

**TOWNSHIP OF MAHWAH PLANNING BOARD  
REGULAR/WORK SESSION MEETING MINUTES  
MUNICIPAL BUILDING, 475 CORPORATE DRIVE, MAHWAH, N.J.  
MONDAY, MARCH 9, 2015 AT 7:30 P.M.**

**I. CHAIRMAN’S OPENING STATEMENT, ROLL CALL, FLAG SALUTE**

The combined public/work session meeting of the Planning Board of the Township of Mahwah held at the Municipal Building, 475 Corporate Dr., Mahwah, N.J. was called to order at 7:38 p.m. by Mr. Donigian. The Opening Statement was read according to the Sunshine Law followed by the flag salute.

These minutes are a synopsis of the meeting. A verbatim audio recording is on file at the Planning Board Office, 475 Corporate Dr., Mahwah, N. J. Copies may be purchased for a fee.

The following individuals were present:

- Mayor Laforet
- Ms. Ariemma
- Mr. Donigian
- Mr. Marcus
- Mr. Van Duren
- Mr. Jandris

Professionals: Peter J. Scandariato, Esq., Michael Kelly, P.E., David Roberts, P.P.

The following individuals were absent:

- Mr. Crean
- Mr. Sherer
- Mr. Bagatelle
- Mr. Weixeldorfer
- Mr. Mordaga

**II. APPROVAL OF BILLS:**

Peter Scandariato, Esq.	02/23/15	Meeting Attendance	\$250.00
Phillips Nizer	01/09/15	General	\$120.00

Motion to approve the bills was made by Mr. Marcus and seconded by Mr. Van Duren. A roll call of members present revealed 6 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Donigian, Mr. Marcus, Mr. Van Duren, and Mr. Jandris.

**III. APPROVAL OF MINUTES: None to present.**

**IV. RESOLUTION FOR MEMORIALIZATION:**

- 1. Docket #544PM SD – Anthony Fasciano, Vincent Fasciano, Joseph Rizzi & Terese Rizzi, Monroe Drive, Block 149, Lot 20 Resolution of Approval**

Motion to approve the resolution was made by Mr. Marcus and seconded by Mr. Van Duren. A roll call of members present revealed 4 aye votes by Mayor Laforet, Mr. Donigian, Mr. Marcus, and Mr. Van Duren.

- 2. Resolution of the Township of Mahwah Planning Board Public Hearing on Proposed Redevelopment Area, Block 58, Lots 29, 30, 31, and 38 - Resolution of Approval**

Motion to approve the resolution was made by Mr. Mayor Laforet and seconded by Mr. Van Duren. A roll call of members present revealed 4 aye votes by Mayor Laforet, Mr. Donigian, Mr. Marcus, and Mr. Van Duren.

**V. OPEN TO THE PUBLIC – 15 MINUTES**

Motion to open the meeting to the public was made by Mr. Marcus, seconded by Mr. Jandris and declared unanimously carried by Mr. Donigian.

No one wishing to be heard, motion to close the meeting to the public was made by Mr. Van Duren, seconded by Mr. Marcus and declared unanimously carried by Mr. Donigian.

**VI. PUBLIC HEARING:**

- 1. Docket #461A- Provence Estate Builders, LLC, 1 Farmstead Road, Block 23, Lot 55.01 Amended Major Subdivision Application**

Michael Halkias, representative for the applicant, appeared before the Board, explaining the application was for the removal of the Winters House and replacement with a courtyard commemorating the home with views of the original foundation, stone wall demarking the structure, and landscaping. He explained the prior owners appeared before the Board for a major subdivision in 2004 and one of the conditions of approval was for the home to remain and be maintained; however, the applicant expressed his concern that this discussion was never brought to light in a public hearing.

Mr. Scandariato informed this condition was memorialized in the developer's agreement that was approved by the Township Council. The developer was the responsible party for suggesting the home remain and be maintained. The meeting was, in fact, open to the public and they received public comment during the subdivision hearings. The Board is not required to inform the public of every condition of a resolution, but they are available to the public for review. Mr. Donigian questioned the reason why the owner wished to have the condition altered.

Peter Cooper, of Peter Cooper Architects in Ramsey, appeared before the Board, testifying as an architect with experience in planning and aesthetic control legislation. He attested to the increasing repair and maintenance costs for the home in question and added the presence of the Winters Home diminished the overall value of the property. Mr. Cooper stated the home should be on the State or National registries for protection, which it is not; this protection was done in

the form of a deed restriction. Historic homes usually have architectural and historical event merit; however, this home does not rise to the level of merit as other homes. The historical features are not authentic due to extensive renovations in the past, including the front door replacement and installation of an alarm system, gutters, new electric system, asphalt roof and inauthentic pine flooring. He testified that the architectural features on the home were common; the setting of the home was important, not the structure.

