPROVAL OF BILLS:

September 23, 2020	\$ 82.50	Cascio – General Board Matters
August 19, 2020	\$200.00	Maser – Meeting Attendance

A motion to approve the bills was made by Mr. Whiteman, seconded by Mr. Montroy. A roll call vote revealed 7 aye votes by Mr. Calijone, Mr. Cannava, Mr. DeSilva, Mr. Jackson, Mr. Montroy, Mr. Rabolli, and Mr. Whiteman.

II. APPROVAL OF MINUTES:

1. MINUTES OF AUGUST 19, 2020

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

2. MINUTES OF OCTOBER 7, 2020

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

III. MEMORIALIZING RESOLUTIONS:

**1. DOCKET #1479-20 – ANTHONY LAMANNA AND KATHRYN BELL
129 OWENO ROAD, BLOCK 105, LOT 101**

Resolution of Approval for a “C” Variance for a rear yard setback. Minimum required setback is 30’ whereas existing rear yard setback is 22’ and proposed will be 16’ to construct a deck extension to the existing deck and the installation of a hot tub on the proposed deck extension.

A motion to approve was made by Mr. DeSilva, seconded by Mr. Jackson. A roll call vote revealed 5 aye votes by Mr. Cannava, Mr. DeSilva, Mr. Jackson, Mr. Montroy and Mr. Rabolli.

**2. DOCKET #1480-20 – TATYANA ZASLAVSKY
25 FOREST HILL ROAD, BLOCK 168, LOT 1.01**

Resolution of Approval for a “C” Variance for a rear yard setback. Minimum required is 30’ whereas 21’.3” is proposed to construct an addition to an existing deck.

A motion to approve was made by Mr. DeSilva, seconded by Mr. Jackson. A roll call vote revealed 6 aye votes by Mr. Calijone, Mr. Cannava, Mr. DeSilva, Mr. Jackson, Mr. Montroy and Mr. Rabolli.

**3. RESOLUTION OF THE BOARD OF ADJUSTMENT ADOPTING REMOTE
PUBLIC MEETING PROCEDURES**

Mr. Rabolli commented that it is unfair to the Applicant to have a written statement read if the writer is not present/participating in the meeting because there is no swearing in of

the writer and the statement is not subject to cross examination. The Resolution was Tabled pending clarification.

IV. OPEN TO THE PUBLIC:

Mr. Rabolli opened the meeting to the Public for general questions or statements. No members of the Public participated on the Zoom call or wrote in comments.

V. PUBLIC HEARING(S):

**1. DOCKET #1482-20 – MARYBETH DUFFY
286 CAMPGAW ROAD, BLOCK 143, LOT 12**

Application for “C” Variances for installation of a pool in a front yard and exceeding Improved Lot Coverage.

Mr. Cascio stated that the Notice was in order.

Mrs. Marybeth Duffy, Homeowner of 286 Campgaw Road was sworn in by Mr. Rabolli and stated that her back yard is across the street from the Police and Fire Academy; the house entrance is on Meadow Lake Drive although listed in the Town as 286 Campgaw Road. Mr. Rabolli added that the property has two front yards. Campgaw is a busy road. A 6’ fence was previously constructed as a buffer. There are four other homes that have 6’ fences across the back for the same reason.

Mr. Kevin Duffy, Homeowner of 286 Campgaw Road was sworn in by Mr. Rabolli and commented that the house was reversed; the back yard is truly on Campgaw Road. The property is completely fenced in. The requested variance is for approval to install the in-ground pool.

Mr. Lou Longo, Owner of Acqua Pools, 44 Central Avenue, Midland Park, NJ was sworn in by Mr. Rabolli and stated that the reason for being over the coverage is due to a 30’ wide driveway easement in the front off of Meadow Lake Drive. There is a macadam paper street that the area residents are responsible for maintaining. Mr. Kelly concurred and stated that subtracting the square footage of the access easement would result in 28.6%, which is below the 30% Improved Lot Coverage requirement, but technically a variance is required.

There were no further questions on this Application.

By acclamation, the Board Members went into Work Session.

Work Session immediately followed the Public Hearing of this Docket.

**2. DOCKET #1472-19 – MAHWAH BUSINESS PARK
65 RAMAPO VALLEY ROAD, BLOCK 41, LOTS 1, 2, 9 & 10**

Application for a “D” Conditional Use Variance proposing a 400 parking space lot for the outdoor storage of vehicles associated with Ramsey Auto Group, carried from September 2, 2020.

