

Resolution granting a Soil Movement Permit Application requesting the movement of greater than 1,000 cubic yards of soil.

A motion to approve was made by Mr. Whiteman, seconded by Mr. Dator. A roll call vote revealed 3 aye votes by Mr. Dator, Mr. Straffin and Mr. Whiteman.

**B. DKT.#1416-17 – KELLY KIRK & DARIN GOENS
14 STONE FENCE ROAD, BLOCK 154, LOT 25**

Resolution granting a side-yard variance to construct a deck.

A motion to approve was made by Mr. Whiteman, seconded by Mr. Straffin. A roll call vote revealed 3 aye votes by Mr. Dator, Mr. Straffin and Mr. Whiteman.

**C. DKT.#1420-17 – PAUL W. TEN EYCK
20 RAE AVENUE, BLOCK 160, LOT 29**

Resolution granting permission to construct an additional accessory structure in excess of the amount of accessory structures permitted by ordinance.

A motion to approve was made by Mr. Whiteman, seconded by Mr. Straffin. A roll call vote revealed 3 aye votes by Mr. Dator, 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:

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

Application requesting a Use Variance to expand a pre-existing non-conforming use.

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. The existing service center, used car sales, residential use and commercial storage are not permitted in the General Industry (BI-80) Zone however, the uses were previously approved by the Mahwah Board of Adjustment on September 17, 2008 (Dkt #1249-07). The Applicant is proposing to construct an accessory structure for storage of

motor vehicles and automotive parts, which would expand the existing non-conforming use.

Mr. Whitaker indicated he was not involved in the prior approval but acknowledged several conditions that, to date, have not been met, specifically the removal of sheds and containers. The Township continues to hold a bond that was posted for the prior application since all conditions were not met. Mr. Whitaker stated a stipulation could be made that building permits could not be issued unless all sheds/containers are removed as conditioned in the prior approval. Current outdoor storage will be moved into the new structure. Mr. Whiteman is very concerned that the prior conditions were not met.

Mr. Whitaker called Mr. Matthew Clark of MCB Engineering Associates, LLC, Totowa, NJ. Mr. Clark was sworn in by Mr. Rabolli. After presenting his qualifications and credentials, Mr. Clark was accepted as an expert civil engineer.

Plans (two sheets) entitled "Preliminary & Major Site Plan for Emil's Garage, Block 173, Lot 123, 45 Edison Road, Township of Mahwah, Bergen County, NJ" prepared by MCB Engineering Associates, LLC dated February 5, 2017, revised March 31, 2017 were submitted with the application and marked as Exhibit A-1. Mr. Clark described the plans in detail noting there are several uses currently on the property. The proposed accessory structure would be used to store cars and car parts inside rather than storing them outside. No new site engineering or site lighting is required. Mr. Clark described the building noting electric only will be needed and building requirements will need to be met. Soil movement will be limited to the foundation. Referring to Boswell Engineering's report dated April 11, 2017, the Soil Movement Permit Application will be considered exempt due to the limited volume of soil to be moved.

Mr. Clark presented a plan entitled "Emil's Garage," prepared by Allied Design Architectural Engineering Group, dated September 9, 2016, sheet 4 of 6, which depicted a plan of the prefab structure. This plan was marked as Exhibit A-2. Upon questioning by Mr. Montroy, Mr. Clark indicated the dimensions of the building will be 48' x 60', with a building height of 29 ½'. He pointed out the two sheds and the two trailers to be removed. Again, Mr. Whitaker stated a stipulation could be made that the site will be free of all sheds/trailers before building permits can be issued. There are no other improvements proposed and neither traffic nor parking will be impacted. The proposed structure will be for Mr. Ekroth's storage only. Setbacks and landscaping were discussed. Currently there are three (3) landscapers/contractors storing vehicles and equipment on the property, which will be permitted to remain.

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

Mr. Whitaker called Mr. Emil Ekroth or 45 Edison Road, Mahwah. Mr. Ekroth was sworn in by Mr. Rabolli. Mr. Ekroth has owned the property since 1979 and currently resides there. In 2008, he received a Board of Adjustment approval to expand the automotive service area. He acknowledged that he has not complied with all of the conditions of that approval. He will remove the sheds and trailer containers, and as Mr.

Whitaker stipulated, permits will not be issued until the removal is completed. No other improvements are proposed for the site.

Upon questioning by Mr. Montroy, there was a discussion on the number of vehicles stored inside and outside as well as the repair and sale of vehicles. Mr. Ekroth indicated that historically, there has been an average of 12 vehicles on site. There will be one race-car trailer stored on site during and after construction. When asked by Mr. Rabolli why the original conditions were not complied with, Mr. Ekroth admitted he did not take care of this and time got past him. It was noted however, that a bond of approximately \$10,000.00 is still being held by the Township.

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

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

Mr. Rabolli called Docket #1411-16 and moved back into the Public Hearing portion of the meeting.

**2. 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 April 19, 2017.

At this time, Mr. DeSilva recused himself.

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-1 through A-17 be marked into evidence.