Mr. Scandariato explained the question of historical significance of the home is not in question, as the previous owner entered into the developer's agreement to preserve the house. He notified the applicant needed to show there was a change in the application or a change in the property to justify a removal of the condition for preservation. In response to Mr. Cooper, Mr. Marcus noted the ongoing market value changes and maintenance costs were to be expected. Mr. Cooper attested that the property maintenance of the structure was not economically feasible and there was no justification for public interest to control a private piece of property.

In response to Mayor Laforet, Mr. Halkias explained the owner was aware of the restriction at the purchase of the property, but noted the owner thought the property could be useable, which is not how it stands today. The applicant purchased the property with the purpose of developing it, but is not able to find interested parties in purchasing the property due to the Winters House. He added additional renovations belittling the historical characteristics of the house included recessed lighting, a propane fireplace, and the removal of the kitchen. He noted the house was not livable due to the second floor ceiling height. Mr. Jandris requested a list of repairs made to the structure since the applicant's purchase in 2008. Mr. Halkias stated the economic issue lies in the list of requested repairs made by the Township upon the structure's inspection. He advised the modernization was completed by prior owners of the property, diminishing the historical value of the structure and the value of the overall property.

Ms. Ariemma stated the property was purchased with a known deed restriction and was concerned the applicant was coming to the Board to remove the restriction and structure simply because he cannot resell the property. Mr. Van Duren empathized with the applicant, understanding the maintenance concerns, but noted that he knew of the restrictions and requirements for the property and structure. Mr. Cooper questioned whether the deed restriction was proper, as it required an indefinite investment into the structure for public interest in the historical value. He argued that historical value of the structure was never properly established.

Mr. Donigian informed of a similar property with a similar structure off of Airmont Ave., noting the building was converted to an art studio. Mr. Cooper disputed the economic viability of the property was denied by the restriction. Mr. Scandariato advised the restriction was voluntarily offered by the developer, accepted and approved. The relief being sought should not be before the Board. In response to Mr. Donigian, Mr. Cooper detailed the proposed installation of a garden with stone wall and historic plaque installation.

Mr. Kelly advised the exterior materials of the house were to be maintained and the home was to be kept weather-tight. He requested the cost to complete maintenance and ensure there is no further deterioration of the house and questioned the well on the property. Mr. Halkias informed the house was on the market for seven years, initially purchased in 2008 for \$570,000, with a current asking price of \$699,000. Mr. Cooper explained the well was not closely inspected, but noted an estimate of costs could be calculated. Mr. Scandariato advised of concerns with the applicant purchasing the property, not maintaining the structure and requesting it be removed due to extensive maintenance costs.

Mr. Roberts explained the Master Plan Historic Preservation Commission element referenced this site as present on the County historic site survey. It is listed as a property of

significance. The Board should not be required to make the determination of its significance, as the Historic Preservation Commission has already made that judgment. Mayor Laforet reiterated the importance of the site and house to the Township and Historic Preservation Commission. Mr. Roberts stated that the Master Plan recommended its preservation; he added that County and Local registries furnished protection from private interests and events while National and State registries provide protection from public interests, in opposition to Mr. Cooper's assertion that the County registry was not a weighted registry list. Mr. Scandariato advised of the 1987 Allied decision requiring a "change in circumstances of the property" for the Board to hear an application to lift the conditions of previously imposed restrictions/requirements.

Ms. Ariemma informed the sale price was \$570,000 in 2008, but the applicant listed the property in August 2014 for \$1.39 million, more than double the purchase price. Mr. Marcus questioned the state of deterioration of the structure in 2004, when first subdivided. In response to Mr. Marcus, Mr. Kelly advised a great deal of deterioration was due to lack of maintenance provided since 2004.

Motion to open the meeting to the public was made by Mr. Jandris, seconded by Mr. Van Duren, and declared unanimously carried by Mr. Donigian.

Leda Dunn-Wettre, 24 Glengorra Ct., member of the Historic Preservation Commission, appeared before the Board. In response to Ms. Dunn-Wettre, Mr. Cooper explained he was unaware of a request to demolish the Winters House, but believed the applicant previously requested this. He was unaware of the public hearings from the initial application, but he expressed his belief that the negotiation of the historic preservation of the structure was done so without justification. He was also unaware of prior testimony by the Township professionals that the structure was historic, but acknowledged the building's 170-year-old age and presence on the Bergen County registry of historic homes. He noted that this list did not protect private property, however, and the building itself lacked authenticity due to changes in the roof and glass windows.

