

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

JUNE 21, 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. Rabolli, Chairman, 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. Montroy
Mr. Dator Mr. Rabolli
Mr. Kearney Mr. Straffin
Mr. Larson (in at 7:41 pm) Mr. Whiteman

Mr. M. Kelly, PE

ABSENT: Mr. DeSilva

ATTORNEY: Mr. Ben R. Cascio, Esq.

I. APPROVAL OF BILLS:

None to present.

II. APPROVAL OF MINUTES:

None to present.

III. MEMORIALIZING RESOLUTIONS:

None to present.

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.#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 June 7, 2017.

Mr. Rabolli announced correspondence has been received from Mr. Peter V. McArthur, Esq., dated June 20, 2017, requesting the QuickChek application hearing be carried to July 19, 2017. No further notice is required.

**B. DKT.#1421-17 – NEIL & ELISSA SCHNELWAR
18 HERITAGE LANE, BLOCK 109, LOT 2.06**

Application requesting variance for side-yard setback to install a pool and patio.

Mr. James D’Elia, of Wells, Jaworski & Liebman, LLP, approached on behalf of Mr. Bruce Whitaker, Esq., of McDonnell & Whitaker, LLC and the Applicant. Mr. Cascio indicated all notices were in order. Mr. D’Elia presented an overview of the application as noted in the Statement of Facts submitted with the application. The Applicant is seeking a side-yard variance for the installation of an in-ground pool and surrounding patio.

Mr. D’Elia noted the property has wetlands constraints covering a large portion in the rear of the property, which causes a hardship as nothing can be built within the wetlands area. Although the front and rear-yard setbacks are met, the proposed pool and patio will encroach into the side-yard setback.

Mr. D’Elia called Mr. Neil Schnelwar of 18 Heritage Lane, Mahwah. Mr. Schnelwar was sworn in by Mr. Rabolli. Mr. Schnelwar described his property noting the wetlands constraints. He would like to install a pool and patio for his family’s recreational enjoyment. He indicated his neighbor, Mr. Patel, who did not have any objections to the pool’s installation and location. Upon questioning by Mr. D’Elia, Mr. Schnelwar confirmed the proposed pool and patio will meet front and rear-yard setbacks. Mr. Kelly questioned fencing. Mr. Schnelwar replied the fencing will go between a two-foot strip between the patio and the property line. There was a short discussion on fencing within the wetlands buffer. It was noted if any fencing is considered for this area, it will need to be installed according to Wetlands Regulations.

Mr. Larson questioned the residents in the rear, where condominiums and townhomes are located in the Paddington Square complex. Mr. Schnelwar indicated there is a large buffer between his property and Paddington Square. A photograph of the proposed fence was presented and marked as Exhibit A-1.

Ms. Renee Apostolos, of 1454 York Street, Mahwah, approached. Ms. Apostolos questioned the encroachment in the rear and it was confirmed the proposed pool and patio meet rear-yard setback requirements. The area was shown on the plans.

Mr. Hemant Patel, of 14 Heritage Lane, Mahwah approached. Mr. Patel affirmed that he does not have any objections to the installation of the proposed pool and patio.

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

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

Mr. Rabolli called Docket #1420-17 and moved back into the Public Hearing portion of the meeting.

**C. DKT.#1420-17-A – PAUL W. TEN EYCK
20 RAE AVENUE, BLOCK 106, LOT 2.06**

Application requesting an amendment to Condition #2 of the original Resolution to include the installation of a utility sink which will require a furnace and hot water.

Mr. Paul W. Ten Eyck of 20 Rae Avenue, Mahwah, approached. Mr. Cascio indicated a portion of the notice copy was missing to which Mr. Ten Eyck indicated he would deliver it to the Township's Planning & Zoning Department the next day. Mr. Rabolli stated the matter can be heard with the notice copy submission as a condition of approval.

Mr. Kelly addressed the Board noting the original resolution only permitted an interior spigot and electric to the garage. Mr. Ten Eyck had contacted the Township's Building Department for inspections and requested the installation of a hot water heater; although he did not have the Board's permission to do so. Mr. Ten Eyck is now appearing before the Board to clarify his request for a utility sink and hot water heater so that proper permits can be issued.

Mr. Ten Eyck read a prepared letter dated June 21, 2017 into the record explaining his request to the Board. Within the letter, he reiterated there would not be bathroom facilities inside the garage nor would there be an apartment. Mr. Kelly requested Mr. Ten Eyck stake out the property lines prior to construction. Mr. Kelly also indicated he has received several telephone calls from neighbors and questioned Mr. Ten Eyck on utilizing the proposed accessory structure as living quarters. Mr. Ten Eyck stated on the record the garage / bonus room will not be used as living quarters.

Through further discussion, additional modifications were requested and approved. Those included in-floor radiant heat of the ground floor, baseboard heat in the upstairs bonus room and a sewer line in compliance with the plumbing code.

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

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

NOTE:

There were two additional residents from the Public that approached asking questions about Docket #1421-17, Neil & Elissa Schnelwar.

A Mahwah Resident (unknown name) approached stating she is concerned with the water and drainage to the York Street area. She would like to ensure this is taken care of. Mr. Kelly indicated the Applicant will need to make sure that no additional runoff is created with the pool installation. The Applicant cannot create any drainage issues for the neighbors.

Ms. Yolanda Ford, of 1446 York Street, Mahwah approached. Ms. Ford is also concerned with the water and privacy. Mr. Rabolli explained setbacks and described where the pool/patio will be located. He noted the Applicant does meet the rear-yard setback requirement.

VI. WORK SESSION:

**A. 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 May 17, 2017.

Mr. Rabolli announced during the Public Hearing portion of the meeting that the QuickChek application hearing will be carried July 19, 2017.

**B. DKT.#1421-17 – NEIL & ELISSA SCHNELWAR
18 HERITAGE LANE, BLOCK 109, LOT 2.06**

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

Application requesting variances for side-yard setbacks to install a pool and patio.

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

**C. DKT.#1420-17-A – PAUL W. TEN EYCK
20 RAE AVENUE, BLOCK 106, LOT 2.06**

Application requesting an amendment to Condition #2 of the original Resolution to include the installation of a utility sink which will require a furnace and hot water.

A motion to approve, with conditions, was made by Mr. Montroy, seconded by Mr. Whiteman. A roll call vote revealed 7 aye votes by Mr. Almeda, Mr. Dator, Mr. Kearney, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman with one abstention by Mr. Larson.

D. ITEMS FOR DISCUSSION:

The Board discussed the League of Municipalities Conference being held in November, 2017. Mr. Kearney and Mr. Larson will attend as Board of Adjustment members.

VII. ADJOURNMENT:

The meeting adjourned at 8:17 pm on a motion by Mr. Whiteman, seconded by Mr. Montroy.