

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

JUNE 7, 2017

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ, beginning at 7:34 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. Rabolli
Mr. Dator Mr. Straffin (out at 10:02 pm)
Mr. Kearney

Mr. M. Kelly, PE
Mr. G. Ascolese, PE
Ms. E. Banyra, PP (in at 7:43 pm)

ABSENT: Mr. DeSilva Mr. Montroy
Mr. Larson Mr. Whiteman

ATTORNEY: Mr. Ben R. Cascio, Esq.

I. APPROVAL OF BILLS:

5/03/17; 5/17/17 \$500.00 Ben R. Cascio, Esq. – Attendance
Two meetings

A motion to approve the May 3, 2017 bill was made by Mr. Dator, seconded by Mr. Straffin. A roll call vote revealed 5 aye votes by Mr. Almeda, Mr. Dator, Mr. Kearney, Mr. Rabolli and Mr. Straffin.

A motion to approve the May 17, 2017 bill was made by Mr. Almeda, seconded by Mr. Kearney. A roll call vote revealed 5 aye votes by Mr. Almeda, Mr. Dator, Mr. Kearney, Mr. Rabolli and Mr. Straffin.

II. APPROVAL OF MINUTES:

A. MINUTES OF MAY 3, 2017

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

III. MEMORIALIZING RESOLUTIONS:

**A. DKT.#1419-17 – EMIL EKROTH
45 EDISON ROAD, BLOCK 173, LOT 123**

Resolution granting a Use Variance to expand a pre-existing non-conforming use.

A motion to approve, with minor revisions, was made by Mr. Straffin, seconded by Mr. Dator. A roll call vote revealed 4 aye votes by Mr. Almeda, Mr. Dator, 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:

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

Application requesting a Use Variance, Preliminary and Final Site Plan and Minor Subdivision for a residential use in a B-40 Zone, the addition of an elevator to an 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. Application carried from May 3, 2017.

Mr. Rabolli announced correspondence has been received from Mr. Bruce Whitaker, Esq., of McDonnell & Whitaker, LLC, dated May 31, 2017, requesting the application hearing be carried to August 2, 2017. No further notice is required.

**B. 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 that the following signed certification was received for this application:

Mr. T. Kearney

May 17, 2017 Meeting Certification

Mr. Fredric F. Azrak, Esq., of Azrak & Associates, LLC approached on behalf of the Applicant. As a housekeeping item, Mr. Azrak requested previously introduced Exhibits A-17 through A-24 be marked into evidence.

Mr. Azrak referred to the submitted Soil Movement Permit Application and requested an amendment be made to include the waivers identified by Mr. Kelly in the Boswell June 6, 2017 report. He also requested an amendment to the Tree Preservation Application proposing to remove 13 trees and complying with providing at least four (4) replacement trees.

Mr. Azrak recalled Mr. Keith Cahill of Bohler Engineering, who was previously sworn in and remains under Oath. Mr. Cahill stated since the last hearing, the Soil Movement Permit Application has been submitted. The following exhibit was presented on poster board, marked and described in detail:

Exhibit A-25 Soil Movement Exhibit, Sheet 1 of 1, prepared by Bohler Engineering, dated May 24, 2017, Revision #0

Referring to the June 6, 2017 Boswell Engineering report, Mr. Cahill described the three requested waivers; (1) Present Grades Within 200 Feet, (2) Present Grades of Abutting Streets and (3) Slopes Greater Than 1V:4H. The soil volumes were discussed and the import and export numbers on the original Soil Movement Permit Application will need to be amended to reflect 5,000 cubic yards for import and 18,637 cubic yards for export. Upon questioning by Mr. Kelly, Mr. Cahill described where the construction entrance will be and how it will be segregated from the hotel site to the south. Silt and construction fencing will be used. Access to and from the site will be from Route 17 only. During construction, access to and from to the hotel will be from Corporate Drive only.

Mr. Kelly asked Mr. Cahill if the application was approved, would the Applicant be willing to comply with a condition of approval that the route of travel for vehicles leaving the site not utilize Corporate Drive. Mr. Cahill agreed. Ms. Banyra questioned the timing of trucks leaving the site, suggesting non-peak, A.M. hours. Mr. Kelly noted this would be addressed at a pre-construction meeting and reviewed with the Police Department as well as the contractor at that time.