Ms. Dunn-Wettre informed of the blue historic marker on the property as well as the fact that the wood flooring was original to the home; she added the exterior was original without additions and the original Dutch-style door was intact as well. Ms. Dunn Wettre added this was one of the last remaining farmhouses in Mahwah. Mr. Cooper stated the interior of the property was not accessible by the public and was, therefore, irrelevant. Ms. Dunn-Wettre stated Mr. Alvarez (the property owner and applicant) was a builder and noted he was fully aware of the deed restriction. She noted a full home inspection was declined when the property was purchased, resulting in a missing benchmark for necessary repairs and maintenance.

Richard Greene, 800 Ramapo Valley Rd., informed of his presence during the 2004 subdivision application, recalling lengthy discussions and input from the public. In response to Mr. Greene, Mr. Cooper stated he was unaware the structure was occupied by a family until the subdivision. Mr. Cooper was aware of the historic plaque, but stated the property has not been able to sell due to the structure. He expressed his opinion the stipulation for historic preservation could have been addressed in a more appropriate fashion rather than a developer's deed restriction; he noted a developer would have many reasons to concede to such a stipulation.

Motion to close the meeting to the public was made by Mr. Marcus, seconded by Mr. Jandris and declared unanimously carried by Mr. Donigian.

Andy Alvarez, applicant, appeared before the Board, informing of his personal history with Mahwah as a resident. He explained his initial intent to market the structure as a studio or home office, acknowledging it could not be used as a residence. The structure is in terrible condition, with termite damage; he replaced broken windows and covered the well on the property with a lumber cover. He stated a lack of interest in the property was due to the structure's presence and interested parties are unwilling to accept a requirement to maintain it into perpetuity. He acknowledged the repairs completed thus far were not substantial. Ms. Ariemma stated if the Board were to remove the restriction, it would be difficult to prevent others from coming before the Board for similar requests.

Mr. Halkias advised minimal maintenance would be required on the proposed historic garden site. As it currently stands, the public cannot enjoy the house; however, as proposed, the public could have access and it is very marketable/increases the value of the property. In response to Mr. Marcus, Mr. Alvarez informed he had marketed the property with another main home, but there was no interest with the existing structure and its requirements. Mr. Van Duren expressed his concern regarding removing the upkeep and maintenance stipulations, as it could set a precedent for all other historic homes. He reminded that the applicant knew the condition when the property was purchased.

Mr. Alvarez noted beams in the house needed replacement as well as floors, etc... Mr. Jandris stated further deterioration of the house is an issue and the applicant had the responsibility to maintain that structure. Mr. Donigian questioned whether the applicant thought to seek subdivision to donate the property to the Township.

Motion to open the meeting to the public was made by Mr. Marcus, seconded by Mr. Jandris and declared unanimously carried by Mr. Donigian.

Leda Dunn-Wettre, 24 Glengorra Ct., member of the Historic Preservation Commission, questioned what actions were taken in response to Mr. Kelly's letter regarding the state of the structure. Mr. Alvarez noted he covered the well and has checked the interior of the building regularly. In opposition to Ms. Dunn-Wettre's statement, Mr. Alvarez stated he received Barbara Shanley's phone calls regarding the requested repairs and was receptive and responsive.

Ms. Dunn-Wettre stated the Historic Preservation Commission's conclusion of the inspection of the property was that the repairs could be made. Mr. Alvarez confirmed the real estate listing still notes the presence of the farmhouse as a marketable highlight for the property. He noted that the property received interest, but without the inclusion of the house in question. In response to Ms. Dunn-Wettre, Mr. Alvarez stated even if \$80,000 was put into the structure, the house would still not be habitable; he advised his business involves interiors and commercial construction, not residential.

Richard Greene, 800 Ramapo Valley Rd., expressed concerns with public trespassing on the proposed garden site possibly diminishing the property value further. Mr. Alvarez noted it could, but not to the extent to which the current structure diminishes it. In response to Mr. Greene, Mr. Alvarez explained he declined the professional home inspection at purchase because he felt he was qualified to determine the condition considering his own professional background. He noted the roof was in good condition, there was no kitchen present, the lavatory was fairly new, the floors were refinished (but still in poor condition) and the walls were freshly painted. He did not recall the well pressure tank condition and noted there was a formal termite inspection

completed two years ago that confirmed termite corrosion issues. Mr. Greene noted the termite inspection was not remedied or addressed right after the applicant's initial purchase.

