

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

SEPTEMBER 7, 2016

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ, beginning at 7:28 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. Dator | Mr. Montroy |
| Mr. DeSilva (in at 7:41 pm) | Mr. Rabolli |
| Mr. Ervin | Mr. Straffin (in at 7:32 pm) |
| Mr. Kearney | Mr. Whiteman |
| Mr. Larson (in at 7:33 pm) | |
| Mr. M. Kelly, PE | |
| Mr. J. Layton, PP | |
- ATTORNEY:**
- | |
|-------------------------|
| Mr. Ben R. Cascio, Esq. |
| Mr. Joseph Cerame, Esq. |

I. APPROVAL OF BILLS:

8/3/16; 8/27/16	\$500.00	Ben R. Cascio, Esq. – Attendance
		Two meetings
Period – August	\$577.50	Dkt.#1409-16 (Cusack)

A motion to approve was made by Mr. Whiteman, seconded by Mr. Montroy. A roll call vote revealed 6 aye votes by Mr. Dator, Mr. Ervin, Mr. Kearney, Mr. Montroy, Mr. Rabolli and Mr. Whiteman.

II. APPROVAL OF MINUTES:

A. MINUTES OF JULY 6, 2016

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

III. MEMORIALIZING RESOLUTIONS:

**A. DKT.#1409-16 – RAYMOND & AMBER CUSACK
148 MILLER ROAD, BLOCK 85, LOT 2.02**

Resolution granting a front-yard variance to construct a six-foot fence in the front yard.

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

**B. DKT.#1407-16 – SOMERSET TIRE SERVICE, INC.
67 FRANKLIN TURNPIKE, BLOCK 70, LOT 6 & 7**

Resolution granting a sign variance to modify existing signage on the property.

A motion to approve was made by Mr. Whiteman, seconded by Mr. Montroy. A roll call vote revealed 4 aye votes by Mr. Dator, Mr. Mr. Montroy, Mr. Rabolli 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:

**A. DKT.#1261-08A – PONY POWERS THERAPIES, INC.
1158 & 1170 RAMAPO VALLEY ROAD, BLOCK 25, LOTS 16 & 17**

Application for a use variance to permit the operation of a nonprofit business with administrative offices and related bulk variances in an R80 Zone, amended site plan and confirmation of existing nonconformities.

Note: Mr. Cascio, Esq., and Mr. Dator recused themselves from this application hearing. Mr. Joseph Cerame, Esq., approached on behalf of Mr. Cascio as the covering Board Attorney.

Mr. Bruce Whitaker, Esq., of McDonnell & Whitaker, LLC, approached on behalf of the Applicant. Mr. Cerame indicated all notices were in order. Mr. Whitaker presented an overview of the application as noted in the Statement of Facts submitted with the application. Pony Powers Therapies is a nonprofit corporation that provides equine assisted therapies to children and adults with autism, cerebral palsy, multiple sclerosis, emotional disabilities, developmental delays and multiple handicaps. They also provide

therapy for United States Veterans. The programs have been both successful and beneficial.

The Applicant would like to expand their current operations and is in a position to acquire the adjacent lot. They are proposing to utilize a portion of the existing home as administrative offices, creating a variance condition. Mr. Whitaker referred to prior Board of Adjustment approvals granted to both lots. The Applicant seeks to codify the existing use to permit the nonprofit business operations at 1170 Ramapo Valley Road and to permit an expansion of the nonprofit business use at 1158 Ramapo Valley Road. Mr. Whitaker stated the current programs will be expanded to both properties; however, the properties will remain separate. Title will be held in a separate nonprofit entity so there will be no merger of lots.

Mr. Whitaker called Ms. Dana Spett, Executive Director of Pony Power Therapies, who was sworn in by Mr. Rabolli. Ms. Spett presented her personal background and the founding history of the Pony Power Therapies. She described the current therapeutic riding and horsemanship programs. There has been tremendous growth in the quality and service of the offered programs. Ms. Spett testified the hours of operation and the number of employees and volunteers will remain the same with the expansion. A typical day is scheduled and well managed. Parking specifics were presented. Ms. Spett mentioned she and her family live onsite. The proposed expansion at the adjacent property would allow more breathing room for the staff for office space and meeting rooms. The office space would be for Pony Powers use only; no office space rentals is proposed. The number of current and permitted horses was noted. The Applicant is not proposing to expand the existing dwelling or stable on the adjoining lot but to use it in conjunction with its current operations.