Mr. Azrak recalled Mr. Keith Cahill of Bohler Engineering, who was previously sworn in and remains under Oath. Referencing prior testimony, amended plans have been submitted to address comments regarding tree replacement, lighting and landscaping. The following exhibits were presented, marked and described in detail:

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| Exhibit A-18 | Lighting Plan, prepared by Bohler Engineering, Revision #5 dated April 25, 2017, Page 8 of 19 |
| Exhibit A-19 | Tree Replacement Plan, prepared by Bohler Engineering, Revision #8 dated April 21, 2017 |
| Exhibit A-20 | Site Plan, Page 4 of 19, Revision #5 dated May 17, 2017 |
| Exhibit A-21 | Internally Lighted Free-Standing ID Sign, Page 1 of 1, dated April 28, 2017 |

Referring to the May 11, 2017 Boswell Engineering report, the lighting comments as noted on Page 2 of the report were addressed via the revised Lighting Plan. A total

number of 13 trees are proposed to be removed with 7 replacement trees installed. Based upon Mr. Cahill's testimony, it is requested the Tree Preservation Application be amended. The dimensions of the free-standing ID sign has been reduced to 100 square feet as noted on Exhibit A-20. Striping for the deceleration lane has also been clarified on that exhibit. The proposed free-standing ID sign is compliant with the Township ordinance in regards to size and location. It is also in character with other signs found along Route 17.

Upon questioning by Mr. Azrak regarding the cross-access easement, Mr. Cahill noted from a design standard, the access is safe and proper. Storm water detention and proposed management of storm water was mentioned. From an engineering standpoint, Mr. Cahill affirmed the site is particularly suited for its intended use, he supports the variances and waivers being requested and the proposed use will not be a detriment to the public good or the zoning code.

Mr. Kelly questioned irrigation for the proposed landscaping and signage. Mr. Cahill indicated irrigation will be provided. Signage was discussed to which Mr. Cahill presented a Color Rendition of Sheet A-1, dated April 15, 2017, prepared by GKA Architects, which was marked as Exhibit A-22. The following items from Pages 5 – 6 of Boswell Engineering's report dated March 30, 2017 were discussed:

Section Titled "Variances/Waivers"

- c. Pylon Sign Area
- d. Canopy Signs
- e. Maximum Sign Area
- f. Number of Signs
- g. Maximum Text Height
- h. Maximum Logo Height
- i. Minimum Sign Height from Top of Sign to Bottom of Sign

The following additional items were discussed from the Boswell Engineering's report dated March 30, 2017:

Section #12 "The Applicant has requested the following waivers:"

- a. Tree Removal/Replacement
- b. Shade Trees
- c. Minimum Parking Space Size
- d. Parking Area Surface Material
- e. Loading Zone Location

A waiver is being requested for shade trees as there are no shade trees proposed to be planted along Route 17. Typically, applicants that request this waiver post the equivalent cost of the shade tree to the shade tree bank. The Applicant is willing to consider this.

There was a lengthy discussion on porous pavement and the maintenance thereof. Mr. Cahill described QuickChek's maintenance program, as defined in their Storm Water Owner Manual. Regular maintenance is performed to ensure the porous pavement functions properly for a longer period of time. The discussion continued focusing on drainage and possible spills or leaks. Mr. Cahill noted the Applicant will address all of the drainage comments as noted in Boswell Engineering's Report dated March 21, 2017.

Mr. Kelly continued questioning items as listed in the Boswell Engineering's Report dated March 30, 2017. Each item was discussed in detail:

Section #13 "The following additional non-conformities "

- a. Maximum Retaining Wall Height
- b. Structures Within 200 Feet
- c. 500 Foot Drainage Map
- d. Acceleration Lane
- f. Minimum Parking Setback to Side or Rear Lot Line
- k. Buffers
- l. Sidewalks
- m. Slopes Greater Than 1V:4H

Sidewalks are required along the frontage of the property but are not proposed to be installed. Upon questioning by Mr. Kelly, Mr. Azrak affirmed the Applicant would be willing to contribute the equivalent cost to the Township's Sidewalk Fund. Mr. Kelly requested lot coverage and improved lot coverage calculations be provided as well as a meets and bounds of the site triangle movements. He also asked if a flag pole and light would be installed. The Applicant will look into a location for a flag pole.

Mr. Kelly questioned soil movement and the expected volumes. Anything over 1,000 cubic yards of soil movement requires a public hearing. Mr. Azrak indicated the original application notice will cover the addition of a Soil Movement Permit Application. Mr. Kelly stated the Applicant should ensure the necessary application is submitted.

Ms. Banyra questioned the rear property line and the different heights along that property line. Mr. Cahill described the area noting the proposed retaining wall and board-on-board fencing. The different services being offered were questioned as well as access to and from the site through the hotel parking lot for both drivers and pedestrians. Maintenance, longevity and the replacement of the porous pavement was discussed. Ms. Banyra mentioned she is familiar with porous pavement and stated it is considered a best management practice with a better water quality system.