Mr. Greene stated the Historic Preservation Commission had visited the house to attempt to accurately date it. Upon their visit in June 2010, they found a leak in the bedroom and flooding in the basement that had been present since that winter. Mr. Alvarez confirmed he was unsure as to the size of the underground storm water retention basin on site and acknowledged its size and location could diminish the value of the property.

Motion to close the meeting to the public was made by Mr. Marcus, seconded by Mr. Van Duren and declared unanimously carried by Mr. Donigian.

The application was adjourned to April 20, 2015 with no additional notifications required.

**2. E-BD-216-2776- Mahwah NL Cedars** 2 Tree Farm Lane, Block 126, Lot 130.01 Soil Movement Permit Application, floor elevation greater than 1.5' difference

James Jaworski of Wells Jaworski & Liebman appeared on behalf of the applicant.

Tibor Latincsics, Conklin Associates, P.E., P.P., detailed a brief history of the site. He noted that 2 Tree Farm Lane was to be the model home, as a 5,000 sq.ft. traditional colonial. The net import of soil is 275 cubic yards, with installation of shade trees along the property at the street. There is a continuous retaining wall at the rear of the properties along two lots.

Mr. Latincsics referenced the property listed in Item No. VI.3 (see below), noting his testimony for both property applications. He noted that 6 Tree Farm Lane would be a smaller 4,000 sq. ft. home with a net import of 1371 cubic yards. The drainage would remain the same with 2 drywell seepage pits; however, the first floors would require an increase in elevation by 1 ft. and may require an increase in the retaining wall height, which would need approval by the Township Engineer. Mr. Latincsics noted the wall maintenance would be the responsibility of the homeowner.

Motion to open the meeting to the public for both **E-BD-216-2776** and **E-BD-216-2777** was made by Mr. Marcus, seconded by Mr. Van Duren and declared unanimously carried by Mr. Donigian.

No one wishing to be heard, motion to close the meeting to the public for both **E-BD-216-2776** and **E-BD-216-2777** was made by Mr. Marcus, seconded by Mr. Van Duren and declared unanimously carried by Mr. Donigian.

Mr. Kelly detailed the floor elevation at 2 Tree Farm Lane would decrease by 4.5 ft., with a decrease of the basement to 4.67 ft. The other property would see a 1 ft. increase on the first floor and basement. The applicant agreed to provide new soil calculations and address drainage as well as inform if they would require a drainage easement.

Motion to approve the application was made by Mr. Van Duren and seconded by Mr. Marcus. A roll call of members present revealed 6 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Donigian, Mr. Marcus, Mr. Van Duren, and Mr. Jandris.

- 3. E-BD-216-2777- Mahwah NL Cedars** 6 Tree Farm Lane, Block 126, Lot 130.02 Soil Movement Permit Application, floor elevation greater than 1.5' difference, moving over 1,000 cubic yards of soil

See above Item No. VI. 2. for discussion regarding this application.

Motion to approve the application was made by Mr. Marcus and seconded by Mr. Van Duren. A roll call of members present revealed 6 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Donigian, Mr. Marcus, Mr. Van Duren, and Mr. Jandris.

**VII. WORK SESSION:**

- A) COMMITTEE REPORTS
- B) OLD BUSINESS
- C) NEW BUSINESS

- 1. Docket #562- Albert Papanian** 135 & 137 Third Street, Block 54, Lots 20 & 21 Minor Subdivision Application subdividing two lots into three lots

Richard Brady, Esq., appeared before the Board, noting the applicant had not received any notifications of departmental concerns for the application.

Peter Kirch, P.P. appeared before the Board, detailing the application as a subdivision into 3 lots, each at 7,500 sq.ft. The house currently on the lots will be removed and new homes will be constructed. In response to Mayor Laforet, Mr. Kirch informed the setback on 20.02 would be 75 ft. The western most shed on lot 21 will be removed, the other will be on lot 20.03. Mr. Kelly informed the house needed to be removed prior to the subdivision being complete. Mr. Roberts explained the application did not require a Highlands waiver, as it was less than a 5-lot subdivision.

Motion to approve the application was made by Mr. Jandris and seconded by Mr. Marcus. A roll call of members present revealed 6 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Donigian, Mr. Marcus, Mr. Van Duren, and Mr. Jandris.

**VIII. ADJOURNMENT**

Motion to adjourn the meeting at 10:26 p.m. was made by Mr. Van Duren, seconded by Mr. Jandris and declared unanimously carried by Mr. Donigian.

Provided to the Planning Board  
on April 17, 2015 for approval at  
the Regular Meeting to be held  
April 20, 2015



Donelle Bright DeCouto  
Planning Board Recording Secretary