

**TOWNSHIP OF MAHWAH  
BOARD OF ADJUSTMENT**

**MINUTES**

**MAY 3, 2017**

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ, beginning at 7:36 pm was called to order by Mr. Dator, Vice 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. Dator Mr. Straffin  
Mr. Kearney Mr. Whiteman

Mr. M. Kelly, PE

**ABSENT:** Mr. Almeda Mr. Montroy  
Mr. DeSilva Mr. Rabolli  
Mr. Larson

**ATTORNEY:** Mr. Ben R. Cascio, Esq.

**I. APPROVAL OF BILLS:**

4/05/17; 4/19/17 \$500.00 Ben R. Cascio, Esq. – Attendance  
Two meetings

A motion to approve was made by Mr. Whiteman, seconded by Mr. Kearney. A roll call vote revealed 4 aye votes by Mr. Dator, Mr. Kearney, Mr. Straffin and Mr. Whiteman.

**II. APPROVAL OF MINUTES:**

None to present.

**III. MEMORIALIZING RESOLUTIONS:**

None to present.

**IV. OPEN TO THE PUBLIC:**

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

**V. PUBLIC HEARINGS:**

*Note: Mr. Dator acknowledged several Mahwah High School students in the audience attending the meeting as part of a History project.*

**1. 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 April 19, 2017.

Mr. Bruce Whitaker, Esq., of McDonnell & Whitaker, LLC, approached on behalf of the Applicant. Per documentation received from Mr. Whitaker dated May 2, 2017, Mr. Dator announced this application is carried to June 7, 2017 and no further notice is required.

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

Application requesting the installation of two-car garage as a second accessory structure.

Mr. Paul Ten Eyck, of 20 Rae Avenue, approached and was sworn in by Mr. Dator. Mr. Ten Eyck presented a description of the application. He currently has a pool cabana on his property, which is considered an accessory structure. All lot coverages and bulk requirements are met. He is requesting variance relief for a second accessory structure.

Mr. Kearney questioned if there are any future plans for living space or an apartment in the proposed accessory structure. Mr. Ten Eyck replied he will be using the space for car and motorcycle storage and has no intention of using the proposed structure as living space. He would like a garage on his property as compared to renting storage space elsewhere. There was a short discussion on attaching the garage to the home.

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

Mr. Lou Rizzo, of 12 Rae Avenue approached in support of the application. Mr. Rizzo is a next-door neighbor and has no concerns with the proposed structure.

Mr. Cascio indicated the property owner notice was missing from the notice documentation but if the Board chooses to approve the application, the submission of this document can be included as a condition of approval.

**3. DKT.#1392-15(S) – SHARP PLAZA SG HOLDINGS, LLC  
10 SHARP PLAZA, BLOCK 26, LOT 1.02**

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

Ms. Danielle Lamake, Esq., of Kaufman Semeraro & Leibman, LLP, approached on behalf of the Applicant. Mr. Cascio indicated all notices were in order. Ms. Lamake presented an overview of the application. The Applicant previously appeared before the Board for a Minor Subdivision, Use Variance, Bulk Variance and Site Plan Approvals. The Applicant is proposing to regrade the property to construct a warehouse and associated parking lots.

Ms. Lamake called Mr. Christopher Szalay, of Menlo Engineering in Highland Park, NJ. After presenting his credentials, Mr. Szalay was accepted as an expert Professional Engineer. Mr. Szalay explained that the Applicant will be regrading the site and moving over 1,000 cubic yards of soil, which requires a Public Hearing. All soil will remain on site and there will be no import or export of soil.

Mr. Kearney asked for clarification to ensure his understanding of the application. Mr. Szalay noted that due to the contours versus the proposed grading of the site, some areas will be cut and excavated and that soil will be moved to other areas to relevel and fill to lift the existing grade.

Mr. Kelly referred to his report dated April 26, 2017 and asked if all comments will be addressed. Mr. Szalay indicated yes but mentioned an additional waiver being requested for showing the location of the 13 trees to be removed. It was noted that over 300 trees are proposed to be installed. Mr. Kelly put on the record the Waivers being requested, as noted on Page 2 of his report, and takes no exception to these waivers being granted. He did ask that soil calculations be provided.

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

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

Application for a side-yard variance to construct a deck.

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 documented in the Statement of Facts submitted with the application. The property is a unique, pie-shaped lot, the

dwelling unit is not centered on the lot and the property has unusual topography. The Board previously granted a side-yard setback variance in 1987 due to “exceptional narrowness and irregular shape of the lot.” The Applicant is requesting to construct an attached deck to the rear of the dwelling but due to the dwelling being skewed on the property, a side-yard variance will be needed. A patio is not practical due to topographic conditions. Mr. Whitaker noted the distances between the neighboring homes and noted as a condition of approval, the Applicant proposes to install an evergreen buffer within the side-yard setback.

Mr. Whitaker called Ms. Kelly Kirk, 14 Stone Fence Road. Ms. Kirk was sworn in by Mr. Dator. She described the existing conditions of her home and the reasons for submitting the application. They would like to extend the usable space to the rear of the dwelling for customary outdoor living space to include outdoor furniture and a barbecue. The deck will be a maximum of 2 feet above the ground. The rear of the property is sloped and if a patio was installed, it would potentially create a standing water/ice condition. A large amount of soil would need to be imported to level out the area.

Ms. Kirk presented a set of five (5) photographs which were taken by her within the past week. The photographs depicted her property and the adjoining neighbors.

Mr. Kelly commented decks can encroach two (2) feet into the setback for accessory structures. He stated that the final grading of the property must not increase any runoff to the neighbors. He questioned tree removal to which it was noted that no trees are proposed to be removed.

There were no further questions from the Board or the Public for Ms. Kirk.

Mr. Bill Clark, of 10 Stone Fence Road, approached. Mr. Clark is the Applicant’s neighbor. He indicated to the Board he is aware of the application and does not have any issues or concerns with the infringement of the proposed deck.

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

## **VI. WORK SESSION:**

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

Mr. Dator announced this application is carried to June 7, 2017 and no further notice is required.

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

Application requesting the installation of two-car garage as a second accessory structure.

A motion to approve, with conditions, was made by Mr. Kearney, seconded by Mr. Straffin. A roll call vote revealed 4 aye votes by Mr. Dator, Mr. Kearney, Mr. Straffin and Mr. Whiteman.

**3. DKT.#1392-15(S) – SHARP PLAZA SG HOLDINGS, LLC  
10 SHARP PLAZA, BLOCK 26, LOT 1.02**

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. Kearney. A roll call vote revealed 4 aye votes by Mr. Dator, Mr. Kearney, Mr. Straffin and Mr. Whiteman.

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

Application for a side-yard variance to construct a deck.

A motion to approve was made by Mr. Kearney, seconded by Mr. Whiteman. A roll call vote revealed 4 aye votes by Mr. Dator, Mr. Kearney, Mr. Straffin and Mr. Whiteman.

**VII. ADJOURNMENT:**

The meeting adjourned at 8:20 pm on a motion by Mr. Whiteman, seconded by Mr. Straffin.