

**TOWNSHIP OF MAHWAH PLANNING BOARD  
REGULAR /WORK SESSION MEETING MINUTES  
MUNICIPAL BUILDING, 475 CORPORATE DRIVE, MAHWAH, N.J.  
MONDAY, AUGUST 27, 2018 AT 7:30 P.M.**

**I. CHAIRMAN'S OPENING STATEMENT, ROLL CALL, AND FLAG SALUTE**

The combined public/work session meeting of the Planning Board of the Township of Mahwah held at the Municipal Building, 475 Corporate Dr., Mahwah, N.J. was called to order at 7:32 p.m. by Mr. Sherer. The Opening Statement was read according to the Sunshine Law followed by the flag salute.

These minutes are a synopsis of the meeting. A verbatim audio recording is on file at the Planning Board Office, 475 Corporate Dr., Mahwah, NJ. Copies may be purchased for a fee.

**II. Roll Call:**

The following individuals were present:

Mr. Crean  
Mr. Donigian  
Mr. Ervin  
Mr. Grewal  
Mr. Lo Iacono  
Mr. Sherer  
Mr. Van Duren  
Ms. Steinberg  
Ms. Galow

Professionals: Peter J. Scandariato, Esq., Michael Kelly, Debbie Alaimo Lawlor, P.P.

The following individuals were absent:  
Mayor Laforet  
Mr. Howard

**III. APPROVAL OF BILLS: None to Present**

**IV. APPROVAL OF MINUTES:**

1. July 23, 2018

A motion to approve the above minutes was made by Mr. Donigian and seconded by Ms. Steinberg. A roll call of members present revealed 4 aye votes by Mr. Donigian, Mr. Ervin, Ms. Steinberg and Ms. Galow.

**V. RESOLUTION FOR MEMORIALIZATION: None to Present**

**VI. OPEN TO THE PUBLIC – 15 MINUTES:**

A motion to open the meeting to the public was made by Mr. Ervin, seconded by Mr. Van Duren and declared unanimously carried by Mr. Sherer.

Mrs. Barbara Alberts of 61 North Railroad Avenue, Mahwah, NJ approached and stated that she has lived in Mahwah over 33 years and loves the Township. She explained that she has been paying flood insurance since 2007 when she refinanced her home. When the survey was done she found out that the flood maps were not updated. She explained that Mr. Kelly and the Township have done all the work possible and that they are waiting for the FEMA flood maps to be updated. She is continuing to pay flood insurance until the new map is published. Mrs. Alberts asked for an update and if the Township can do anything.

Mr. Kelly explained that there was a meeting with FEMA for a public outreach for the residents. FEMA had revised maps about 2½ years ago. The maps went out for comments, then appeals were processed which resulted in amendments to the maps. The amended maps went back out for comments again and FEMA was hoping to adopt the maps by the end of the year.

Mr. Kelly stated that he has been following up with FEMA. Mr. Kelly explained he has cautioned the residents that it is not a quick process. Mr. Sherer asked Mr. Kelly if it might help if FEMA got a call from a Congressional Office. Mr. Kelly thought that might help and stated that he would contact the Congressman's Office on behalf of the Municipality. Mr. Kelly acknowledged that he sympathizes with the residents and the burden this puts on them. Mrs. Alberts expressed appreciation for all that Mr. Kelly has done to help. Mrs. Alberts stated that she would also write a letter to Congressman Gottheimer. Mrs. Alberts reiterated that Mr. Kelly is the best!

Mr. John Fesen of 20 Falcon Court, Mahwah approached and asked for the status of broadcasting the Board Meetings on the Cable channel. Mr. Donigian informed Mr. Fesen that the Cable Committee was meeting concurrently and that the broadcasting was on their agenda for discussion. Mr. Fesen asked if Mr. Grewal would recuse himself from the vote regarding the Bolla docket. Mr. Sherer stated that based on a prior conversation, he understood that Mr. Grewal would be recusing himself.

A motion to close the meeting to the public was made by Mr. Ervin, seconded by Mr. Donigian and declared unanimously carried by Mr. Sherer.

**VII. PUBLIC HEARING(S):**

- 1. Docket #595 – Ramsey Auto Group  
10 Industrial Ave, Block 110.01, Lot 8  
Conditional Use and Site Plan Waiver Application**

Mr. Van Duren recused himself from this application.

