

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

FEBRUARY 6, 2019

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ beginning at 7:32 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.

Mr, Rabolli reminded all members of the Board, Legal Counsel and Members of the Public that Board of Adjustment meetings are now being videoed and broadcast live.

PRESENT:

Mr. Calijone	Mr. Rabolli
Mr. Jackson	Mr. Straffin
Mr. Montroy	Mr. Whiteman

ATTORNEY: Mr. Ben Cascio, Esq.

ABSENT:

Mr. DeSilva	Mr. Larson
Mr. Kearney	

I. APPROVAL OF BILLS:

Annual Report	\$660.00	Ben R. Cascio, Esq.
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A motion to approve the bill was made by Mr. Whiteman, seconded by Mr. Montroy. A roll call vote revealed 6 aye votes by Mr. Calijone, Mr. Jackson, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

II. APPROVAL OF MINUTES:

A. MINUTES OF OCTOBER 17, 2018

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

B. MINUTES OF NOVEMBER 7, 2018

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

III. MEMORIALIZING RESOLUTIONS:

**1. DOCKET #1451-18 – DAVID & SUSAN WINTERS
153 STAG HILL ROAD, BLOCK 12, LOT 36**

Resolution of Approval for a Variance to build on an Undersized Lot, Unimproved Street, related Bulk Variances and Soil Moving Approvals.

A motion to approve was made by Mr. Whiteman, seconded by Mr. Montroy. A roll call vote eligible voters revealed 5 aye votes by Mr. Calijone, Mr. Jackson, Mr. Montroy, Mr. Rabolli 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. ANNOUNCEMENTS:

1. Mr. Rabolli announced that Steven Cimis, son of Mr. George Cimis, a long time Board Member and Chair, has passed away. The service times and location were given. Condolences from the Board go out to Mr. Cimis and his family.
2. Mr. Rabolli stated that it has come to his attention that some members of the Public may be sending e-mails to Board Members via the Township e-mail accounts. The e-mail accounts were created to avoid using personal e-mail addresses for Board related communication. In the event of litigation, personal e-mails would be subpoenaed along with Township related e-mail. The Public should not be corresponding directly with Board Members via e-mail. All communication should go through the Zoning Office to be distributed to the Board Members as appropriate.

VI. PUBLIC HEARING(S):

**1. DOCKET #1452-18 – STEPHEN & DEBRA MATSON
142 THIRD STREET, BLOCK 55, LOT 10**

Appeal of the Administrative Officer's Zoning Denial with respect to exceeding the permitted maximum improved lot coverage percentage; alternative relief, C Variance to pave a driveway.

Mr. Cascio stated that the notice was in order.

Mr. Darryl Siss, Esq., of Teschon, Riccobene & Siss, 327 Goodwin Avenue, Midland Park, NJ approached on behalf of the Applicant and stated the Application is being filed both as an Appeal and a Variance. The Applicant paved their gravel driveway and informed Mr. Siss that they had been told by someone in the Planning & Zoning Office that a permit was not needed as it was already improved lot coverage. A survey with the calculations was provided. Mr. Siss commented that the Appeal is based on the fact that paving this driveway should be permitted because they are just paving over gravel. Mr. Siss replied to the question of when the garage was put in by the Applicant; it was December 12, 1996. A copy of the Certificate of Occupancy was submitted as **Exhibit A-1 Permit #96-1112**. At that time gravel was installed up to the garage. The only gravel added since then is behind the garage, which was installed by the Developers of the Gas Station above the Applicant's property due to the slope and a drainage problem.

Ms. Debra Matson, Homeowner of 142 Third Street, Mahwah, NJ was sworn in by Mr. Rabolli. Asked by Mr. Siss to describe the area in the rear of the property, Mrs. Matson stated that the property is angled, there is a 30 – 50 foot high wall built by the Developers of the Gas Station, plantings and trees that were installed by the Developer's tree company, and the gravel that was also installed by the tree company. Mr. Rabolli questioned if access was given to the property for the work that was done. Mrs. Matson replied that she gave the person from the tree company access and that the gravel was put in to help absorb the water runoff.

