

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

OCTOBER 17, 2018

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 informed 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. Almeda Mr. Rabolli
Mr. Kearney Mr. Straffin
Mr. Montroy Mr. Whiteman

ABSENT: Mr. Dator Mr. Larson
Mr. DeSilva

ATTORNEY: Mr. Joseph Cerame, Esq. for Ben R. Cascio, Esq.

PROFESSIONALS: Mr. John Yakimik, PE, Boswell Engineering
Ms. Deb Lawlor, PP, Maser Consulting

ADMINISTRATIVE OFFICER: Ms. Geraldine Entrup

I. APPROVAL OF BILLS:

9/05/18; 9/19/18	\$500.00	Ben Cascio, Esq. - Attendance Two Meetings
9/19/18	\$200.00	Maser Consulting, P.A. - Attendance

A motion to approve all bills was made by Mr. Kearney, seconded by Mr. Montroy. A roll call vote revealed 6 aye votes by Mr. Almeda, Mr. Kearney, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

II. APPROVAL OF MINUTES:

A. MINUTES OF MAY 16, 2018

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

B. MINUTES OF SEPTEMBER 19, 2018

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

C. MINUTES OF OCTOBER 3, 2018

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

III. MEMORIALIZING RESOLUTIONS:

**1. DOCKET #1448-18 – JOSHUA BORNSTEIN
10 WEST DEERHAVEN ROAD, BLOCK 24, LOT 8**

Resolution granting approval of C Variances to construct front entrance canopy and rear deck stairs.

A motion to approve was made by Mr. Kearney, seconded by Mr. Montroy. A roll call vote revealed 5 aye votes by Mr. Kearney, Mr. Montroy, Mr. Rabolli, 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 HEARING(S):

**1. DOCKET #1449-18 – INNOVATION LABS, LLC
555 MAC ARTHUR BLVD., BLOCK 135, LOT 61.02**

Application for a D Use Variance relief and a Waiver for an office, warehouse, research laboratory and assembly of products.

Mr. Cerame stated that the notice was in order.

Mr. Montroy recused himself from this Application based on his affiliation with the neighboring Ramapo College, as a member of the Board of Trustees.

Mr. Kearney questioned the affiliation with Jaguar Land Rover and a possible conflict of interest as he is currently the Global Client Executive. Mr. Whitaker replied that Jaguar Motors sold the property to the current owner and has no affiliation with this property.

Mr. Bruce Whitaker of McDonnell & Whitaker, 245 Main Street, Ramsey, NJ, representing the Applicant, gave a brief overview of the Application; a D Use Variance and Waiver for office, warehouse, research lab and assembly of products in the ORP-200 Zone which does not permit light manufacturing. The Applicant is not seeking site plan approval; there would be no modifications to the building or land. The property is currently owned by 555 MacArthur Boulevard, LLC. Mr. David Chung, Principal of 555 Mahwah LLC is also the Principal of Innovation Labs. Mr. Chung intends to purchase the property and lease it to Innovation Labs, LLC as their Corporate Headquarters.

Mr. Whitaker distributed an Exhibit List which included the original Land Use Approval granted by the Mahwah Planning Board dated February 8, 1988 marked as Exhibit A-5.

The property was originally used as the Corporate Headquarters for Jaguar, later becoming Jaguar Land Rover. Mr. Whitaker provided an overview of what took place as a result of Jaguar Land Rover's application. The Mahwah Planning Board granted site plan approval, sub-division approval, and certain waivers and variance approvals in 1988 when Jaguar came to Mahwah. There are two buildings on the property. Building 1 is a three story building with 94,423 square feet, to be used primarily as the office, cafeteria and an area for research. Building 2 is a two story building with 111,286 square feet, to be used as the warehouse along with assembly and packaging. An overhead walkway of 1,408 square feet connects the two buildings.

Jaguar used the warehouse as an Automotive Shop for mechanical bays. The warehouse has auto lifts, an oil separator in the floor and a blowout section of the building where flammable material would be kept. Mr. Whitaker commented on a 5,000 square foot

discrepancy between 1988 and today regarding the measurement of the mezzanine and stated that his suspicion is that the mezzanine was increased over the years or there was a miscalculation. The current total square footage of the two buildings and the mezzanine is 207,117 square feet. Jaguar was granted a variance for parking for 829 spaces; the site has 421. The Applicant is seeking the same waiver. The company will start out with approximately 50 employees and may have as many as 150 when it grows. Parking is more than adequate.