Mr. James Jaworski Esq., of Wells, Jaworski and Leibman at 12 North Route 17 P.O. Box 1827, Paramus, NJ and Mr. Frank Minervini of 585 Route 17 South in Ramsey, NJ approached. Mr. Jaworski explained that they are seeking a waiver from site plan and need to appear before the Board as the proposed use of outdoor storage is conditional usage. Mr. Jaworski explained that they had a similar arrangement for parking at 440 Franklin Turnpike but as that building has changed ownership, they are seeking approval for this same parking usage at 110 Industrial Avenue. Mr. Jaworski discussed conditions of usage, explaining that there was no hard fencing but that the topography provided sight coverage. Mr. Sherer asked if Mr. Kelly's letter had been reviewed. Mr. Kelly's letter stated that testimony demonstrating the conditions for outdoor storage was needed.

Mr. Minervini was sworn in. He is the Manager of Fixed Operations including real estate and building management, for Ramsey Auto Group. Mr. Jaworski asked Mr. Minervini to discuss the proposed business operation. In response to Mr. Kelly's question, Mr. Minervini explained that the cars would all be parked in the striped spaces. Mr. Minervini stated that the hours of operation would be from 8 a.m. to 9 p.m. and that no trucks would be dropping cars off there. Mr. Minervini testified that no customers would be present at the site. There was discussion about the number of spaces that would be used. The consensus was that 125 parking spaces would be used and that cars would only be parked in lined spaces. There was discussion about the lack of fencing. It was stated that the topography of the land and the physical building enclosed the parking lot, eliminating the need for fencing.

A motion to open the meeting to the public was made by Mr. Ervin, seconded by Mr. Donigian and unanimously carried by Mr. Sherer.

No one wishing to be heard, a motion to close the meeting to the public was made by Mr. Crean and seconded by Ms. Steinberg.

A motion to approve the application was made by Mr. Donigian and seconded by Mr. Crean. A roll call of members present revealed 8 aye votes by Mr. Crean, Mr. Donigian, Mr. Ervin, Mr. Grewal, Mr. Lo Iacono, Mr. Sherer, Ms. Steinberg and Ms. Galow.

**2. Docket 594 – Domingo Grullon**  
**3 Devine Drive, Block 58 Lot 2**  
Minor Subdivision

Mr. Grewal recused himself from this application.

Mr. Bruce Whitaker Esq., of McDonnell & Whitaker at 245 E. Main St, Ramsey, NJ approached representing the Applicant. Mr. Whitaker explained that the Applicant is proposing a Minor Subdivision in order to create a second lot. Mr. Whitaker discussed the

preexisting nonconforming conditions. Mr. Whitaker stipulated that the Applicant would meet all the requirements that were specified in Mr. Kelly's letter of review for this application.

Mr. Harry Tuvel of 629 Ridge Court in Ridgefield, NJ, associated with GB Engineering, was sworn in, provided his credentials and was accepted by the Board as an expert professional engineer. Mr. Tuvel reviewed the Minor Subdivision Plan, describing the existing conditions of the lot. Mr. Tuvel testified that the lot would be subdivided with the existing house on one lot and the new lot being vacant. Mr. Tuvel explained that the size of the new lot would exceed the requirements for this R5 Zone. Mr. Tuvel discussed the existing nonconformities but explained that they would not affect the subdivision.

Mr. Kelly discussed the following existing non-conformities:

- a. The minimum front yard setback requirement is 25 feet. The front yard setback from Railroad Ave is 15 feet to the front porch.
- b. The garage is setback 10.96 feet from Devine Drive where 25 feet is required.
- c. The existing shed is setback 2.78 feet where five feet is required.

Mr. Kelly stated that the plan should be revised to show the adjacent property owners. Mr. Kelly said that he would not be opposed to granting the waiver concerning the requirement to provide the location of all structures within 200 feet. Mr. Whitaker testified that all of Mr. Kelly's comments would be addressed and stipulated that they would conform to all requests. Mr. Kelly stipulated that the subdivision does not guarantee that it is a buildable lot.

Mr. Tuvel discussed the topography of the new lot in response to Mr. Crean's questioning. Mr. Crean discussed questions about existing homes and structures near the property. Mr. Kelly explained that if they were to move forward with building a new home on the proposed lot, they would have to submit a Soil Movement Permit Application. If more than 1,000 cubic yards are proposed to be moved, the application would come before the Planning Board. Mr. Kelly stated that for a house this size, it is usually not required and that unless there were variances required, the Applicant would not have to come back before this Board.

A motion to open the meeting to the public was made by Mr. Ervin, seconded by Ms. Steinberg and unanimously carried by Mr. Sherer.