As part of the application, an expansion to the driveway access to both properties is proposed to allow for safer ingress and egress to both sites. The driveway on Lot 16 is proposed to be widened with an easement created to Lot 17. There would be only one entry and exit.

Upon questioning by Board Members, Ms. Spett testified there is an indoor arena for riding use in both summer and winter weather conditions. Programs are offered to Veterans via the horsemanship program, not necessarily the riding programs, which benefits for example, those with anxiety, social and posttraumatic stress disorders. They are not looking to expand the programs, but to fine-tune existing programs in an expanded area. Programs are held 32 out of 52 weeks a year. Ms. Spett indicated that by having the use of the adjoining property, the riding program within the riding arena at 1170 Ramapo Valley Road can be separated from the horsemanship program, which is proposed at 1158 Ramapo Valley Road. Having the extra space would provide better quality and more efficient programming.

Upon questioning by Mr. Kearney regarding the driveway expansion, Ms. Spett confirmed there have been prior accidents in the area. There is no proposed change in the amount of traffic to the sites. The change of driveway access is to better accommodate the current traffic. Applications have already been submitted to the County.

There was a short discussion on the number of horses permitted across both lots, drainage and parking.

Ms. Betty McDonald of 1174 Ramapo Valley Road, Mahwah, NJ approached. She lives next door and questioned notice. Mr. Whitaker confirmed notice was sent to her address. Ms. McDonald stated she attended prior hearings and questioned soil erosion. The current soil erosion measures in place are not effective. She requested this be looked into further and read a letter sent to the Mahwah Zoning Board of Adjustment from the County of Bergen, dated September 2, 2016. She does not oppose the application and the proposed use but would like the drainage remedied. Mr. Whitaker stated that prior to receiving a copy of the County letter, the Applicant's Engineer, Mr. Thomas Ashbahian, met with the Township's Engineer, Mr. Michael Kelly, proactively for a site inspection regarding drainage. An existing drainage pipe on both the Applicant's property and Ms. McDonald's property was discussed in detail. Drainage will be discussed further when Mr. Ashbahian is called as a witness.

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

Mr. Whitaker called Mr. Thomas V. Ashbahian of 39 Spring Street, Ramsey, NJ, who was sworn in by Mr. Rabolli. Mr. Ashbahian was accepted as an expert civil engineer, architect and professional planner.

Mr. Ashbahian is familiar with the property and was involved with the prior applications. The plan, which was submitted with the application, was marked into the record as follows:

Exhibit A-1 "Proposed Floor Plan," Pony Power Therapies, Inc., 1170
Ramapo Valley Road, Mahwah, NJ 07430, Lot 16 & 17, Block
25" prepared by Thomas V. Ashbahian, R.A., P.E., dated July
22, 2016

Mr. Ashbahian described the plan detailing the current and proposed conditions as well as the proposed driveway changes. There will be no external changes to the building on Lot 17, and the character of the building will remain the same. The Applicant proposes to convert and utilize approximately 37% of the dwelling as office space for Pony Power Therapies with the remaining space remaining residential.

Mr. Ashbahian referred to the drainage issues in the area and off site. He explained where he believes the drainage originates from and the proposal to rectify it. He described the existing topography mentioning the existing drainage pipe and silt fence. Mr. Kelly questioned the removal of the pipe, which was then discussed. Mr. Kelly stated a drainage design plan prepared by the Applicant's Engineer would be required to be submitted to the Township as well as a Soil Movement Permit Application. As an additional note, the silt fence would remain until all improvements are completed, established and approved by the Township's Engineer. Mr. Whitaker noted the drainage could be a stipulation of approval.

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

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

Mr. Rabolli called a recess at 8:44 pm.

The meeting reconvened at 8:49 pm.

Mr. Rabolli called Docket #1405-16 and moved back into the Public Hearing portion of the meeting. Mr. Cascio, Esq., and Mr. Dator returned to the dais for the next application.

**B. DKT.#1405-16 – JPNJ REAL ESTATE, LLC
1071 RAMAPO VALLEY ROAD, BLOCK 23, LOT 45**

Application for a Use Variance to permit the operation of a Behavioral Health, Substance Abuse, Detoxification and Residential Rehabilitation Center as well as a Multiple Use Variance to allow multiple residential dwellings on a single lot, Application carried from the August 3, 2016 meeting.