Mr. Azrak referred to the landscape plan, which were previously marked as Exhibits A-19 and A-20. Mr. Cahill gave a brief overview of his prior testimony and the changes made in the plan resubmission. Upon questioning by Mr. Azrak, Mr. Cahill touched on signage and confirmed the dimensions of the QuickChek sign as noted on Sheet 12 of the plans. The installation of a flag was discussed at a prior hearing. The following exhibit was presented on poster board, marked and described in detail:

Exhibit A-26 Flag Pole Exhibit, Sheet 1 of 1, prepared by Bohler Engineering, dated June 7, 2017, Revision #0

Mr. Cahill reviewed the weave analysis prepared by Stonefield Engineering. After reviewing, it is his opinion the site access is safe, and the site can accommodate the proposed use.

Mr. Kelly mentioned the Soil Movement Permit Application, the tree removal and landscape plans were sent to the Township's Environmental Commission for review. The Commission's next meeting is scheduled for June 14, 2017. Once received, Ms. Entrup will forward a copy of the Commission's comments to Mr. Azrak.

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

Mr. Azrak recalled Mr. Matthew Seckler, Stonefield Engineering & Design, 92 Park Avenue, Rutherford, NJ. Mr. Seckler was previously sworn in and remains under Oath. At the last hearing, Mr. Seckler testified he completed a Weave Analysis, dated May 25, 2017, which was submitted to the Township and marked as Exhibit A-25. Due to the numerous questions at the last hearing regarding the addition of a deceleration lane to Corporate Drive, an application was submitted to the New Jersey Department of Transportation (NJ DOT) on May 19, 2017 with a copy to the County and the Township. A copy of the NJDOT Pre-Application Meeting Minutes prepared by Stonefield Engineering & Design dated November 23, 2015 was included as part of the Weave Analysis submission and marked separately as Exhibit A-28. Upon questioning by Mr. Azrak, it is Mr. Seckler's professional opinion the site is appropriate for its intended use, the site and the use will not be detrimental to the public good or Zoning Code, he supports the variances and waivers being requested as they relate to traffic and circulation, DOT standards are being met as they relate to the internal design of the site, and on-site circulation, ingress and egress are safe and efficient.

Mr. Ascolese questioned the volume of traffic as noted in the Weave Analysis. A discussion ensued regarding the volume of traffic, A.M. and P.M. peak hour traffic, acceptable gaps, traffic flow, traffic patterns and trip generation. Mr. Ascolese stated he took the liberty of obtaining police accident reports from the Mahwah Police Department for the timeframe of January 1, 2012 through April 30, 2017. He noted seven (7) accidents on Corporate Drive by the Stop Sign at Route 17. He noted this could be from motorists having a difficult time exiting Corporate Drive onto Route 17 due to gap spacing or lack of gap spacing as well as speed on Route 17. In addition, there were three (3) accidents of vehicles running off the road while exiting Route 17 onto Corporate Drive. The discussion continued referring to continuing traffic issues at the Home Depot, which are still not resolved after 14 years. Mr. Seckler is willing to work with the Township as well as NJ DOT to address potential issues beforehand; not after the fact.

Mr. Kelly stated he has major concerns with the access to and from Route 17 and believes there will be an increase in the traffic volume on and off the highway. He mentioned past Applicants indicating their willingness to address issues beforehand; however, when issues arise that are not easily addressable, it falls upon the Township for resolution.

Mr. Kelly continued declaring his concerns with the ingress and egress access, potential

accidents, the use of the shoulder as an acceleration as well as a deceleration lane and the safety of Mahwah residents as well as public travelers. Mr. Kelly addressed Chairman Rabolli indicating he would like to send a letter to the NJ DOT on the Board's behalf documenting the concerns at this site. Mr. Kelly acknowledged the driveway is existing; however, the current traffic to and from the existing Robbie's Music Barn is minimal as compared to what is proposed. Mr. Azrak's reply to Mr. Kelly's concerns is that QuickChek is a willing participant who will work with the Township as well as with NJ DOT. Mr. Kelly will prepare a letter to the NJ DOT, which will be reviewed by Mr. Rabolli and a copy sent to Mr. Azrak. Mr. Seckler commented on a prior site in Mount Arlington stating that once the site opened for business, there was an accident issue that the town and the applicant did not anticipate. The Applicant met immediately with the town, the county and the state to resolve in a relatively short timeframe.