Mr. Whitaker discussed the Ordinance that was created that specified the use that was granted to Jaguar in the ORP-200 Zone. The Ordinance permits office and research laboratories, and as a conditional use, limited industrial uses including the finishing, assembly, or packaging of goods or materials. The Applicant, Innovation Labs, LLC, is a cosmetic skincare research and innovation company that creates products for a number of cosmetic and skincare luxury brands as well as its own, Farmacy Beauty LLC. The products consist of creams, lotions, mascara, skincare treatments, facial masks, lip products, primers and foundations. The process being used is where ingredients are put together, known as 'batching' to create the creams. The creams are put in jars, the jars are wrapped or packaged and then distributed. Creating the packaging could be considered 'manufacturing' but is basically liquids coming together. Since there is no definition in the code for manufacturing or assembly, the Applicant is seeking a D-1 Use Variance for "manufacturing" in 10% of the total area; 20,000 square feet. There is an FAR requirement that Jaguar did not meet but it was not referenced in the Condition of Approval that they needed a variance or waiver.

Referring to the Boswell Report dated October 9, 2018 & the Maser Report dated October 4, 2018, Mr. Whitaker stated that any issues in the reports would be addressed. Ms. Lawlor of Maser Consulting suggested that not all of the conditions of approval were met by the Applicant. Mr. Whitaker commented that he does not see a condition regarding manufacturing. Another part of the code, previously Section 179, now Section 24.8, states no hazardous materials or heavy duty manufacturing. The D-1 Variance would be for a limited style of "manufacturing".

In response to a request for clarity by Mr. Yakimik from Boswell Engineering, Mr. Whitaker stated that Mr. David Chung, Principal of 555 Mahwah, LLC is the Contract Purchaser of 555 MacArthur Boulevard and is also the Principal of Innovation Labs, LLC.

Mr. Whitaker called his first witness, Mr. David Chung.

Mr. David Chung, 555 Mahwah, LLC, Mahwah, New Jersey approached, was sworn in by Mr. Rabolli and questioned by Mr. Whitaker regarding Innovation Labs becoming the tenant at 555 MacArthur Boulevard and the proposed use of the space. Mr. Chung stated

that the space would be used for office, warehousing, research and development, and batching and filling of cosmetic products. Mr. Chung gave his background and stated that he had started a prior company, Englewood Labs, utilizing an empty warehouse. He grew the business substantially (\$157 million valuation) and sold his portion of the business a few months ago. He is now trying to start a new business in Mahwah and anticipates starting with 50 employees and hopes to grow to 150. Visitors to the site would be clients/cosmetic companies by appointment; there would be very limited visitation from the public. The existing parking is adequate. Office hours would be Monday – Friday, 9:00 a.m. – 5:30 p.m. Warehouse hours would be 8:00 a.m. – 4:00 p.m., possibly 7:00 a.m. – 3:00 p.m. Weekend work would be in the event deadlines had to be met. Mr. Chung stated that these buildings would adequately meet the needs of his business. Signs on the buildings will be conforming signs; Corporate Headquarters and Delivery, the same as Jaguar’s signage.

Mr. Chung stated that there would be approximately eight truck deliveries per day at startup of the business. Mr. Kearney questioned the type of trucks and type of products/materials being delivered. Mr. Chung responded; packaging materials, batching ingredients, raw materials, office supplies, cafeteria supplies. Outgoing would be mainly when product is finished; one or two pickups per day. There will be no hazardous or hazardous waste materials. Mr. Kearney asked about violations in prior companies. Mr. Chung responded that there were none in Totowa, and minimal in fourteen years in Englewood, i.e., signage.

Mr. Whiteman asked if animal testing would be done on site. Mr. Chung responded that they outsource testing, but 99% of his clients are against animal testing.

In response to Mr. Kearney’s question regarding proprietorship, Mr. Chung stated that he currently holds 100% of the ownership.