Mr. Cascio stated that no further Notice was necessary; the Public Hearing may proceed.

Mr. DeSilva recused himself from this hearing.

Mr. Andrew Kohut, Esq., of Wells, Jaworski & Liebman, LLP, 12 Route 17 North, Paramus, NJ representing the Applicant, provided the names of the Witnesses participating; Mr. John Gee, LSRP, who deals with the DEP process and status and if the Application is approved, will oversee future monitoring Mr. Jake Berdugo, Mr. James Wood and Ms. Katheryn Gregory have testified at previous meetings on this Docket. Ms. Gregory will comment on why the variances are justified.

Mr. Whiteman voiced his concern with the abandoned cars that remain parked on the lot when only new cars were proposed on this Application. Three (3) photos were added to the record by Mr. Whiteman as **Exhibits B5, B6 and B7**. Mr. Rabolli requested that Mr. Kohut address the concerns.

Mr. Kohut called his first witness; **Mr. James Ward, Boehman Consulting, 303 W. Main Street, Freehold, NJ.** Mr. Rabolli reminded Mr. Ward that he was still under Oath and recognized in the Field of Civil Engineering. Requested by Mr. Kohut to go through the revised Plan, Mr. Ward displayed **Exhibit A5** – the cross section view, and **Exhibit A6** – the aerial view, of the screening.

Discussion took place regarding the maintenance of the landscape and measures to prevent it from dying. Bonding, as requested in Mr. Kelly’s report dated October 16, 2020, will be put in place as a Two-Year Maintenance Guarantee.

Mr. Ward presented **Exhibit A7** – Site Plan Modifications

- Three (3) varieties of planting (1 as an addition)
- Striping of 366 parking spaces
- Changing from the Protecta material to BOD PAV 85, grass paver cells that are filled with top soil and seeded. BOD PAV 85, described on page 5, is good for parking lots and will support Emergency Vehicles.

Referencing pages 4B, 5 and 6 of the Site Plan, the Bin Blocks on the outside, paver cells to delineate the striping and access lane, lighting, shade trees, the landscape schedule,

ground cover and vegetation to prevent erosion, and the two trees added by Building #41 were each discussed.

Mr. Kelly acknowledged that testimony on the requested revisions to the plan had been provided. However, the requested testimony regarding a geo-technical analysis, including slope analysis have not been provided. Responding to Mr. Kelly's inquiry regarding the placement of the BOD PAV 85, Mr. Ward stated that it will cover the entire top surface, but the access road will be paved where the slope is steeper.

Mrs. Merideth Magner, neighboring the property at 62 North Railroad commented that her understanding from previous meetings was that there would be no lighting on top of the hill. Mr. Ward stated that there would be no lighting on top of the hill; the site improvements are proposed to be on Buildings #41 and #49.

There were no further questions for Mr. Ward.

Mr. Kohut called his next witness; **Mr. John Gee, 1400 Weston Way, West Chester PA** gave his credentials and was sworn in Mr. Rabolli as a Licensed Site Remediation Professional, licensed by the DEP in the State of New Jersey. Mr. Gee described the landfill contents and provided significant dates as follows: Landfilling stopped in 1983. The fill consisted of foundry waste from ABEX Industries. Foundry waste is over 90% sand and is solid and stable. The Closure Plan was approved in 1986; it was certified for closure in 1989. This landfill differs from landfills requiring ground water monitoring, which was done from 1985 until 1993. It was also monitored for methane from 1985 until 1991; none was ever found.

Mr. Gee gave further testimony on what impacts the development will have and stated that a 30 year Maintenance Plan will be put in place with yearly inspections. The key is not to damage the cap. There is no concern of generating gas. Mr. Gee addressed the concern about asbestos by stating that asbestos is only a hazard if it is airborne. There was no evidence of asbestos found in the DEP records. Mr. Gee also commented that the DEP encourages the re-use of landfills for beneficial uses, which is part of the DEP's Site Remediation Program.

Members of the Board discussed the height of the landfill with Mr. Gee and inquired about a toxicity test being done, experience with the BOD PAV 85 material, and erosion underneath the vehicles. Mr. Gee stated that a 1985-1986 sampling of the waste was done and it was found to be non-hazardous and was well below concern; the BOD PAV 85 material is used in roadways and was evaluated for this particular landfill, it will be safe; there will be grass on top of the material, the grid system spreads out the load.