Upon questioning by Mr. Ascolese, a discussion ensued regarding the entranceway and the traffic between the hotel and QuickChek. Mr. Dator mentioned the shoulder at the Pilot Service Station was widened and questioned if QuickChek plans to request the same. Mr. Seckler replied it was not their intention; however, if this is a potential solution to a potential issue, the Applicant will comply.

Peak hours and traffic counts for the proposed QuickChek, the hotel and the surrounding businesses were discussed. Mr. Kearney also has a number of concerns with the access to and from the site, the potential for not only low-speed, but high-speed collisions, visibility and safety. The potential of submitting a request to the NJ DOT to widen the acceleration / deceleration lane was discussed as well as Mahwah High School traffic and cross-easement access.

Mr. Rabolli called a recess at 8:52 pm.

The meeting reconvened at 9:02 pm.

After the break, cross-easement traffic, vehicles exiting to Corporate Drive through the hotel, vehicles exiting onto Route 17, speeds and traffic within the proposed service station, peak hours and pedestrian signage continued to be discussed.

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

Mr. Azrak called Mr. John McDonough of John McDonough Associates, 101 Gibraltar Drive, Parsippany, NJ. Mr. McDonough was sworn in by Mr. Rabolli. Mr. McDonough has appeared before the Board on numerous occasions and was accepted as an expert planner. The following exhibits were presented, marked and described in detail:

Exhibit A-29	Curriculum Vitae for John McDonough, LA, PP, AICP
Exhibit A-30	Aerial Photograph of the Current Site
Exhibit A-31	Four Frames/Views of the Current Site
Exhibit A-32	Four Frames/Views of the Existing Land Use East, West, North and South

Mr. McDonough stated the Applicant is proposing a brand-new convenience store with fuel sales and described the facility. One D-3 Conditional Use Variance is being sought. The Applicant does not meet the 500-foot separation from any school requirement. No C or Bulk Variances are needed although the proposed application does require a number of design exceptions. Each exception was noted and explained in detail. Regarding interaction with the Mahwah High School, it was noted there no direct access to Ridge Road and there is a commercial building as well as extreme terrain between the High School and the proposed facility. The 500-foot ring around the site was shown and it was highlighted to show the grass area of the High School falls within this range; not the actual High School building.

Positive and negative criteria were noted. Per Mr. McDonough, from a planning standpoint, four Purposes of Zoning are advanced by this application. Those are Purpose A, the promotion of the public good with safe and convenience access to food and fuel; Purpose G, the planning goal which provides for a variety of uses in appropriate locations in serving the motoring public; Purpose I, the planning goal to promote a desirable visual environment with all new improvements; and Purpose M, the planning goal to use land efficiently. The negative impact is the approximate 120 feet encroachment in the High School grass area. Several Master Plan goals were referred to including Goal #1, to encourage a proper distribution of land uses; Goal #2, to meet existing area of stability in the community; Goal #3, to concentrate development in the easterly portion of town and Goals #4 & 5, which are environmentally focused. The proposed application aesthetically will give this portion of the Route 17 corridor a fresh and clean look.

Design exceptions were discussed and described in detail, including:

- Parking
- Parking Area Edging
- Parking Setback in the Rear of the Property
- Circulation and Design
- Driveway Width
- Curb Radius
- Depressed Curb Length
- Loading Zone
- Grading and Slopes
- Sidewalks
- Lighting
- Landscaping
-

Mr. McDonough spoke about the signage, which includes a freestanding sign, a wall sign and two canopy signs. Relief is needed for the height of the text due to the size of the QuickChek logo.

NOTE: Mr. Straffin excused himself from the hearing but will be sent the CD recording and associated transcript for voting eligibility.

Upon questioning by Mr. Azrak, Mr. McDonough believes the site is particularly suited and can accommodate the intended use.

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

After a brief discussion on scheduling, Mr. Rabolli announced the QuickChek application is carried to the June 21, 2017 meeting. Mr. Azrak consented to the extension of time and no further notice is required.

VI. WORK SESSION:

There were no matters to be heard during the Work Session portion of the meeting.

VII. ADJOURNMENT:

The meeting adjourned at 10:11 pm on a motion by Mr. Dator, seconded by Mr. Almeda.

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