

**TOWNSHIP OF MAHWAH  
BOARD OF ADJUSTMENT**

**MINUTES**

**JANUARY 21, 2015**

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ, beginning at 7:43 pm was called to order by Mr. Rabolli, Chairman, immediately following the Reorganization Meeting.

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. Kezmarsky                      Mr. Rabolli  
                         Mr. Larson                              Mr. Straffin  
                         Mr. Montroy

                         Mr. Mike Kelly, PE

**ABSENT:**            Mr. Dator                              Mr. Ervin  
                         Mr. DeSilva                              Mr. Whiteman

**ATTORNEY:**        Mr. Ben R. Cascio, Esq.

**I. APPROVAL OF BILLS:**

None to present.

**II. APPROVAL OF MINUTES:**

**A. MINUTES OF JANUARY 7, 2015**

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

**III: RESOLUTIONS AUTHORIZING CONTRACTS FOR PROFESSIONALS:**

**A. Resolution Authorizing the Award of a Non-Fair and Open Contract for Professional Planning Services for the Year January 1, 2015 to December 31, 2015**

A motion to approve was made by Mr. Montroy, seconded by Mr. Kezmarsky. A roll call vote revealed 5 aye votes by Mr. Kezmarsky, Mr. Larson, Mr. Montroy, Mr. Rabolli and Mr. Straffin.

**B. Resolution Authorizing the Award of a Non-Fair and Open Contract for Professional Legal Services for the Year January 1, 2015 to December 31, 2015**

A motion to approve was made by Mr. Montroy, seconded by Mr. Kezmarsky. A roll call vote revealed 5 aye votes by Mr. Kezmarsky, Mr. Larson, Mr. Montroy, Mr. Rabolli and Mr. Straffin.

**C. Resolution Authorizing the Award of a Non-Fair and Open Contract for Professional Engineering Services for the Year January 1, 2015 to December 31, 2015**

A motion to approve was made by Mr. Montroy, seconded by Mr. Kezmarsky. A roll call vote revealed 5 aye votes by Mr. Kezmarsky, Mr. Larson, Mr. Montroy, Mr. Rabolli and Mr. Straffin.

**IV: MEMORIALIZING RESOLUTIONS:**

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 HEARINGS:**

**A. Dkt.#1386-14 – KARL & FRANCINE KERN  
784 WYCKOFF AVENUE, BLOCK 165, LOT 1**

Application for site plan approval with related bulk variance relief in connection with a prior use variance approval.

Mr. James Jaworski, of Wells, Jaworski & Liebman, LLP, approached on behalf of the Applicant. Mr. Cascio indicated all notices were in order. Mr. Jaworski indicated that Mr. Thomas V. Ashbahian, professional engineer and professional planner, was not present but would be testifying at a future hearing to address Mr. Kelly's last Boswell Engineering report. Mr. Jaworski presented an overview of the application, which proposes to add 12 parking spaces, install an enclosed and screened trash area, landscaping and lighting. A prior use variance approval was granted under Docket #1348-12 with a resolution date of August 7, 2013. This resolution was marked as Exhibit A-1. The relocation of an existing well is being proposed, and the Applicant will meet with the Mahwah Historic Commission for their recommendations. The building is to remain as is and it was noted there are some existing non-conformities. The following documents were distributed by Mr. Jaworski and marked as:

Exhibit A-2      County of Bergen Department of Planning and Economic  
Development correspondence dated October 27, 2014

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- Exhibit A-3      Bergen County Conservation District correspondence dated October 16, 2014
- Exhibit BOA-1    Boswell McClave Engineering review letter dated January 16, 2015

Referencing Boswell McClave Engineering's January 16, 2014 report, Mr. Kelly indicated a key map was not provided although he is not opposed to a waiver being granted. Mr. Jaworski noted testimony would be heard from Mr. Ashbahian at a future hearing.

Mr. Rabolli announced this application will be carried to the February 4, 2015 meeting. No further notice is required.

Mr. Rabolli called a recess at 7:57 pm.

The meeting reconvened at 8:06 pm.

**B.    DKT.#1380-14 – A.D.P.P. ENTERPRISES, INC.  
      261 ROUTE 17 NORTH, BLOCK 59, LOT 17**

Application for conditional use, bulk variances and site plan approval for an existing gas station.

Mr. James Jaworski, of Wells, Jaworski & Liebman, LLP, approached on behalf of the Applicant. Mr. Cascio indicated all notices were in order. Mr. Montroy disclosed when he was Mahwah's Construction Code Official, he was involved in several denials for this Applicant and questioned whether he should recuse himself. Mr. Jaworski gave a brief history of the site and does not see any conflict. A short discussion ensued. Mr. Rabolli stated this is a current application, not past history, and requested the hearing proceed.