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

Mr. J. Larson	July 6, 2016 Meeting Certification
Mr. G. Ervin	August 3, 2016 Meeting Certification
Mr. T. Kearney	August 3, 2016 Meeting Certification

Ms. Holly Schepisi of Huntington Bailey, LLP, approached on behalf of the Applicant. Ms. Schepisi noted the request of the Board to provide an Impact Study prepared by a certified appraiser. A report was submitted to the Board prior to this evening's hearing.

Ms. Schepisi called Mr. Robert Delcalzo of Delcalzo Realty, 40 Eisenhower Drive, Paramus, NJ, who was sworn in by Mr. Rabolli. After presenting his credentials and qualifications, Mr. Delcalzo was accepted as an expert real estate appraiser. Mr. Delcalzo prepared the Impact Study report provided to the Board dated August 26, 2016, to determine what effect, if any, the proposed facility will have on surrounding property values. His report was prepared using comparables to residential rehabilitation facilities and residential townhouse developments. He described, in detail, several comparable residential rehabilitation properties, such as the Sunrise House in Lafayette, NJ; the Crawford House in Montgomery, NJ; and the Sayre House, in Howell, NJ. He used the same types of analysis for residential townhome developments specifically describing Fox Run in Allendale, NJ; The Enclave in Montvale, NJ; and Farm Estates in Waldwick, NJ. The Board asked several questions regarding the values before and after the Sunrise House was built and the impact in affluent areas.

Mr. Jim Ribaldo, of 1050 Ramapo Valley Road, Mahwah, NJ approached. He questioned the comparables presented mentioning Mahwah is in the Highlands Preservation and Planning Areas and has historic properties. He also noted the comparables given were for facilities that were already built.

Ms. Laura Ashtyani, of 1122 Ramapo Valley Road, Mahwah, NJ approached. She questioned the length of time homes were on the market and stated she does not believe the comparables given are a valid comparison to the Mahwah area.

Mr. Robert Amarante, of 1066 Ramapo Valley Road, Mahwah, NJ approached. He questioned the two-acre minimum size of the property in the R80 Zone. He does not believe the comparisons presented give a fair representation to properties in the Mahwah area.

Upon questioning by Ms. Schepisi, Mr. Delcalzo agreed that it is customary, in his profession, to try to find comparable communities and properties when doing an impact analysis however, they are limited to what exists.

Ms. Betty McDonald of 1174 Ramapo Valley Road, Mahwah, NJ approached and commented that the proposed for-profit does not fit in with the existing residential area.

Mr. Ron Beekman of 998 Ramapo Valley Road, Mahwah, NJ approached. He questioned the Applicant's proposed mixed use and a direct comparable to the mixed use. The comparisons presented by Mr. Delcalzo were for separate uses, not the mixed use that is being proposed on one property. Mr. Delcalzo replied he could not locate an exact location within New Jersey that currently has the same type of use / mixed use combined on one property.

Both Mr. Ribaldo and Ms. Ashtyani reapproached questioning the appraisals presented and the lack of comparables to what is being proposed. Looking out of state for a comparable area was questioned. Mr. Delcalzo's analysis was based off of what he had access to and it is common practice to look within the state where the property is located. There were different points of view as to the basis of the analysis data.

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

At this time, Mr. Rabolli opened up the hearing to the Public for final statements.

Mr. Robert Amarante, of 1066 Ramapo Valley Road, Mahwah, NJ approached and stated he does not believe the proposed townhouses have any inherently beneficial value in the R80 Zone.

Ms. Sharon Liva, of 7 Finn Court, Mahwah, NJ approached and stated she does not believe Route 202 or the Rio Vista neighborhood can handle the additional traffic.

Mr. Jim Ribaldo, of 1050 Ramapo Valley Road, Mahwah, NJ approached and reiterated that a drug and alcoholic rehabilitation facility does not belong in the area that he and his

neighbors live in. He is concerned with security, especially with the facility being directly across the street from his home. He is also concerned with the addition of townhomes to the property. He does not believe that the proposed for-profit business belongs in the area. He does not believe that future homebuyers would purchase a home across the street from a facility for drug and substance abusers.

