

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MEETING MINUTES

MAY 3, 2023

The combined public/work session meeting of the Board of Adjustment of the Township of Mahwah was called to order at 7:30 p.m. by Mr. Jackson, Vice Chairman, 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.

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. Cannava
Mr. Coplin
Mr. Jackson
Mr. Kearney

ABSENT: Mr. Lockwood
Mr. Martin
Mr. Rabolli
Mr. Sitar

ATTORNEY: Mr. Ben R. Cascio, Esq.

PROFESSIONALS: Mr. Michael J. Kelly, PE, Township Engineer

I. APPROVAL OF BILLS:

Ben Cascio, Esq.	April 5 & 19, 2023	Meeting Attendance	\$500.00
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A motion to approve the bills for Mr. Ben Cascio, Esq was made by Mr. Kearney and seconded by Mr. Cannava. A roll call vote revealed 5 aye votes by Mr. Calijone, Mr. Cannava, Mr. Coplin, Mr. Jackson and Mr. Kearney.

II. APPROVAL OF MINUTES:

1. MINUTES OF SEPTEMBER 15, 2021

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

2. MINUTES OF APRIL 19, 2023

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

III. MEMORIALIZING RESOLUTIONS:

None to Present.

IV. OPEN TO THE PUBLIC:

Mr. Jackson opened the meeting to the Public for general questions or statements. No members of the Public participated.

V. PUBLIC HEARING(S):

**1. DOCKET #1478-20 – MONARCH COMMUNITIES
EAST RAMAPO AVE/FRANKLIN TPKE/KING ST/SIDING PL, BLOCK 82,
LOTS 1, 3-17, 26 & 29-30**

Application for “C” and “D” variances to construct a multi-level senior housing facility with retail space, parking garage and other site improvements including off-street parking and circulation, loading area, sidewalks, retaining walls, signage, landscaping and lighting.

Mr. Jackson read into record that the hearing of this Application is adjourned to June 21, 2023. No further Notice is required.

**2. DOCKET #1541-23 – RESERVE AT MAHWAH/341 LANDCORP
9 ADAMS COURT, BLOCK 178, LOT 24.03**

Application for “C” variance for front step encroachment into the front yard setback.

Mr. Cascio stated that the Notice was in order.

Mr. Stephen Sinisi with The Law Office of Stephen Sinisi located at 2 Sears Drive, Paramus, NJ 07652, approached and provided an overview of the application being heard and as well as background information on the property.

Mr. Jack Spaeth, President and Owner of Pomana Enterprises, was called as Mr. Sinisi's first witness; Mr. Spaeth approached and was sworn in by Mr. Cascio. Mr. Spaeth gave a background of his professional background as well as of the application being heard; additionally stated the owners of the house are living in a hotel despite the home being constructed.

It was stated all parties received Mr. Kelly's letter February 6, 2023 which outlined the outstanding issues with the property which needed to be addressed. Mr. Spaeth stated all items were addressed with the exception of the front step setback.

Mr. Spaeth stated there are similar houses in the development to 9 Adams Court that were given their COs without any issues. He made reference to the following properties stating they were not identical to 9 Adams however facing similar issues and were given their CO's: 2 Adams Court, 1 Adams Court, 6 Adams Court and 10 Adams Court. Mr. Spaeth reviewed the various setbacks and details of each of the mentioned properties.

Mr. Kearney asked how issue with 9 Adams Court was able to be missed at the initial submission of plans and if there would be any detriment to leaving the stairs as is currently. Mr. Kelly stated the reason was their As Built Survey was not what they ultimately built and the issue should be resolved based upon topography. Mr. Kearney further asked if the footers and walls are all where they should be. Mr. Spaeth confirmed all foundation is in where it should be, further due to topography, homeowner had asked they split equal amounts of stairs without realizing any setback issues.

Mr. Sinisi referring back to Mr. Kelly's letter stated that contact was made early on with Mr. Kelly – the letter did not go ignored.

Mr. Calijone asked if any town officials have come out to inspect the home. Mr. Spaeth stated the property was inspected. Mr. Jackson asked if Mr. Spaeth has run into this kind of issue in any of the other towns, he's worked in. Mr. Spaeth stated this was his first time building in Mahwah and has not run into an issue like this any where else.

Ms. Peggy Gross who resides at 40 Franklin Street, stated she purchased her home four years ago and was made aware of the construction at the time they purchased their home. Her concern is there have not been trees planted yet and the property seems much higher than what was initially presented to her. She is looking for assurance trees are going to be planted; looking for at least 15–20-foot arborvitaes. Mr. Spaeth stated trees have not yet been planted for fear they will get disrupted with construction being done.

