

**TOWNSHIP OF MAHWAH  
BOARD OF ADJUSTMENT**

**MINUTES**

**APRIL 4, 2018**

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ beginning at 7:30 pm was called to order by Mr. Rabolli, with the reading of the opening statement followed by the flag salute.

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. Almeda (in at 7:34 pm)	Mr. Montroy
Mr. Dator (in at 7:41 pm)	Mr. Rabolli
Mr. DeSilva	Mr. Straffin
Mr. Kearney (in at 7:38 pm)	Mr. Whiteman (in at 7:34 pm)
Mr. Larson (in at 7:40 pm)	

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

**I. APPROVAL OF BILLS:**

2/7/18 & 2/21/18	\$500.00	Ben R. Cascio, Esq. – Attendance Two meetings
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A motion to approve both bills was made by Mr. Montroy, seconded by Mr. Straffin. A roll call vote revealed 4 aye votes by Mr. DeSilva, Mr. Montroy, Mr. Rabolli and Mr. Straffin.

**II. APPROVAL OF MINUTES:**

**A. MINUTES OF JANUARY 17, 2018**

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

**III. OPEN TO THE PUBLIC:**

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

**IV. PUBLIC HEARING(S):**

**1. DOCKET #1413-16 - SEAN ROYLE  
16 SKYTOP DRIVE, BLOCK 154, LOT 17**

Mr. Rabolli announced that the “C” Variance Application for construction of a single-family home on vacant land without frontage upon a street, is being adjourned to May 2, 2018. No further notice required.

**2. DOCKET #1436-18 - FRANK & JILL CHICHERCHIA  
91 BRIDLE PATH LANE, BLOCK 1, LOT 114**

Mr. Rabolli announced that the “C” Variances (side-yard and combined side-yard setbacks) Application to permit the recently constructed garage to be attached to the existing single-family home is being adjourned to April 18, 2018. No further notice required.

**3. DOCKET #1433-18 – JOHN CHEMAN  
76 STAG HILL ROAD, BLOCK 2, LOT 62**

Application for “C” Variances (lot depth, side-yard setback, frontage upon a street) to construct a single-family home with associated improvements.

Mr. Cascio stated that Mr. Spencer J. Rothwell, Esq. of Wells, Jaworski & Liebman had previously sent him the notice and it is in order. Mr. Rothwell approached on behalf of the Applicant and stated that the Applicant is requesting bulk variances to include the lot depth, side-yard setback, frontage upon a street, and additionally, plot plans, soil movement approval and a waiver. The property is located in the R40 residential zone.

Mr. Robert J. Weissman, P.E., P.L.S., owner of Weissman Engineering Company, 686 Godwin Avenue, Midland Park, NJ approached and was sworn in by Mr. Rabolli. Mr. Rabolli stated that Mr. Weissman had testified before the Board in the past and has been recognized by this Board and other Boards in the State of New Jersey as an expert in Civil Engineering. Mr. Rothwell asked Mr. Weissman to confirm that he had prepared a Plot Plan for this property dated April 14, 2017 and asked for the latest update. Mr. Weissman replied that the latest revision date was December 1, 2017. The revised Plot Plan was marked as Applicant’s Exhibit A-1.

Mr. Weissman described the proposed changes on Exhibit A-1; an existing vacant lot known as 76 Stag Hill Road, Block 2, Lot 62, where the Applicant is proposing to construct a modest sized single-family dwelling with a detached garage. The lot is encumbered by wetlands. A footprint of disturbance approval has been obtained from

NJDEP. Construction is limited to basically the southern side of the lot which is restrictive as to what is allowed to be developed on the lot. The lot fronts on Stag Hill Road. Many lots on Stag Hill do not have an actual frontage. It is not an improved, approved road, but this lot does have an actual frontage on a paved roadway. There is an existing non-conformity for lot depth; 158.3 feet is proposed where 175 feet is required. Variances are requested for the side yard setback on the Southerly side yard of the property of 17 feet, where 30 feet is required. Due to the restriction of the wetlands on the Northerly side of the property, it is the only place the house could be developed. The house and garage are both modest in size; 1932 square feet without the porch, a little over 2000 square with the porch. The detached garage is proposed to the West side of the property with the driveway along the outside of the wetlands buffer. The lot is located in the Highlands, qualifying for an exemption due to the allowable one acre of disturbance. The footprint of disturbance is .39 acres where one acre is allowed. The total impervious area allowed within the Highlands is a quarter of an acre which is 10,890 square feet; 5,978 square feet is being proposed. It is a pre-approved lot. There is a proposed well and septic. The septic design has been approved by the Board of Health. Drainage calculations have been approved by Mr. Kelly of Boswell Engineering. Mr. Weissman commented that there were no outstanding issues in Mr. Kelly's letter of February 28, 2018. He referred to an architectural rendering that was in conformance with the allowable height for retaining walls. The proposed walls are less than the 3 feet permitted. A waiver is being requested for slopes in excess of the 4-1 permitted; proposing 3-1 slopes due to the restricted area of development. The total volume of soil movement is 955 cubic yards. The Certificate of Insurance and Bonds will be posted as required.

