

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

AUGUST 16, 2017

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ, beginning at 7:35 pm was called to order by Mr. Whiteman, Secretary, 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 Mr. Straffin
Mr. Kearney Mr. Whiteman

ABSENT: Mr. Dator Mr. Montroy
Mr. DeSilva Mr. Rabolli
Mr. Larson

ATTORNEY: Mr. Ben R. Cascio, Esq.

I. APPROVAL OF BILLS:

None to present.

II. APPROVAL OF MINUTES:

A. MINUTES OF JUNE 21, 2017

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

III. MEMORIALIZING RESOLUTIONS:

**A. DKT.#1418-17 – WJA ASSOCIATES, LLC
185 ROUTE 17 AND 40 AVENUE A, BLOCK 53, LOTS 18, 19, 20 AND 21**

Resolution granting a Use Variance, Subdivision, Bulk Variances and Preliminary and Final Site Plan Approval to add an elevator and provide for additional parking for the existing commercial building, the subdivision of a portion of Lot 18 to be utilized as a parking lot and parking lot improvements on Lots 19, 20 and 21.

It was brought to the Board's attention that the lot has already been cleared prior to the Resolution being adopted or the Applicant submitting the applications/paperwork to obtain the proper permits. There was a discussion on whether or not the Board should adopt the Resolution. Mr. Whitaker, the Applicant's Attorney, was in attendance for another matter and approached. Mr. Whitaker will contact the Applicant to inform him that the proper applications must be submitted prior to proceeding with any work at the site. Mr. Cascio stated the Board should vote on the Resolution and that the Board does not get involved with enforcement.

A motion to approve was made by Mr. Straffin, seconded by Mr. Whiteman. A roll call vote revealed 3 aye votes by Mr. Kearney, Mr. Straffin and Mr. Whiteman.

**B. DKT.#1424-17 – LIPMAN TKD, LLC.
190 FRANKLIN TURNPIKE, BLOCK 71, LOTS 18 & 19**

Resolution granting a Use Variance to permit a Tae Kwon Do studio for martial arts instruction.

A motion to approve was made by Mr. Straffin, seconded by Mr. Whiteman. A roll call vote revealed 3 aye votes by Mr. Kearney, Mr. Straffin and Mr. Whiteman.

**C. DKT.#1425-17 – ANNE KEATING
12 WINTER STREET, BLOCK 73, LOT 7**

Resolution granting Lot Coverage Variance to construct a patio addition (free-standing wood deck) in the rear yard.

A motion to approve was made by Mr. Straffin, seconded by Mr. Whiteman. A roll call vote revealed 2 aye votes by Mr. Straffin and Mr. Whiteman.

IV. OPEN TO THE PUBLIC:

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

V. PUBLIC HEARINGS:

**A. DKT.#1426-17 – PRADEEP KAPOOR & ARADHANA ARORA
15 ARONOW PLACE, BLOCK 126, LOT 126.04**

Application for a Front-Yard Variance to Construct a Fence on a Corner Lot.

Mr. Kapoor of 15 Aronow Place approached and was sworn in by Mr. Cascio. Mr. Cascio indicated all notices were in order. Mr. Kapoor is requesting permission to construct a six-foot high fence in a front yard. His property is located on the corner and

cul-de-sac of Aronow Place. Due to major construction in the area, there have been several sightings of wild animals in his yard. He is concerned with security, safety for his children and privacy. He indicated Animal Control was contacted for advice and a fence was suggested. Mr. Kapoor described his property and the surrounding area. The animals tend to come from the cul-de-sac side of his property. Mr. Kapoor described the proposed fence as being aluminum slat estate fencing. There was a discussion on landscaping on both sides of the fence.

After several questions for clarification, a motion was made by Mr. Straffin seconded by Mr. Almeda to close the Public Hearing portion of the meeting and move into Work Session for this application. All voted in favor.

Mr. Kearney made a motion, seconded by Mr. Straffin, to move back into the Public Hearing portion of the meeting. At this time, Mr. Whiteman referred to Item C within the Public Portion of the Hearing.

**C. DKT.#1411-16 QUICKCHEK CORPORATION
280-290 STATE HIGHWAY 17 SOUTH, BLOCK 136, LOTS 5.01 & 5.02**

Application requesting Preliminary and Final Site Plan approval as well as conditional use, bulk and sign variance relief. Application carried from July 19, 2017.

Mr. Whiteman announced correspondence has been received from Mr. Austin A. Peter, Esq., dated August 10, 2017, requesting the QuickChek application hearing be carried to September 20, 2017. No further notice is required.

**B. DKT.#1427-17 – SECOR FARMS
168 & 85 AIRMONT AVENUE
BLOCK 120.01, LOTS 132, 133 & 133Q Farm**

Application for a Use Variance to permit a greenhouse to be used as a seasonal café.

Mr. Bruce Whitaker, Esq., of McDonnell & Whitaker, LLC, approached on behalf of the Applicant. Mr. Cascio indicated all notices were in order. Mr. Whitaker presented an overview of the application as noted in the Statement of Facts submitted with the application.