He also stated there was a large bond placed with the town for the tree portion of this overall construction; tree planting will follow the site plan that was submitted. He stated the trees are going to grow around 2 feet a year which will create the privacy needed. Further Ms. Gross asked how many homes are to be constructed in total in the development. Mr. Spaeth stated 11 homes total, with 10 already constructed. Mr. Kelly stated all trees are required to be planted, homeowners cannot deny the planting of trees as they are in the deed – they are not optional.

Mr. William Page, Civil Engineer located at 6 Forest Avenue, Paramus NJ, approached and was sworn in by Mr. Cascio. Mr. Page provided his background and credentials. Mr. Sinisi asked for the record if Mr. Page was aware of the setback issues for the property and if there would be any negative impacts to the neighbors. Mr. Page confirmed he was aware of the setbacks and that this would provide no negative impacts to the neighbors.

Mr. Cannava asked Mr. Kelly if he was able to confirm all the items listed in his letter were addressed. Mr. Kelly stated an inspector must come out to the property to inspect as no inspection has happened yet.

Mr. Brett Moreng, of 46 Franklin Street, which is the property located behind 9 Adams Court, approached and was sworn in by Mr. Cascio. Mr. Moreng felt the handling of trees bordering his property were not handled properly. He stated more trees than previously planned were removed. In his opinion the builders are doing anything they want and just asking for forgiveness after the fact.

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

Note: Work Session took place immediately after the hearing of this docket.

**3. DOCKET #1539-23 – STEPHEN THOMAS
56 HARVIN PLACE, BLOCK 165, LOT 19**

Application for “C” variance to build a wraparound porch and install an HVAC and generator pad within a front yard setback.

Mr. Stephen Thomas and Ms. Alexis Thomas owners of 56 Harvin Place, approached and were sworn in by Mr. Cascio. Mr. Thomas gave a summary of the application and explained hardships that require variance relief.

Mr. Kelly asked for some clarification on the Property Survey dated 6/24/20, which was prepared by Mr. Thomas. Mr. Thomas reviewed details and provided further details on calculations.

Mr. Calijone asked if the generator pad was considered an accessory structure. Mr. Kelly confirmed the pad is not an accessory structure, the generator is considered one. Mr. Cannava asked if their home fits the character of other houses in the neighborhood with their proposed improvements. Mr. Thomas states he believes the improvements will fit in to the other homes in his neighborhood, further he's spoken to all his immediate neighbors and they are all on board with these improvements. Mr. Kearney asked Mr. Thomas to explain his surrounding neighbors and distances. Mr. Thomas gave information on immediate neighbors and area around home.

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

VI. WORK SESSION:

1. DOCKET #1541-23 – RESERVE AT MAHWAH/341 LANDCORP 9 ADAMS COURT, BLOCK 178, LOT 24.03

Application for "C" variance for front step encroachment into the front yard setback

Mr. Jackson provided summary of application and information presented.

Mr. Kearney stated this was a unique situation and he does not believe this was done intentionally; additionally, he does not believe there would be any detriment in approving this application. Any future homes should be done more closely to plan and follow requirements.

Mr. Cannava stated he also believed there was no detriment in approving this application and reiterated in the future plans must be followed and in order.

Mr. Coplin stated plans were presented to the town and approved but then changed without notice. If they had followed the plans there would be no issues but plans were not followed. Mr. Kearney asked Mr. Coplin if he believed there would be a detriment in approving this application. Mr. Coplin stated he does not like the statement that would be made that they can do whatever you want then just come and ask for permission/forgiveness later.

Mr. Kelly asked if the Board would be opposed to recommend a CO. All agree a conditional CO would be acceptable. Mr. Kelly also corrected Mr. Spaeth that no inspection has been done of the property and needs to be done.

A motion to approve was made by Mr. Kearny, with conditions, seconded by Mr. Cannava. A roll call vote revealed 4 aye votes by Mr. Calijone, Mr. Cannava, Mr. Jackson and Mr. Kearney. One nay vote was given by Mr. Coplin.

**2. DOCKET #1539-23 – STEPHEN THOMAS
56 HARVIN PLACE, BLOCK 165, LOT 19**

Application for “C” variance to build a wraparound porch and install an HVAC and generator pad within a front yard setback.

Mr. Jackson gave a summary of the application and information presented.

A motion to approve was made by Mr. Coplin, seconded by Mr. Cannava. A roll call vote revealed 5 aye votes by Mr. Calijone, Mr. Cannava, Mr. Coplin, Mr. Jackson and Mr. Kearney.

VII. ADJOURNMENT:

A motion to adjourn was made by Mr. Kearney, seconded by Mr. Cannava. All voted in favor. The meeting adjourned at 9: 15 p.m.

These minutes were prepared by Michelle Sheydwasser, Board of Adjustment Recording Secretary. The minutes were provided to the Board of Adjustment on May 12, 2023 for approval at the Regular Meeting to be held on May 17, 2023.