

C. MINUTES OF JANUARY 20, 2016

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

III. MEMORIALIZING RESOLUTIONS:

A. Amended Resolution Authorizing the Award of an Alternate Non-Fair and Open Contract for Professional Legal Services for the Year January 1, 2016 to December 31, 2016

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

IV. OPEN TO THE PUBLIC:

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

V. PUBLIC HEARINGS:

NOTE: Mr. Rabolli called Docket #1393-15, Kuldip Singh, to which Mr. Joseph R. Mariniello, Jr., Esq., of Mariniello and Mariniello, PC, approached on behalf of the Applicant. There was a short discussion on a quorum and requesting absent Board members to listen to the CD of the hearing to be eligible to vote on this application. Mr. Rabolli mentioned the potential to request Planning Board members to hear the application. Mr. Mariniello will discuss the options with his client, who is the contract purchaser. He noted the contract has been extended to the end of March 2016.

**A. DKT.#1400-16 – JOSEPH & BARBARA SCHENK
145 AIRMONT AVENUE, BLOCK 123, LOT 19**

Application for a Certificate of Non-Conformity for the purpose of maintaining two pre-existing residences on one lot.

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. Mr. Whitaker explained the one-year timeframe for a Certificate of Non-Conformity to be approved by the Township's Zoning Official has expired, thus the need to come before the Board for an approval. The following two exhibits were presented and marked:

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| Exhibit A-1 | Zoning Ordinance of Mahwah Township, dated December 19, 1946 |
| Exhibit A-2 | Two separate Tax Records, one for each residence |

The property has two, independent residential units, built around 1850, which predates the Zoning Ordinance that came into effect in 1946. Both homes have separate utility meters, separate sewer lines and separate tax records. Over the years, improvements requiring building permits were completed to both residences without any question from the Township as to the non-conformity aspect of the property. The Applicant is currently in the process of selling the property. Mr. Whitaker explained that due to mortgage lenders being more stringent with requirements, the Applicant is requesting a Certificate of Non-Conformity as part of the appraisal process. Upon questioning by Mr. Cascio, Mr. Whitaker noted the room configurations of both homes.

There were no further questions from the Board or the Public.

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

Mr. Rabolli called Docket #1399-15 and moved back into the Public Hearing portion of the meeting.

**B. DKT.#1399-15 – RICHARD S. NUDELMAN
132 GROVE STREET, BLOCK 50, LOT 73**

Application for impervious lot coverage and setback variances to install an in-ground pool.

Mr. Richard Nudelman, the Applicant, and Mr. Robert Maltese, of Maltese Pools, approached. Both were sworn in by Mr. Rabolli. Mr. Cascio indicated all notices were in order. Mr. Maltese described the property and presented several scenarios on how the pool could be installed. Mr. Maltese indicated the lot and backyard are small. He continued describing the proposed setbacks and coverages. Mr. Nudelman would like to install the pool to one side of the property in order to leave room for a future play area. Throughout the planning process, the pool was downsized five times, however, variances are still required. Upon questioning by Mr. Cascio, Mr. Maltese stated for the record the permitted and proposed lot and improved lot coverages.

There were no further questions from the Board or the Public.

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

Mr. Rabolli called Docket #1393-15 and moved back into the Public Hearing portion of the meeting.

**C. DKT.#1393-15 – KULDIP SINGH
40 FRANKLIN TURNPIKE, BLOCK 68, LOT 5**

Application for a Use Variance and Preliminary and Final Site Plan to construct a gas station and convenience store.

Mr. Joseph R. Mariniello, Jr., Esq., of Mariniello and Mariniello, PC, approached on behalf of the Applicant and Mr. Bruce Whitaker, Esq., of McDonnell & Whitaker, LLC, approached on behalf of the property owner. Mr. Mariniello requested a short recess to discuss timing with his client and Mr. Whitaker.

Mr. Rabolli called a recess at 8:21 pm.

The meeting reconvened at 8:28 pm.

Mr. Mariniello indicated he would like to proceed anticipating two additional Board members will listen to the CD of the hearing to be eligible to vote. Mr. Mariniello stated he will be calling three witnesses; an engineer, a traffic expert and a planner.

Mr. Mariniello called Mr. Brian Shortino of Bertin Engineering, Glen Rock, NJ. Mr. Shortino was sworn in by Mr. Rabolli. After presenting his credentials, Mr. Shortino was accepted as an expert engineer. Mr. Shortino referred to the Site Plans that were marked as follows:

Exhibit A-1	Preliminary & Final Site Plan; Service Station w/C-Store, Block 68, Lot 5; 40 Franklin Turnpike, dated 6-26-15 Prepared by Bertin Engineering Boundary and Topographic Survey for Kuldip Singh, Tax Lot 5, Block 68, #40 Franklin Turnpike, dated 2/23/15 Prepared by SurTech
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Mr. Shortino presented the current conditions of the site and then described the proposed improvements. The Applicant proposes to demolish the existing building and construct a service station with a convenience store. Upon questioning by Mr. Mariniello, Mr. Shortino read into the record the 'Drawing List' as documented on Sheet C1.0 noting the title of each drawing within Exhibit A-1. A color poster board dated 12/16/15 entitled "Landscape Rendering" was marked as Exhibit A-2, which included a combination of drawings. Mr. Shortino described the plans in detail giving site specifics such as the proposed layout, the location of the dispensers, the parking, the location and size of the convenience store as well as the signage. He continued describing the proposed driveway ingress and egress.

