

**A. DKT.#1406-16 – JOHN TOMPOROWSKI
9 MOUNTAIN AVENUE, BLOCK 47, LOTS 12 & 13**

Resolution granting the approval to build a single-family home on an undersized lot that does not have frontage on an approved street and related Bulk Variances as well as confirming pre-existing nonconforming conditions on Lot 13.

It was noted by Mr. Kelly that Mr. Lockwood's name should be removed and Mr. Dator's name should be added to the Motion to Take Action page of the resolution. A motion to approve, with the noted revision, was made by Mr. Whiteman, seconded by Mr. Montroy. A roll call vote revealed 6 aye votes by Mr. Dator, Mr. DeSilva, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

IV. OPEN TO THE PUBLIC:

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

V. PUBLIC HEARINGS:

**A. DKT.#1409-16 – RAYMOND & AMBER CUSACK
148 MILLER ROAD, BLOCK 85, LOT 2.02**

Application for a front-yard variance to construct a six-foot fence in the front yard.

Ms. Amber Cusack, of 148 Miller Road, approached and presented publication and notice sent to Mr. Cascio. Mr. Cascio indicated all notices were in order, and Ms. Cusack was sworn in by Mr. Rabolli. Ms. Cusack would like to construct a six-foot fence in the front yard of her home for privacy and safety reasons. Due to the topography of the property, anything less than six feet would not offer privacy. She is located next to the Betsy Ross Elementary School where vehicles line up adjacent to her yard. She reiterated privacy and safety are her main concerns for her and her family. Mr. Kelly clarified, for the Board, the application is for a four-foot high fence in the front of the house to the road, and a six-foot fence along the back to Malcolm Road. There were no questions for Ms. Cusack from the Board or the Public.

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

Mr. Rabolli called Docket #1407-16 and moved back into the Public Hearing portion of the meeting.

**B. DKT.#1407-16 – SOMERSET TIRE SERVICE, INC.
67 FRANKLIN TURNPIKE, BLOCK 70, LOT 6 & 7**

Application for a sign variance to modify existing signage on the property.

Mr. John Wyciskala, of Inglesino Webster Wyciskala Taylor, LLC, approached on behalf of the Applicant. Mr. Cascio indicated all notices were in order. He stated that the STS Centers are being rebranded with Mavis Discount Tire Centers. The Applicant is proposing to replace existing signage as well as adding additional signage and an awning to replace a shingle roof over the entrance.

Mr. Wyciskala called John McDonough, 101 Gibraltar Drive, Parsippany, NJ. Mr. McDonough was sworn in by Mr. Rabolli and was accepted as a professional planner. Mr. McDonough presented the proposed plans included with the application. The changing of the signage from STS to Mavis results in several variance conditions and is requesting relief in the areas of Maximum Number of Signs, Maximum Height of Signs and Maximum Area of Wall Signs. Mr. McDonough described in detail the specifics for the proposed signage including an illuminated "Mavis Discount Tire with Tire Graphic" wall mounted sign, a proposed awning with a painted "Entrance" lettering wall sign and an internally illuminated "Mavis Discount Tire" wall mounted sign. He described the height relief being requested as well as the area of the proposed signage. It was noted the proposed signage improves public recognition and the benefits will outweigh the detriments. Mr. Kelly mentioned that the pylon sign is existing and although a pylon sign is not permitted in the zone, it is a pre-existing sign. A short discussion ensued regarding the size and the clearance of the existing pylon sign as well as banner signs.

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

It was noted Mr. Larson arrived at 7:50 pm.

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

Mr. Rabolli called Docket #1405-16 and moved back into the Public Hearing portion of the meeting.

**C. DKT.#1405-16 – JPNJ REAL ESTATE LLC
1071 RAMAPO VALLEY ROAD, BLOCK 23, LOT 45**

Application for a Use Variance to permit the operation of a Behavioral Health, Substance Abuse, Detoxification and Residential Rehabilitation Center as well as a Multiple Use Variance to allow multiple residential dwellings on a single lot, application continued from the July 20, 2016 meeting.