Mr. Whiteman questioned gravel being improved lot coverage. Mr. Montroy remarked that if it's not green & growing, it's improved. Mr. Cascio added that from an Engineering perspective, gravel is pervious as opposed to other types of coverage. Mr. Montroy stated that coverage refers to the house and structures, everything else that is not vegetation is improved lot coverage. Mr. Rabolli stated that the other way of dealing with this issue is by way of a Variance.

In response to Mr. Jackson's question if the garage was permitted; discussion took place regarding the size of the garage and if it was permitted when built. Mr. Siss commented that the garage was built in 1996 with permits. Mr. Jackson questioned the approval of the 1,200 square foot garage. Mr. Montroy stated that the Ordinance for accessory structures was changed in the late 1990's from 1,200 square feet to 1,000 square feet, which would have been after the garage was built.

Mr. Whiteman questioned if the metal shed shown on the survey was considered a second accessory structure and the fact that it was on the property line. Mr. Montroy replied that the Ordinance allowing only one accessory structure became effective in the late 1990's as well, and no permit was required due to the size at that time. Mr. Rabolli commented that the setback may also have been eliminated.

Mr. Calijone asked about the concrete, the gravel, the grass on both sides, the paving and the brook going through the corner of the property. Ms. Matson stated there is grass, dirt and trees; only the driveway from the street to the edge of the garage and in front of the house are paved. The brook goes through the neighbor's property; the gravel area is for drainage that goes into the brook from Route 17.

Mr. Cascio requested the calculations for the extent of the variance; the degree of coverage. Mr. Rabolli replied that the calculations are on the survey, marked on the left hand side; 66.94 % where the allowable is 40% per Ms. Entrup's denial letter.

Mr. Rabolli opened the floor to members of the Public to ask questions or make comments. None were received.

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

VII. WORK SESSION:

1. DOCKET #1452-18 – STEPHEN & DEBRA MATSON 142 THIRD STREET, BLOCK 55, LOT 10

Appeal of the Administrative Officer's Zoning Denial with respect to exceeding the permitted maximum improved lot coverage percentage; alternative relief, C Variance to pave a driveway.

Mr. Rabolli summarized and stated that a determination was needed on if gravel does or does not count as improved lot coverage to ratify the Zoning Officer's denial. Mr. Rabolli recommended that the Board move favorably based on the Gas Station's retaining wall that caused flooding issues, to avoid a hardship to help drainage. The Developer of the Gas Station and the homeowners worked out a solution to a problem, not realizing it would trigger variance situations. Mr. Rabolli stated that he is comfortable giving the Variance. Mr. Montroy added that the Developer and the Applicants obtained all the proper approvals, the contractor never contacted the Township. Mr. Rabolli commented that although a variance is being give, it does not preclude the Applicants from going back to Valero to obtain a better solution for the drainage problem.

A motion to approve was made by Mr. Montroy, seconded by Mr. Whiteman. All voted in favor. A roll call vote revealed 6 aye votes by Mr. Calijone, Mr. Jackson, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

2. 2018 ANNUAL REPORT:

Mr. Cascio asked the Board Members for comments for adding to, or suggestions for removing any items from the 2018 Annual Report.

Items that were mentioned and discussed for inclusion in the 2019 Annual Report included:

- Clarification of attached vs. detached garage
- Converting a car garage to an apartment
- Tennis structures that are put up and taken down
- Exemption of small structures
- Condo Association Board Rules when abutting the neighbor's property
- Sports Courts
- Cabanas
- Retail Sales

Mr. Calijone asked if there was an update on the overview of the Zoning Laws that the Township Engineer and Planner have been contracted to do, and if the Board had received a copy. Mr. Cascio responded that they have not as of yet. Mr. Rabolli commented that he would give Mr. Kelly a call to request the status. Mr. Rabolli also stated that the Planning Board does the implementation to change codes, the Board of Adjustment does not.

A motion to approve the 2018 Annual Report was made by Mr. Montroy, seconded by Mr. Whiteman. All voted in favor. A roll call vote revealed 6 aye votes by Mr. Calijone, Mr. Jackson, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

VIII. ADJOURNMENT:

The meeting adjourned 8:31 p.m. on a motion by Mr. Montroy, seconded by Mr. Whiteman. All voted in favor.

These minutes were prepared by Sylvia Gerou, Zoning Board Recording Secretary. The minutes were provided to the Board of Adjustment on March 15, 2019 for approval at the Regular Meeting to be held on March 20, 2019.