Ms. Laura Ashtyani, of 1122 Ramapo Valley Road, Mahwah, NJ approached and listed the following:

- She believes Mr. Lasko's testimony was inconsistent
- She believes ambulances will be coming and going
- She has a concern with background checks, or lack thereof
- It is a for-profit facility, what is the benefit to the community - patients/people would be coming from all over, not necessarily from local communities
- The testimony on fencing was inconsistent and police may need to be called
- Traffic testimony detail was obtained in the summer time, not when school buses traverse the area
- Noting the Applicant's Engineer's testimony, there were missing details that should have been addressed
- The area is a residential area, not an area for a for-profit rehab
- She questioned what could potentially go there in the future

Ms. Margaret Gregorek, 53 James Brite Circle, Mahwah, NJ approached and stated she has been a realtor in the area for 30 years. She is concerned with traffic and the proposed townhomes and believes there will be an impact on the value of homes in the area.

Ms. Evelyn Amarante, of 1066 Ramapo Valley Road, Mahwah, NJ approached and stated she does not believe the proposed townhomes belong in the neighborhood and are not a proper use of the land.

There were no further statements to be made by the Public.

Ms. Schepisi addressed the Board and the Public to clarify prior questions made stating there will be security on site, there will be an Admissions Department, scholarships would be available, and the facility will have a nonprofit component although Medicare patients would not be accepted. She also commented that substance abuse already exists in the area and prior arrests made in the Ramapo Valley Road area could be researched via Google. Ms. Schepisi thanked the residents for the concerns they raised, which will be taken into consideration.

Ms. Schepisi presented her closing statement, mentioning that only eight (8) townhomes are proposed, not a massive complex. She overviewed the testimony heard by the Applicant's witnesses including Mr. Lasko, an engineer, a planner and a traffic expert. Other permitted uses in the area were noted such as a school or a church. The historical character of the building is proposed to remain the same. Ms. Schepisi continued commenting on the inherent need for this type of rehabilitation services in the area as the

resources for substance abuse does not currently exist. After giving a final overview of the proposed application, she thanked the Board for their consideration.

**C. DKT.#1410-16 – RICHARD MARCHESI
25 MOUNTAIN ROAD, BLOCK 2, LOT 4**

Application for a C Variance to construct a new single family home on vacant land.

Mr. Rabolli announced this application will be carried to the September 21, 2016 meeting and no further notice is required.

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

VI. WORK SESSION:

**A. DKT.#1261-08A – PONY POWERS THERAPIES, INC.
1158 & 1170 RAMAPO VALLEY ROAD, BLOCK 25, LOTS 16 & 17**

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

Application for a use variance to permit the operation of a nonprofit business with administrative offices and related bulk variances in an R80 Zone, amended site plan and confirmation of existing nonconformities.

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. DeSilva, Mr. Ervin, Mr. Kearney, Mr. Larson, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

**B. DKT.#1405-16 – JPNJ REAL ESTATE LLC
1071 RAMAPO VALLEY ROAD, BLOCK 23, LOT 45**

Application for a Use Variance to permit the operation of a Behavioral Health, Substance Abuse, Detoxification and Residential Rehabilitation Center as well as a Multiple Use Variance to allow multiple residential dwellings on a single lot.

The Board discussed the inherently beneficial component of the application. The mixed use of the rehabilitation center and the townhouses was discussed in detail. The consensus of the Board is the rehabilitation facility is inherently beneficial, but the townhouses are not.

A motion to approve the Behavioral Health, Substance Abuse, Detoxification and Residential Rehabilitation Center, with conditions, and to deny the Multiple Use Variance to allow townhouses was made by Mr. Montroy, seconded by Mr. DeSilva. A roll call vote revealed 8 aye votes by Mr. Dator, Mr. DeSilva, Mr. Ervin, Mr. Kearney,

Township of Mahwah
Board of Adjustment Meeting Minutes
September 7, 2016

Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman with one (1) nay vote by Mr. Larson.

A motion was made by Mr. Whiteman, seconded by Mr. Larson, to close the Work Session portion of the meeting and move to Adjourn. All voted in favor.

VII. ADJOURNMENT:

The meeting adjourned at 11:25 pm on a motion by Mr. Whiteman, seconded by Mr. Montroy.

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