Ms. Holly Schepisi of Huntington Bailey, LLP, approached on behalf of the Applicant. Ms. Schepisi referred to prior testimony and questions from the Public regarding traffic accidents in the area. Ms. Schepisi recalled Mr. Charles Olivo of Stonefield Engineering in Rutherford, NJ, who was previously sworn in and accepted as a traffic expert. Upon questioning by Ms. Schepisi, Mr. Olivo researched statewide accident information ¼ mile in each direction from the driveways along Ramapo Valley Road. He noted seven (7) accidents over a three-year period which were all, except for one, related to animals or fixed objects (example being a

light pole). He indicated the number of accidents does not reflect that the roadway area is unsafe. He has requested specific accident information from the local Police Department, which will take 60-90 days to obtain. Ms. Schepisi and Mr. Olivo concurred that all information obtained will be taken into consideration if the application is approved.

Ms. Laura Ashtyani, of 1122 Ramapo Valley Road, Mahwah, NJ approached. She stated there was an accident last evening in front of her home. She questioned the measuring of ¼ mile each direction. Mr. Olivo replied the distance is chosen based on sight distance from the driveway depending on the direction. Ms. Ashtyani noted this is a dangerous curve and questioned the timeframe of the study. She mentioned the 3:00 pm shift coming and going when school is in session and school buses are on Ramapo Valley Road. Ms. Ashtyani was reminded to ask questions only during this time and that statements can be given at the end of the application. Ms. Ashtyani continued asking if the Applicant would consider studying the area when school is open in September. Mr. Olivo replied yes although it is more than likely a study would be done when school is in session during the Site Plan Application phase. Mr. Montroy questioned if they were to expand the study beyond ¼ mile up to one (1) mile, would that be a difficult study to present? Mr. Olivo indicated it could be expanded.

Mr. Robert Amarante, of 1066 Ramapo Valley Road, Mahwah, NJ approached. He questioned the curves and the hills in the area and asked Mr. Olivo if he visited the site. Mr. Oliva has visited the site and is aware of the topography.

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

Ms. Schepisi called Mr. Steve Lydon of Burgis Associates, 25 Westwood Avenue, Westwood, NJ. After presenting his qualifications and credentials, Mr. Lydon was accepted as a professional planner and sworn in by Mr. Rabolli.

Mr. Lydon has visited the site and reviewed the planning documentation, Master Plan, State Development Guide Plan, Highlands Council Regional Master Plan and the Township Zoning Ordinances. He described the 34-acre site presenting eight (8) photos on a poster board. The photographs were described and marked as Exhibit A-2. The proposed development is seeking a replacement use or repurposing of the existing use. The property is and has been developed as a specialized land use for religious retreats. This was a fairly intense use and the existing development is concentrated in one specific area. The remainder of the property is rolling tree landscape. Some areas have been cleared and there are some religious sculptures and monuments, but development is mostly concentrated in one narrow area.

Mr. Lydon noted the Zoning Ordinance suggests one proposed future use of the property would be to demolish existing improvements and develop 15-18 single-family homes although there would be a minimum lot size of 80,000 square feet in the R80 zone. The Applicant is proposing to redevelop the property with what Mr. Lydon believes is a very compatible use with the prior use of the property. They would like use the existing primary buildings and roadway to redevelop with a new concept. It was mentioned the Historical Preservation Commission has endorsed the application. Mr. Lydon continued indicating the Applicant would like to maintain the connection between the proposed carriage houses and the rehabilitation center and will maintain a non-impervious pedestrian way. Secure access

would be created. The rolling tree nature will remain and the aesthetic appearance of the buildings and the property will be retained. Onsite redevelopment activities will be concentrated in the existing developed areas of the site. In the Highlands Preservation Area, the Highlands Council seeks to steer redevelopment to the existing developed area, which is what the Applicant is proposing.