Mrs. Barbara Alberts of 61 North Railroad Avenue, Mahwah, NJ approached and stated that she lives within 200 feet of the property. She wondered how they could build a house on the property considering the size, wire locations, and possible flood area designation. Mr. Whitaker responded that the application is for the creation of the subdivision and that the size of the lot does meet the requirements of the R5 Zone. Mr. Scandariato clarified that the application is only concerning the subdivision and does not find that the lot is buildable.

Mr. Nabil Riaz of 80 North Railroad Avenue, Mahwah, NJ, approached and stated that his property was also within 200 feet of the lot. Mr. Riaz explained that his home has been flooded multiple times. Mr. Riaz asked how the drainage and flood risk impact would be assessed. Mr. Sherer reiterated that this application was not addressing the development of this lot.

Mrs. Barbara Alberts of 61 North Railroad Avenue, Mahwah, NJ approached again and asked why they were subdividing if they didn't know if it would be a buildable lot. Mr. Whitaker explained that the first step in the process is the subdivision and that the next step would be to go before the State of New Jersey, etc. determining if the lot is buildable.

A motion to close the meeting to the public was made by Mr. Ervin and seconded by Mr. Van Duren.

Mr. Whitaker stated that he had no more witnesses.

Mr. Nabil Riaz of 80 North Railroad Avenue approached and was sworn in. Mr. Riaz humbly requested that he be given 30 days to assess the risk of flooding. Mr. Riaz explained that flooding was an issue and that his father had to be rescued during one storm.

Mr. Sherer asked Mr. Kelly to outline the process and how risks would be assessed. Mr. Kelly clarified that if the subdivision was approved, prior to building, the Applicant would have to go before the State of New Jersey and the NJDEP. The Applicant would have to get flood hazard area approval from the State. The Applicant would have to meet all the State requirements including the demonstration that they are not creating any adverse impact to anyone in that flood plan. The Applicant would have to submit a Soil Movement Permit Application with the Township. This permit would not be granted unless all the appropriate State approvals have been met. As the Township Engineer, Mr. Kelly explained that he understands the history of this area and takes a close look at these types of concerns.

There was discussion about what the Board can do in situations where there is a subdivision meeting the bulk requirements but there are concerns about the impact of lot development. It was reiterated that a condition of approval for this application would be that the Township is not demonstrating that this is a developable lot and that any development would require Flood Hazard Area approval from the New Jersey Department of Environmental Protection.

A motion to approve the application was made by Ms. Steinberg and seconded by Mr. Lo Iacono. A roll call of members present revealed 8 aye votes by Mr. Crean, Mr. Donigian, Mr. Ervin, Mr. Lo Iacono, Mr. Sherer, Mr. Van Duren, Ms. Steinberg and Ms. Galow.

**3. Docket #587 – Bolla Operating N.J. Corp  
62 Franklin Turnpike, Block 68, Lots 14 and 14.01**

Application for Preliminary and Final Site Plan Approval to upgrade the existing site for a service station and convenience store with associated improvements.

Mr. Grewal recused himself from this Application.

Mr. Bruce Whitaker Esq., of McDonnell & Whitaker approached. Mr. Whitaker stated that he was representing the Applicant. Mr. Whitaker explained that the remaining aspect of the application was the offering of Burger King Products. Mr. Whitaker reiterated that the Burger King products would be a small part of the total offering within the convenience store and that there would be no seating within the store.

Mr. Whitaker called Mr. Frank Filiciotto of Stonefield Engineering and Design, LLC, 92 Park Avenue, Rutherford, NJ 07070. Mr. Filiciotto was previously sworn in and remains under Oath. Mr. Whitaker presented a handout for the Board Members, Exhibit A-19, which depicts the volume of sales at specific existing Bolla Market locations. Mr. Whitaker asked Mr. Filiciotto to summarize the previous testimony regarding observed customer data and this most recent exhibit. Mr. Filiciotto reiterated the data presented at a previous hearing that 65% of the customers were fuel only, 20% of customers were both fuel and convenience store customers, and 15% of customers were convenience store only. Mr. Filiciotto described Exhibit A-19 which presents data from the Hempstead Turnpike store in Elmont, NY and the State Route 17 North store in Ramsey, NJ. The Board asked for the comparable information for the proposed Franklin Turnpike site.

Mr. Kelly confirmed that the Board had decided through a straw poll at the last meeting, to “bank” the additional tandem parking spots in order to preserve as much green space as possible. It was agreed that as a condition of approval, the Applicant would provide these additional two spaces if the Township Engineer determined they were needed.

Mr. Filiciotto discussed the data presented in Exhibit A-19. Mr. Filiciotto testified that this revenue data shows that the number of Burger King transactions was a small percentage of the convenience store sales. There was discussion about this data and how it relates to the number of required parking spaces.