Mr. Whitaker called his second witness. Mr. William Jablesnik, 1 Sophia Court, Wallkill, New York approached and was sworn in by Mr. Rabolli. Mr. Jablesnik gave his background, stating that he has been in the industry for 12 years as an independent consultant in operations, regulatory, quality, etc. Mr. Jablesnik explained the operations process, covering all aspects from batching of ingredients to handling of waste removal, flammable materials, oil separators and cleaning. In response to questions from Board Members, Mr. Jablesnik stated that no chemicals are used in the cleaning process and that there would be a minimal amount of waste off the assembly lines; two to three 55 gallon tanks per week. Flammable material would be stored in the blow out area in flammable cabinets. The existing oil separator in the building may be utilized. There will be no smell, no smoke stacks, no venting. The amount of water being used would be comparable to Jaguar’s use and will not have a major impact to the Township’s sewer system. Materials are pre-made; the mixing process takes place at site. Standard

Operating Procedures are in place for the setup, operation and take down of the facility including Safety Standards. The Department of Health does a walk through to check compliance. The FDA does less frequent visits due to low risk. Inspection logs are inspected on site. A portion of the office space may be leased out to another Corporate tenant; the warehouse will be 100% occupied by the Applicant. Parking should be sufficient as Innovation Labs will require a maximum of 150 to 175 spaces.

Mr. Whitaker called his third witness. Mr. Richard M. Preiss, VP and Planner at Phillips Preiss Grygiel, LLC, 33-41 Newark Street, Hoboken, New Jersey was sworn in by Mr. Rabolli and following his credentials, recognized as an expert witness. Mr. Preiss informed the Board that he had toured the property as well as reviewed the ordinances and the application. Giving a Planning perspective, Mr. Preiss described the site, the ORP-200 Zone and the surrounding area. The percentage of use was described as 40.1 % office, 40.6% warehouse, and 9.6% research and development. Approximately 30,000 square feet would be used for assembly.

Mr. Preiss continued that a D-1 Use Variance is being requested based on the compounds being mixed which could be considered manufacturing. The positive criteria is that the uses are virtually the same as Jaguar's with no impact to the area. No site improvements are required. The site is particularly suited for this business use and has existing special features that can be reused, i.e., oil separator, water handler and blowout area. The location has advantages; close to Routes 287 and 17, is currently vacant, and can be utilized as a Corporate Headquarters, Warehouse, and Distribution Center. In terms of potential negative impact; no impact to the community, assembly will occupy less than 10% of the floor area, aesthetics – no impact, traffic & parking - minimal, no adverse impact to the environment, Applicant will adhere to all standards, municipal service will be roughly the same as Jaguar – no need for additional utilities, and continued tax revenues and fiscal benefits. Mr. Preiss stated that in his opinion, there would be no substantial detriment to the Public good or to Zoning Ordinances. Parking needs would be met by the waiver and avoid negative impact. Mr. Whitaker again stipulated that the Applicant would meet performance standards in Section 24-8.

There were no additional questions and no closing statement by Mr. Whitaker.

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

VI. WORK SESSION:

**1. DOCKET #1449-18 – INNOVATION LABS, LLC
555 MAC ARTHUR BLVD., BLOCK 135, LOT 61.02**

Application for a D Use Variance for an office, warehouse, research laboratory and assembly of products.

Mr. Rabolli summarized and stated that the testimony fully represented the need for a D-1 Variance based on manufacturing vs. assembly. There is no detriment to the Public good. The industry is similar to Jaguar. Oil separators currently exist. Minimal water would be used. Parking is not an issue. Flood Area Ratio (FAR) - Applicant will adhere to strict requirements and has testified that there would be no issue.

A motion to approve was made by Mr. Whiteman, seconded by Mr. Almeda. A roll call vote revealed 5 aye votes by Mr. Almeda, Mr. Kearney, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

2. 2019 BOARD OF ADJUSTMENT MEETING DATES

Ms. Geraldine Entrup discussed the months of January and July holidays and proposed January 16th & 23rd and July 10th & 24th for Board of Adjustment meetings during those months for this calendar year.

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

VII. ADJOURNMENT:

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

The meeting adjourned 9:27 pm.

These minutes were prepared by Sylvia Gerou, Zoning Board Recording Secretary. The minutes were provided to the Board of Adjustment on February 1, 2019 for approval at the Regular Meeting to be held on February 6, 2019.