The Mahwah Township Tax Map with an aerial overlay was presented and marked as Exhibit A-3. The subject property is adjacent to preserved open space lands and is fairly isolated. Mr. Lydon described the permitted and conditional uses in the R80 Zone. He noted the size of the property and the potential of the site being redeveloped into 15 – 18 residential lots. A Site Plan Application would need to be submitted if the use variance is approved by the Board. The case of Cerbo vs. The Board of Adjustment in the City of Orange was cited noting this type of facility is considered to be a hospital and amends how the Board should look at this application. Detrimental effects and how improvements can be made in order to approve the application were described. The site would be restored to a property providing property taxes. The Applicant's willingness to preserve the existing buildings on site and maintain their aesthetic appearance was mentioned. A hospital, as is being proposed, is beneficial to the community and this type of hospital is uncommon in the area. The inherently beneficial use was discussed. Detrimental areas such as traffic, drainage runoff and noise were described and it was noted the benefits outweigh the detriments. The Board will be able to ensure there are no detrimental impacts as part of the Site Plan Application.

The application meets the statutory criteria for inherently beneficial use variance and in his opinion, the application should be approved. There is a significant need for this type of use in the area.

Mr. Montroy referred to Mr. Lydon's comment on subdividing the property for 15-18 single-family homes and questioned whether in his opinion, the Highlands Council would permit this. Mr. Lydon clarified it is the ability to subdivide per the Township's Zoning Code, not the Highlands. There was a short discussion on the existing impervious and improved coverage on the site. Mr. Lydon noted there is a potential the Highlands Council could approve a future subdivision and Ms. Schepisi commented there could possibly be changes that would allow such a development within the Highlands.

Mr. Larson questioned the policies and procedures of behavioral health centers / hospitals. Ms. Schepisi stated current regulations, Chapter 161-A of NJAC 10-161A, regulates the operation of the property. The Department of Community Affairs (DCA) would need to approve any improvements to the facility. The facility would need to be licensed under the Commissioner of Health. Upon further questioning by Mr. Larson, Ms. Schepisi indicated this will not be an out-patient facility and described how patient relapses would be handled.

Mr. Layton addressed the Board citing the Cerbo case and in discussing the case, the important proof to note is the substantial need for a detoxification facility in the community. Mr. Lydon stated there is a well-documented need for these services in the region as well as within Mahwah. A comparison was made to the Chai Life Line application, which was denied as being inherently beneficial. Mr. Layton commented the proposed facility for the

Chai Life Line application was not open to the general public and therefore was found not to be inherently beneficial to the community.

At this time, Mr. Rabolli opened the hearing for Public questions for Mr. Lydon.

Mr. Robert Amarante, of 1066 Ramapo Valley Road, Mahwah, NJ approached. Mr. Amarante questioned the Applicant's relief request for the carriage houses. Mr. Lydon responded the Applicant is not proposing to subdivide the property, the proposal is for one development. The nature of those uses are inherently beneficial and rented units are integral to the development. Without these carriage houses, there is no way to finance the development and is critical to the establishment of the facility. Rent from the carriage houses will help to finance the development and will be primarily marketed to those working at the facility. Mr. Amarante questioned how the townhomes are beneficial to the township.

Mr. Rabolli addressed Mr. Lydon asking if there is a trend towards cluster housing. Mr. Lydon indicated clustered development has less impervious coverage and more opportunities to have efficient parking and access especially in the Highlands.

Ms. Laura Ashtyani, of 1122 Ramapo Valley Road, Mahwah, NJ approached. She questioned the connection between the rehabilitation facility and the townhomes; the inherently beneficial aspect of the application; and the ability or inability to pay for care. Ms. Schepisi advised that Medicaid patients would not be accepted and scholarships would be available.

Upon questioning by Mr. Larson, a long discussion ensued regarding the impact on home values in the area. Ms. Schepisi referred to high end facilities in significant income areas such as Malibu, California and Long Island where there are million-dollar homes. To her knowledge, there has not been a reduction of value in surrounding homes. Mr. Lydon stated that factors that usually drop home values are not applicable here. The facility is buffered from the road and the surrounding properties are multi-acre.