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

Mr. Azrak called Mr. Matthew Seckler, 92 Park Avenue, Rutherford, NJ. Mr. Seckler was sworn in by Mr. Rabolli. He is employed with Stonefield Engineering and Design. After presenting his credentials, Mr. Seckler was accepted as an expert in the area of traffic. His Curriculum Vitae was marked as Exhibit A-23. Mr. Seckler prepared a

Traffic Impact Study dated April 20, 2016, which was submitted with the application. He has reviewed the site plan package as well as the reports prepared by the Board's planner and engineer.

Mr. Seckler described in detail the data collected and the resulting findings as documented in the Traffic Impact Study. He described the Route 17 corridor, being a state highway, as well as Corporate Drive, being a local roadway. Traffic patterns were illustrated and peak hours mentioned. The amount of traffic the proposed QuickChek will generate on the site was determined utilizing the Institute of Traffic Engineers Trip Generation Manual. Mr. Seckler noted the Institute of Traffic Engineers recognizes that uses such as convenience stores and gas stations are not destination trips. The predominate customer base are drivers/commuters already on the road resulting in a limited impact on new trip generations. Traffic patterns throughout the day were described as gas/coffee customers in the morning, gas/deli-sandwich customers at lunch time and gas/coffee/sandwich customers in the evening.

Mr. Seckler commented on the cross access to the site from the neighboring hotel as well as the intersection of Corporate Drive and Route 17. He described levels of service as being measured on an A through F basis for capacity and delay. Expectations for the site driveway at the intersection of Corporate Drive and the driveway on Corporate Drive from the cross access connection are to be rated a C or D level of service during the busiest peak hours. Referring to a prior meeting with the Department of Transportation on November 15, 2015, the DOT requested a deceleration lane be added to reach Corporate Drive.

An onsite feature mentioned by Mr. Seckler is the crosswalk and sidewalks proposed connecting the hotel to the proposed QuickChek site. The feature provides safe and efficient access. The accessibility to more than a candy machine is an added convenience for hotel customers. Onsite circulation was noted including the stop bars and stop signs throughout the site. Parking was mentioned and 64 parking spaces are proposed. The spaces closest to the store will have concrete pavement as these spaces will be the most utilized and concrete provides the best durability.

Mr. Seckler discussed the existing and proposed line of site and the following exhibit was presented and marked:

Exhibit A-24 Lot 5.01 Pylon Sign Line of Sight Exhibit, prepared by Bohler Engineering, Revision 0, dated May 17, 2017

Mr. Ascolese, of Boswell Engineering, requested a copy be provided of the NJ DOT letter concerning the designation of the shoulder area as a right-turn lane. Upon questioning by Mr. Kelly, Mr. Seckler described how weave analyses are performed and what the weave analysis entails. Mr. Ascolese presented documentation entitled "Convenience Market with Gasoline Pumps," from the Institute of Transportation Engineers, describing how trip generations are prepared. He described this documentation in detail for the Board Members.

Mr. Kelly has several concerns, specifically regarding ingress and egress to the site. He sees a major potential for a conflict between vehicles having their right-turn blinker on to pull into the QuickChek or to turn right onto Corporate Drive. This led to a discussion on the DOT, striping the deceleration lane, additional striping to the site, intersection and driveway separation and signage. Mr. Seckler indicated the shoulder would be shared as an acceleration and deceleration lane. He mentioned this is common on Route 17. Mr. Kelly reiterated his concern with the driveway location.

Testimony continued describing the breakdown of vehicles exiting to Corporate Drive through the hotel parking lot and the number of vehicles exiting onto Route 17. Pass-by traffic customers compared to new destination traffic customers was discussed. Mr. Seckler stated the majority of the traffic at the site will be pass-by traffic utilizing the driveway from Route 17. Upon questioning by Mr. Montroy, Mr. Seckler indicated there are deed restrictions for cross access between the hotel and the proposed QuickChek site to Corporate Drive.

Mr. Kelly would like to review the weave analysis and asked that it be submitted as soon as possible. He noted the late time and requested the Applicant have Mr. Seckler available at the next meeting. He also requested the Soil Movement Permit Application be submitted ten (10) days in advance of the next meeting. Mr. Whiteman would also like to discuss the weave analysis, the traffic flow within the site and the Corporate Drive entrance/exit.

Mr. Rabolli announced that the following signed certifications were received for this application:

Mr. G. Montroy	April 5, 2017 Meeting Certification
Mr. K. Almeda	April 5, 2017 Meeting Certification
Mr. G. Montroy	April 19, 2017 Meeting Certification
Mr. C. Rabolli	April 19, 2017 Meeting Certification

After a brief discussion on scheduling, Mr. Rabolli announced the QuickChek application is carried to the June 7, 2017 meeting. Mr. Azrak consented to the extension of time and no further notice is required. Mr. Cascio disclosed he is working with Mr. McDonough, the Applicant's Planner, who will testify at a future hearing. Mr. Azrak does not have any objection or see any conflict of interest.

VI. WORK SESSION:

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

Application requesting a Use Variance to expand a pre-existing non-conforming use.

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

Township of Mahwah
Board of Adjustment Meeting Minutes
May 17, 2017

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

VII. ADJOURNMENT:

The meeting adjourned at 10:21 pm on a motion by Mr. Whiteman, seconded by Mr. Dator.

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