Mr. Cascio asked if a Highlands Exemption has been requested. Ms. Entrup stated that it was approved in December of last year as Mr. Cheman had submitted it prior to this application. Mr. Cascio asked Mr. Weissman, regarding the variance for frontage on an approved street, since Stag Hill Road is not an approved street, if he was also requesting variance in that condition, Mr. Weissman replied yes. Mr. Rabolli, referring to the Boswell letter dated February 28, 2018, asked if there was anything in the letter that the Board needs to be particularly aware of. Mr. Cascio asked if the calculations comply with Mr. Kelly's letter. Mr. Weissman responded that the 955 cubic yards is a total of import and export and does comply.

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

Mr. Rabolli called Docket #1435-18 and moved back into the Public Hearing portion of the meeting.

**4. DOCKET #1435-18 – JEAN CLAUDE ALDON  
273 MILLER ROAD, BLOCK 78, LOT 25**

Application for “C” Variances (front-yard setback, side-yard setback, lot coverage and improved lot coverage) to construct an addition to the existing home.

Mr. Rabolli first informed Mr. Aldon of the requirement when giving notice to the public within 200 feet and when publishing in the newspaper, to state what is being done with a certain specificity that allows the public to understand. Mr. Rabolli stated that the Board Attorney reviewed the matter and raised the issue that it may or may not have been clear as to the variances being sought; it could have been clearer. Mr. Rabolli also informed Mr. Aldon that if any issue should arise in the future, he would be proceeding at his own peril.

Mr. Jean Claude Aldon, homeowner of 273 Miller Road approached and was sworn in by Mr. Rabolli. Mr. Aldon stated that the application is for building an extension to the existing house that is on a small lot; 12,078 square feet of land in a 40,000 square feet zone. The house is currently about 1,200 square feet, the extension would bring it to 2,100 square feet. There are already quite a number of existing variances on the lot. Variances discussed were for lot coverage, improved lot coverage, front-yard setback and combined side-yard setback. Removal of any existing construction will assist in clearing lot coverage, i.e., replacing pathways with lawn and bushes.

Mr. Rabolli referred to the Architect’s plan. On the right hand side of the survey that is super imposed; you see the house, a garage and then another garage. Mr. Aldon stated that the garage at the end is his, the other is the neighbor’s. A two story addition is to be added to the house. There are pre-existing variances of 25 feet on the other side. Where it impacts the neighbor; from 45.5 feet to 30 feet. The new variance request for the 30 feet plus the 25 feet brings it to 55 feet where 60 feet is required. The side-yard meets the required setback of 30 feet. The two side yards combined create the shortage. The neighbor’s house is 25 feet from the property line, together 55 feet between houses. Mr. Rabolli stated that there were already existing non-conformities with regard to lot area, lot width, lot depth, improved coverage and lot coverage based on 12,000 square feet where 40,000 square feet would normally be the case, putting this into a variance situation.

Mr. Kearney asked if the driveway and garage were being eliminated. Mr. Aldon replied that the driveway would stay as is; taking a piece of the lawn to build the extension and confirmed that he wants to expand out to the east, keep the driveway and not expand the garage or connect the garage to the house. Mr. Aldon stated that the addition will be on the side and not create a shade problem. Mr. Larson asked if they are increasing impervious coverage to 41.58%; is there any issue with drainage? Mr. Aldon said the

property is flat and they have not had problems in the past at this location or the neighbors’.

Mr. Navneet Jain, of at 6 Constable Court approached. He wanted to understand how the process works. 6 Constable is on the very back of the property, behind the garage at 273 Miller Road. Mr. Jain had no questions.

A motion to go into Work Session was made by Mr. Whiteman, seconded by Mr. Montroy. All voted in favor.

Mr. Rabolli called Docket #1434-18 and moved back into the Public Hearing portion of the meeting.

**5. DOCKET #1434-18 – VINCENT LABARBIERA  
31 CROCKER MANSION, BLOCK 21.02, LOT 7**

Application for a “C” Variance (maximum improved lot coverage) to construct an addition to the rear of the house.

Mr. Cascio stated that he had reviewed the notice and it is in order. No members of the public were present for this application.

Mr. Vincent LaBarbiera of Vinnie’s Home Improvement, 2 Patriots Lane, Upper Saddle River, NJ approached and was sworn in by Mr. Rabolli. Mr. LaBarbiera stated that the proposal was to add a 204.5 square foot addition to the back of the house with basement access behind a Bilco Door, resulting in approved lot coverage of 34.7% where 30% is permitted.