Mr. John Knapp, of 1040 Ramapo Valley Road, Mahwah, NJ approached. He lives directly across the street from the site and questioned the need for an impact study for home values. He recently moved to the area and has difficulties now with pulling out of his driveway. Upon further discussion, Mr. Lydon indicated the exterior view will not change. Additional landscaping will be installed to make the site even more private.

Mr. Robert Amarante, of 1066 Ramapo Valley Road, Mahwah, NJ re-approached. He is also a neighbor directly across the street. Home values continued to be questioned. Mr. Lydon indicated again that he does not believe that factors that affect home values will be applicable with this development. Comparisons to the proposed site have not been performed. Ms. Schepisi advised they do have a licensed real estate broker who could be answer some of the questions if necessary.

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

Mr. Rabolli called a recess at 9:29 pm.

The meeting reconvened at 9:38 pm.

Although Ms. Schepisi indicated they could have a real estate professional and broker address the concerns brought up by the Board and the Public, they were not expecting to present this type of testimony at this evening's hearing. Mr. Montroy would like to have a report prepared by a licensed assessor or a licensed appraiser showing the impact, if any, that this development would have on this neighborhood, negative, positive or no impact. Upon suggestion by Mr. Rabolli, Ms. Schepisi attempted to contact her client regarding contractual issues and date extension.

Mr. Rabolli called a recess at 9:42 pm – 9:43 and then again from 9:44 pm – 9:48 pm.

The meeting reconvened at 9:48 pm.

Ms. Schepisi could not reach her client. She will work with her client in order to present to the Board some type of comparison report and the impact on home values in similar situations and/or sites prepared by an appraiser. This led to a long discussion on what type of methodology could be used to prepare such a report or study, comparisons to reasonable alternative uses, impacts on the environment and the impact of the proposed use within the municipality. It was also mentioned that a comparison/impact report may not be able to be prepared for this situation. An appraiser may not be able to draw conclusions in the value fluctuations in the area. Per Ms. Schepisi, an appraiser will be retained and a report prepared, if it is possible, to address the question on whether the proposed facility will impact the neighbors across the street.

After a short discussion, Mr. Rabolli announced this application will be carried to the September 7, 2016 meeting. No further notice is required. It was noted that the written report from a licensed appraiser needs to be submitted to the Township by August 26, 2016.

VI. WORK SESSION:

A. DKT.#1409-16 – RAYMOND & AMBER CUSACK 148 MILLER ROAD, BLOCK 85, LOT 2.02

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

Application for a front-yard variance to construct a six-foot fence in the front yard.

A motion to approve was made by Mr. DeSilva, seconded by Mr. Montroy. A roll call vote revealed 6 aye votes by Mr. Dator, Mr. DeSilva, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

B. DKT.#1407-16 – SOMERSET TIRE SERVICE, INC. 67 FRANKLIN TURNPIKE, BLOCK 70, LOT 6 & 7

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

Application for a sign variance to modify existing signage on the property.

Mr. Rabolli summarized the application. Mr. Montroy commented that it is not the Applicant's doing that the corporate rebranding logo does not meet the current codes. A motion to approve was made by Mr. Montroy, seconded by Mr. Whiteman. A roll call vote revealed 6 aye votes by Mr. Dator, Mr. DeSilva, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman with Mr. Larson abstaining.

**C. DKT.#1405-16 – JPNJ REAL ESTATE LLC
1071 RAMAPO VALLEY ROAD, BLOCK 23, LOT 45**

Mr. Rabolli announced during the Public Hearing portion of the meeting that this application will be carried to the September 7, 2016 meeting. No further notice is required.

VII. ADJOURNMENT:

The meeting adjourned at 10:15 pm on a motion by Mr. Whiteman, seconded by Mr. Montroy.