Following a brief discussion about run-off, Mr. Kelly introduced Mr. Tom O'Neill, LSRP from Boswell Engineering. Mr. O'Neill inquired if maintenance inspections were written into the Permit. Normal annual inspections are written in the Permit per Mr. Gee; additionally, the DEP can visit the property at any time if/when notified of required maintenance.

While he was available between meetings, **Mr. Frank Minervini, of Ramsey Auto Group** joined the meeting and was reminded by Mr. Rabolli that he remained under Oath. Mr. Whiteman addressed the subject of the abandoned cars with Mr. Minervini. Mr. Minervini agreed to have the abandoned cars removed from the site.

There were no further questions or comments for Mr. Minervini.

Ms. Magner presented additional questions and concerns regarding the hazardous chemicals and contaminants in the landfill and made reference to the Declaration of Environmental Restrictions dated April 8, 1994. She also questioned the road to get to the culvert and the threat to the water supply. Responses were supplied by Messrs. Ward and Gee. The material on top of the cap was imported – it is not waste. The road to the culvert is outside the landfill, no excavation is required. There is no threat to the water supply.

Board Members Mr. Cannava and Mr. Calijone commented on documentation found on the DEP Website stating that the materials in the landfill were hazardous. Mr. Gee stated that there was misfiling; wrong wording. Mr. Cannava suggested, to alleviate the uneasiness of the Town residents, another toxicity test be done to mitigate the test. Mr. Gee responded that the DEP does not allow drilling through a cap; the 1986 test would be the same as now. The waste has been tested. The records are on file – no hazardous materials were found. Nothing has happened in the last 30 years to the landfill other than mowing the grass. Mr. Gee stated that the landfill was separate from other remediation on the site (the manufacturing plant). The Records are snapshots in time, they have to be sorted out. The landfill is not a remediation site.

Mr. Kelly commented that this is a Use Variance Application; keep in mind it is not going to change what is in the landfill. It is capped and monitored by the DEP, move forward.

Mr. Kevin Pierro, neighboring the property at 59 North Railroad Avenue stated his concern is that there would be no core drilling of the cap to see what leaks out. He was told that there was asbestos in there and wants to know before the weight of vehicles is put on the hill. Mr. Gee replied that asbestos is not hazardous waste and if it is in the landfill, it is properly disposed of.

Mr. Rabolli suggested that Mr. Cannava be the Liaison, working with Mr. Kelly and Ms. Entrup to contact Mr. Gee for documentation the Board would like to review.

Ms. Lawlor requested a copy of the full Deed Restriction be provided as well.

Mr. Rabolli announced that the meeting is carried to November 18, 2020; no further Notice is required. A status of the documentation requested will be requested at the November 4, 2020 Board of Adjustment meeting prior to the Public Hearing of HMH Carrier Clinic.

VI. WORK SESSION:

**1. DOCKET #1482-20 – MARYBETH DUFFY
286 CAMPGAW ROAD, BLOCK 143, LOT 12**

Application for “C” Variances for installation of a pool in a front yard and exceeding Improved Lot Coverage.

Work Session immediately followed the Public Hearing of this Docket.

Mr. Rabolli summarized, stating that the front yard is on the street and there are two parallel roads with two front yards that are fenced. The Applicant’s need for relief has been demonstrated.

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

Mr. Rabolli informed the homeowners that their Application has been approved and explained the appeal process of 45 days from the time of publication of the Resolution for any objectors to appeal, and that they may begin construction at their own peril. A Building Permit is required prior to construction.

By acclamation, the Work Session ended and the meeting returned to Public Hearing for the next Docket.

VII. NEW BUSINESS

Ms. Entrup discussed the Tentative 2021 Board of Adjustment Meeting dates and stated that Notice will be posted in two newspapers.

Mr. Jackson informed the Board that the Council has adopted the New Zoning Code, including some of this Board’s recommendations. Ms. Lawlor added that the Code will be adopted in its entirety.

Township of Mahwah
Board of Adjustment Meeting Minutes
October 21, 2020

A motion to adjourn was made by Mr. Montroy, seconded by Mr. Cannava. All voted in favor. The meeting adjourned at 10:32 p.m.

These minutes were prepared by Sylvia Gerou, Zoning Board Recording Secretary. The minutes were provided to the Board of Adjustment on October 30, 2020 for approval at the Regular Meeting to be held on November 4, 2020.