Ms. Steinberg asked if a study regarding the number of parking spaces in use was undertaken. Mr. Filiciotto testified that at a given point the maximum number of cars in striped parking spaces was six. This was observed at the Uniondale, NY location. There was additional discussion of parking space needs. Mr. Lo Iacono stated a safety concern about convenience store users using the pump locations as parking spots. Mr. Donigian expressed his appreciation for the proposed positive aspects regarding landscaping and site updates as well as his frustration with the unresolved parking concerns.

A motion to open the meeting to the public was made by Mr. Van Duren, seconded by Ms. Steinberg and unanimously carried by Mr. Sherer.

No one wishing to be heard, a motion to close the meeting to the public was made by Mr. Van Duren and seconded by Mr. Crean.

Mr. Whitaker called Mr. Jay Singh, Vice President of Brand Development and Managing Director of the Burger King Operations for Bolla Operating NJ Corp at 809 Stewart Avenue, Garden City, NY. Mr. Singh approached, was sworn in, provided his credentials and was accepted by the Board as an expert witness. Mr. Singh discussed the comprehensive training course Burger King required. Mr. Singh shared about Burger King's "Speed of Service" Metric that Burger King stresses. Mr. Singh testified that the target time from order to presentation of food is two minutes. Mr. Singh testified that in the New York, Connecticut and New Jersey locations, the longest time measured was three minutes and forty-six seconds. Responding to Mr. Donigian, Mr. Singh testified that the proposed Franklin Turnpike site would do approximately 60% of the volume of fuel sales compared with the Ramsey site. Mr. Singh discussed that the profitability of a site depends greatly on the convenience store sales. Mr. Singh testified that shared resources of the Burger King offering provided a much greater return on these sales. Mr. Singh explained that although the Burger King sales are not great in volume, the greater profit return significantly affects Bolla's proposed profitability for this location.

Mr. Singh then reviewed the Burger King food preparation process within the convenience stores. Mr. Singh testified that 80% of the Burger King products will be grab and go, depending on the volume of the store. Mr. Singh testified that there would be a dedicated Burger King employee. This prompted additional conversation regarding the number of employees and parking needs. Mr. Singh testified that most employees do carpool. He also testified that July and August are the peak volume times and discussed the various brand products that are offered at Bolla. Mr. Singh shared that they are exploring expansion of brand products because they are such a profitable component of the convenience store. Mr. Singh also explained that 90% of the transactions occurred between 11 a.m. and 2 p.m. in "non-prime" commuting hours. Mr. Singh testified that an average store might have 10 transactions but clarified that NJ convenience stores did less due to full service.

A motion to open the meeting to the public was made by Mr. Ervin, seconded by Mr. Donigian and unanimously carried by Mr. Sherer.

No one wishing to be heard, a motion to close the meeting to the public was made by Mr. Van Duren and seconded by Mr. LoIacono.

Mr. Whitaker summarized the benefits of the site improvements. Mr. Whitaker reiterated that the Burger King product is just another offering within the convenience store. Mr. Whitaker discussed the experience that Bolla has with these operations and their expertise.

Mr. Donigian asked about the fuel tank that is parked at the Franklin Turnpike location. Mr. Crean commented that the problems existing at the other Mahwah Bolla operation have not been addressed. Mr. Whitaker and Mr. Singh apologized for the oversight and affirmed

that they will work with the community to be sure that a meeting will take place to discuss any problems at their locations.

A motion to approve the application was made by Mr. Donigian and seconded by Ms. Galow. A roll call of members present revealed 8 aye votes by Mr. Crean, Mr. Donigian, Mr. Ervin, Mr. Lo Iacono, Mr. Sherer, Mr. Van Duren, Ms. Steinberg and Ms. Galow.

**VIII. WORK SESSION:**

A) NEW BUSINESS

**1. Docket #488A-1 – SMS Developers, LLC**

**Heritage Lane, Block 109.01 Lots 2.01, 2.03, 2.04, 2.05**

Review of July 31, 2018 letter to the Planning and Zoning Administrative Officer regarding Heritage Estates of Mahwah.

No action was taken. Review carried to a future meeting.

B) OLD BUSINESS – None

C) COMMITTEE REPORTS - None

**IX. ADJOURNMENT:**

A motion to adjourn the meeting at 9:24 p.m. was made by Mr. Van Duren, seconded by Mr. Crean and unanimously carried by Mr. Sherer.

These minutes were prepared by Mary Jo Wood, Planning Board Secretary. The minutes were provided to the Planning Board on September 21, 2018 for approval at the Regular Meeting to be held September 24, 2018.