Mr. Jaworski noted several existing non-conformities, which will all remain the same. This application proposes to construct a canopy over the existing fuel pumps, new signage and landscaping. The existing building is to remain and will be used for storage; not a service station or a convenience store. The Applicant would like to complete the Mobil branding with signage.

Mr. Jaworski called Mr. Brian Shortino, Bertin Engineering Associates, Inc., 66 Glen Avenue, Glen Rock, NJ. Mr. Shortino was sworn in by Mr. Rabolli and was accepted as an expert in site plan engineering. Mr. Jaworski distributed an Exhibit list and the following were marked:

- Exhibit A-1      Site Plans (5 sheets) entitled, "A.D.P.P. Enterprise, Inc., Block 59, Lot 17, Tax Map #48, 261 Route 17 North, Township of Mahwah, Bergen County, New Jersey," prepared by Bertin Engineering, dated March 28, 2012 revised September 15, 2014.
- Exhibit A-2      Poster Board Color Rendering of Exhibit A-1

Mr. Shortino described the existing site, pump islands, signage, parking, landscaping and surrounding areas. The proposed canopy was discussed in detail including height and lighting intensities. Landscaping will include juniper and arborvitae trees. The existing Gulf sign would be replaced with the Mobil Pegasus sign. Mr. Kelly's Boswell McClave Engineering report dated November 13, 2014 was referred to. A discussion followed regarding lighting throughout the entire site, details regarding the two signs proposed to be placed on the canopy, the variance that would be necessary and the Pegasus replacement sign.

Mr. Jaworski referred to the open items listed in Mr. Kelly's report. Mr. Shortino indicated dimensions requested can be provided. Mr. Kelly pointed out several items within the report discussing waivers being requested, text type and logo heights as noted in the schedule of permitted signs. Mr. Kelly mentioned the sidewalk requirement to which Mr. Jaworski stated a sidewalk fund contribution can be a condition of approval. If the application is approved, Mr. Kelly indicated a Developer's Agreement would be required which would include bonding for landscaping and a future maintenance guarantee to be posted. Mr. Kelly recommends the Board request the right to require modifications and changes to the lighting for a period up to six months after installation.

The size of the signs were discussed in detail. Upon questioning by Mr. Montroy, Mr. Jaworski confirmed that branding dictates sizes and signage. There were no further questions from the Board or the Public for Mr. Shortino.

Mr. Rabolli called a recess at 8:50 pm.

The meeting reconvened at 8:57 pm.

Mr. Jaworski called Ms. Catherine Gregory, Gregory Associates, 96 Lindwood Plaza, Fort Lee, NJ. Ms. Gregory was sworn in by Mr. Rabolli and was accepted as an expert professional planner. Mr. Cascio disclosed that Ms. Gregory has testified for him as an expert for a few matters. Mr. Jaworski does not see any conflict. Mr. Jaworski distributed a photo collage, marked as Exhibit A-3, which was taken by Ms. Gregory a few months ago that depict the site conditions.

Ms. Gregory confirmed the conditional use and described, in detail, the variances and waivers being requested. Setbacks, signage and the canopy were cited throughout her testimony. Positive as well as negative criteria were discussed. Ms. Gregory stated she does not believe there is any substantial detriment to the public good. She referred to the Master Plan adopted March, 2013 and read Goal #9 into the record. Upon questioning by Mr. Rabolli, there was a short discussion on the provisions of canopies at service stations.

There were no further questions from the Board or the Public for Ms. Gregory.

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

**VII. WORK SESSION:**

**A DKT.#1380-14 – A.D.P.P. ENTERPRISES, INC.  
261 ROUTE 17 NORTH, BLOCK 59, LOT 17**

Application for conditional use, bulk variances and site plan approval for an existing gas station.

Mr. Rabolli summarized the application. A motion to approve was made by Mr. Montroy, seconded by Mr. Kezmarsky. A roll call vote revealed 5 aye votes by Mr. Kezmarsky, Mr. Larson, Mr. Montroy, Mr. Rabolli and Mr. Straffin.

**B. DECISION ITEMS**

**Board of Adjustment Annual Report:**

A motion to approve was made by Mr. Kezmarsky, seconded by Mr. Larson. A roll call vote revealed 4 aye votes by Mr. Kezmarsky, Mr. Larson, Mr. Rabolli and Mr. Straffin.

**VIII. ADJOURNMENT:**

The meeting adjourned at 9:17 pm on a motion by Mr. Montroy, seconded by Mr. Kezmarsky.

These minutes were prepared by Geri Entrup, Zoning Board Recording Secretary.