The Applicant is seeking an approval to permit a 40-seat seasonal café within an existing greenhouse building to allow patrons access to items such as hotdogs, hamburgers and fries while visiting the farm, especially during harvest season. There are no proposed expansions or outdoor improvements. There was a discussion on whether or not the proposed use constitutes a restaurant use. Mr. Whitaker indicated the proposed use is ancillary to the principal use and was not contemplated as a use when the Township's ordinances were created. Mr. Whitaker noted the application should be viewed as an interpretation of the code as compared to the need for a D-Use Variance. The discussion continued regarding the Farmland Preservation Act, which has already permitted the installation of a kitchen for use in the preparation and sale of doughnuts on the farm. Mr.

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Whitaker reiterated again the proposed seasonal café would be incidental to the primary farm use of the property.

Mr. Whitaker described a typical day during harvest season noting schools come for pumpkin picking and hay rides. Students may bring lunch with them to eat on the farm grounds; Secors does not provide lunch. Having an indoor area with tables and chairs would allow students to sit indoors and eat as well as give the general public access to a snack or lunch while visiting the farm. The tables and seats would also allow for demonstrations.

Mr. Whitaker called Mr. Darryl Secor of 168 Airmont Avenue, Mahwah. Mr. Secor was sworn in by Mr. Cascio. Mr. Secor has operated Secor Farms for over 35 years. He explained the seasonal operations of the farm. The current environment and what is being offered at local farms has changed over the years. Mr. Secor described that the proposed use is similar to that of other farms in the area where simple snacks and drinks are offered to the customers. Mr. Whitaker presented a plan of the proposed indoor grilling and eating area, which was marked as Exhibit A-1. The plan showed 10 tables with 4 chairs each. It is contemplated that the area would be used mainly on weekends from October through December.

The use will not create the need for additional parking and there will be no parking changes. The use will be an ancillary service being offered to patrons that come to the farm to purchase farm produce or nursery items. The seasonal café will be operated by the owners of the farm and will only be operational when the farm is open. It is understood that Board of Health approvals will also be needed.

Mr. Jim Deer, of 157 Mc Intosh Drive, Mahwah, approached and was sworn in by Mr. Cascio. Mr. Deer mentioned the ball games on the fields across the street from Secor Farms. He is concerned with traffic and parking noting that visitors to Secor Farms as well as the ballfields park in front of his home. Mr. Secor indicated there will be more of a police presence to direct the traffic on Airmont Avenue, especially on weekends and holidays. There was a discussion concerning the traffic in the area.

Mrs. Doreen Entrup, of 5 Cortland Trail, Mahwah, approached and was sworn in by Mr. Cascio. Mrs. Entrup is also concerned with the traffic and the parking in the Fall Season. She is happy to hear there will be more of a police presence. She is also concerned with safety to drivers and pedestrians. She suggested there be better visible signage for customers to utilize the back parking lot. Mr. Whitaker mentioned the police may be able to help with the pedestrian crossing and better signage can be considered to direct customers to the back parking lot.

Mrs. Claudette O'Neill, of 11 Lambert Trail, Mahwah, approached and was sworn in by Mr. Cascio. Mrs. O'Neill stated that Secor Farms is a good neighbor and questioned the use of cones being put on Mc Intosh to deter parking. Enforcement is not handled by the Board of Adjustment and it was recommended Mrs. O'Neill approach the Township Council with this suggestion.

There were no further questions from the Board or the Public for Mr. Secor.

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

VI. WORK SESSION:

A. DKT.#1426-17 – PRADEEP KAPOOR & ARADHANA ARORA 15 ARONOW PLACE, BLOCK 126, LOT 126.04

Application for a Front-Yard Variance to Construct a Fence on a Corner Lot.

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

There was a short discussion on the height of the fence to which Mr. Kapoor indicated when looking at the house, the fence would be five feet on the left side and six feet on the right side. The Board also discussed landscaping between the property line and the proposed fence.

A motion to approve, with conditions, was made by Mr. Almeda, seconded by Mr. Straffin. A roll call vote revealed 4 aye votes by Mr. Almeda, Mr. Kearney, Mr. Straffin and Mr. Whiteman.

B. DKT.#1427-17 – SECOR FARMS 168 & 85 AIRMONT AVENUE BLOCK 120.01, LOTS 132, 133 & 133Q Farm

Application for a Use Variance to permit a greenhouse to be used as a seasonal café.

Mr. Cascio referred to the Right to Farm Act, which encourages farm use. This Act sometimes takes precedence over local zoning ordinances. He addressed the Board stating it is the Board's job to interpret if the proposed use is a primary use as a restaurant or is it an ancillary use to the existing farm use. The Board members agree the proposed use is not a restaurant as defined within the Zoning Ordinance, but rather is ancillary, accessory and incidental to the farmland use that currently exists.

A motion to approve was made by Mr. Kearney, seconded by Mr. Straffin. A roll call vote revealed 4 aye votes by Mr. Almeda, Mr. Kearney, Mr. Straffin and Mr. Whiteman.

VII. ADJOURNMENT:

The meeting adjourned at 9:32 pm on a motion by Mr. Kearney, seconded by Mr. Almeda.

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