Mr. Mariniello referred to the Boswell report dated November 17, 2015. Mr. Shortino indicated he received and reviewed the report. Upon questioning by Mr. Mariniello, Mr. Shortino testified to the variances as listed in Items #10b - 10f of the Boswell report that included variance requests for Minimum Front Yard Setback, Minimum Rear Yard Setback, Minimum Side Yard Setback, Maximum Improved Lot Coverage and a Pylon

Sign. Mr. Shortino described the proposed parking in detail as noted in Item #26 of the Boswell report. Mr. Straffin and Mr. Kelly questioned the number of maximum employees per shift and requested the number of parking spaces required be clarified. As noted in the Boswell report (Item #11a - 11d), waivers, and not variances should be requested for the following: Parking Stall Setback, Parking Stall Size, Curb Return Radii and Depressed Curb Length. Mr. Shortino provided testimony for each.

Mr. Shortino described the lighting and landscape plan in detail referring to Sheets C2.4 and C2.5. In discussing Items #42 and #43 of the Boswell report, Mr. Kelly indicated additional waivers will need to be requested regarding the proposed lighting. Mr. Shortino referred to Sheet C2.6 and described the truck circulation plan. He continued describing the proposed drainage and referred to Sheets C4.1 and C4.2. A significant improvement to the drainage is being proposed, and they will be able to tie into the existing utilities located on Franklin Turnpike.

In noting an earlier statement that was made, Mr. Rabolli recommended the Applicant look into having a generator installed for emergency situations such as Hurricane Sandy. Upon questioning by Mr. Rabolli, there was a short discussion on the diesel pump, grading and the height of the proposed canopy.

With the number of variances and waivers being requested, Mr. Kelly questioned if the proposed plan would be an overdevelopment of the site. Mr. Shortino does not believe so and indicated further testimony would be given by the Applicant's planner. Mr. Larson suggested eliminating the convenience store which led to a short discussion on attempting to eliminate some of the variances/waivers being requested. Mr. Shortino replied that additional changes may not make the site efficient or be economically feasible.

Mr. Kelly questioned Mr. Shortino on several items of the Boswell report that were not testified to up to this point. Mr. Kelly recommends the owner testify as there were several questions from the Board that may be best answered by the owner. Mr. Kelly also mentioned the installation of a generator should be looked into. He continued requesting the Applicant provide testimony on the anticipated delivery times for both the gas station and the convenience store, refuse pick up times, underground storage tank specifications and any proposed outdoor storage or sale of materials. Mr. Kelly referred to a traffic study that was submitted and indicated Boswell Engineering will complete their review. He will present any comments at the next hearing.

Mr. Kelly continued and questioned if there are any environmental issues on the site. Mr. Mariniello will check to see if a Phase I study has been completed and if so, a copy will be provided to the Township.

Mr. Layton questioned the variance for the canopy signs and a waiver for the parking area landscaping. Mr. Shortino indicated a waiver may or may not be needed depending on calculations they are preparing. Mr. Layton also indicated a waiver would be needed for buffers. He continued questioning the pitch of the canopy and noted the unusual design of the canopy being higher at the road side where the public will see the lights underneath. Mr. Mariniello replied the canopy is part of the operator's branding. Mr.

Layton commented on the landscape plan and the removal of five (5) large trees and noted there is one (1) that may be able to be saved on the South side property line. He continued questioning spill protection and the location of the HVAC equipment. Mr. Shortino responded stating they will look into possibly saving the one tree, he described the proposed spill protection in detail and he indicated the HVAC equipment will be screened and located on the store roof.

There were no further questions from the Board or the Public for Mr. Shortino at this time.

There was a short discussion on scheduling. Mr. Rabolli made a public announcement this application will be carried to March 2, 2016 and no further notice will be required.

VI. WORK SESSION:

A. DKT.#1400-16 – JOSEPH & BARBARA SCHENK 145 AIRMONT AVENUE, BLOCK 123, LOT 19

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

Application for a Certificate of Non-Conformity for the purpose of maintaining two pre-existing residences on one lot.

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

B. DKT.#1399-15 – RICHARD S. NUDELMAN 132 GROVE STREET, BLOCK 50, LOT 73

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

Application for impervious lot coverage and setback variances to install an in-ground pool.

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

VII. ADJOURNMENT:

The meeting adjourned at 10:04 pm on a motion by Mr. Ervin, seconded by Mr. Larson.

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