Mr. Keith Berger, homeowner of 31 Crocker Mansion Drive was also sworn in by Mr. Rabolli. The following photos taken by Mr. Berger approximately two weeks ago were presented, marked and explained by Mr. Berger as to proximity to the neighbors and lack of visibility into or out of the neighbors’ property:

- Exhibit A-1 Site Plan
- Exhibit A-2 Open Pool
- Exhibit A-3 Yard with Recliner
- Exhibit A-4 Pool Covered
- Exhibit A-5 Basketball Hoop
- Exhibit A-6 Front of House

Mr. Rabolli questioned the Bilco Door entrance to the basement. Mr. LaBarbiera explained that it is an entrance way to the basement at the pool perimeter, which would

lead to a cabana bathroom and allow access to the second floor. The second floor will be open with a railing accessed from off one of the bedrooms with an outside door. Mr. Kearney, who had visited the property, asked about the existing entrance (not visible in the photos) and requested confirmation that it would be ground level access extended out in the back corner, with little expansion. Mr. LaBarbiera confirmed. Mr. Kearney also stated that the distance between the house, the pool and the neighbor's pool is a sufficient amount.

A motion to move into Work Session for this docket was made by Mr. Whiteman, seconded by Mr. Montroy. All voted in favor.

**V. WORK SESSION:**

**1. DOCKET #1413-16 - SEAN ROYLE  
16 SKYTOP DRIVE, BLOCK 154, LOT 17**

Application for a "C" Variance Application for construction of a single- family home on vacant land without frontage upon a street. Application carried from January 17, 2018.

Mr. Rabolli announced during the Public Hearing portion of the meeting that the Sean Royle application hearing will be carried to May 2, 2018.

**2. DOCKET #1436-18 - FRANK & JILL CHICHERCHIA  
91 BRIDLE PATH LANE, BLOCK 1, LOT 114**

Application for "C" Variances (side-yard and combined side-yard setbacks) to permit the recently constructed garage to be attached to the existing single-family home.

Mr. Rabolli announced during the Public Hearing portion of the meeting that the Frank & Jill Chicherchia application hearing is being to April 18, 2018.

**3. DOCKET #1433-18 – JOHN CHEMAN  
76 STAG HILL ROAD, BLOCK 2, LOT 62**

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

Application for "C" Variances (lot depth, side-yard setback, frontage upon a street) to construct a single-family home with associated improvements.

Mr. Rabolli summarized the application for "C" Variances. Mr. Cascio requested that the frontage on an unimproved, unapproved street be included as well.

A motion to approve was made by Mr. Whiteman, seconded by Mr. Montroy. A roll call vote revealed 8 aye votes by Mr. Almeda, Mr. DeSilva, Mr. Kearney, Mr. Larson, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman. Mr. Dator abstained from voting.

**4. DOCKET #1435-18 – JEAN CLAUDE ALDON  
273 MILLER ROAD, BLOCK 78, LOT 25**

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

Application for “C” Variances (front-yard setback, side-yard setback, lot coverage and improved lot coverage) to construct an addition to the existing home.

Mr. Rabolli summarized the discussion and stated that the Applicant is proposing to put a two-story addition on his home on an undersized lot. The home is modest and the addition appears to be modest from the photos. The two side-yards require the variance. There is no impact to the back neighbor. The house to the right is approximately 25 feet off the property line. The Applicant is seeking a “C” Variance based on topography and has demonstrated a hardship.

A motion to approve was made by Mr. Whitman, seconded by Mr. Kearney. A roll call revealed 9 aye votes by Mr. Almeda, Mr. Dator, Mr. DeSilva, Mr. Kearney, Mr. Larson, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

**5. DOCKET #1434-18 – VINCENT LABARBIERA  
31 CROCKER MANSION, BLOCK 21.02, LOT 7**

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

Application for a “C” Variance (maximum improved lot coverage) to construct an addition to the rear of the house.

Mr. Rabolli summarized the discussion, stating that the Applicant is requesting a 204.5 square foot addition to include a bathroom area. The second floor will remain open and serve as a shaded balcony area. Mr. Rabolli continued that there would be no change in terms of an encroachment because it is all internal; no front yard, side yard, rear yard setback changes. He commented that the Applicant had also discovered a potential violation of lot coverage.

A motion to approve was made by Mr. Kearney, seconded by Rabolli. A roll call vote revealed 9 aye votes by Mr. Almeda, Mr. Dator, Mr. DeSilva, Mr. Kearney, Mr. Larson, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

**VII. ADJOURNMENT:**

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

The meeting adjourned at 8:13 pm.

These minutes were prepared by Sylvia Gerou, Zoning Board Recording Secretary. The minutes were provided to the Board of Adjustment on May 11, 2018 for approval at the Regular Meeting to be held on May 16, 2018.