

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

APRIL 6, 2011

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ, beginning at 8:01 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. Rabolli	Mr. Whiteman
Mr. Cimis	Mr. Kezmarsky
Mr. Savino	Mr. Laforet
Mr. Dator	Mr. Larson

Ms. Donna Holmqvist, PP, AICP

ABSENT: Mr. DeSilva

ATTORNEY: Mr. Ben R. Cascio, Esq.

I. APPROVAL OF BILLS:

1/19/11	\$200.00	Ben R. Cascio, Esq. – Attendance One meeting
2/16/11	\$200.00	Ben R. Cascio, Esq. – Attendance One meeting
3/16/11	\$200.00	Ben R. Cascio, Esq. – Attendance One meeting
Period – January 2011		Ben R. Cascio, Esq. – Services Rendered
	\$297.00	Dkt.#1262-08 (Pilot Litigation)
Period – February 2011		Ben R. Cascio, Esq. – Services Rendered
	\$94.50	Dkt.#1262-08 (Pilot Litigation)
Period – March 2011		Ben R. Cascio, Esq. – Services Rendered
	\$1,215.00	Dkt.#1262-08 (Pilot Litigation)

A motion to approve was made by Mr. Dator, seconded by Mr. Cimis. A roll call vote revealed 8 aye votes by Mr. Rabolli, Mr. Cimis, Mr. Savino, Mr. Dator, Mr. Whiteman, Mr. Kezmarsky, Mr. Laforet and Mr. Larson.

II. APPROVAL OF MINUTES:

A. MINUTES OF MARCH 16, 2011

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

III. MEMORIALIZING RESOLUTIONS:

None to present.

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.#1276-08 – ZOCCOLI ASSOCIATES
FAIRMOUNT AVENUE AND EDSON ROAD, BLOCK 173, LOTS 108-118
& 120**

This application is for the preliminary and final site plan approval, preliminary major subdivision approval, and use and bulk variances.

Ms. Donna Holmqvist, Professional Planner with Burgis Associates, Inc., was in attendance on behalf of Mr. Joe Burgis.

Mr. Stephen P. Sinisi, Esq., approached on behalf of the Applicant. Mr. Cascio indicated all notices were in order. Mr. Rabolli explained procedure to the members in the Public audience. Mr. Sinisi gave an overview of the application. The proposed development consists of a six-lot subdivision on a 4.55 acre tract located in both the GI-80 and R-10 Zones. Five single-family residential lots will be created and on the sixth lot, the Applicant is seeking a use variance to construct a three-story, 96-bed assisted living facility. Mr. Sinisi will present three witnesses: an architect, an engineer and a planner.

Mr. Cimis addressed Mr. Sinisi asking if the taxes have been paid. The answer was unknown but he believes everything is up to date. Mr. Cimis also questioned the area known as Jefferson Street. Mr. Sinisi indicated that Jefferson Street has been vacated and produced a copy of Ordinance #1560, dated January 17, 2007, which vacated the street. This ordinance was marked as Exhibit A-1.

Mr. Sinisi called Mr. Frank D. Mileto of Mileto – Godsall Associates. Mr. Rabolli swore in Mr. Mileto. Mr. Mileto was offered and accepted as an expert in architecture.

Mr. Mileto designed the 96-unit building. He referred to a three-page set of architectural plans. This set of plans, titled "The Proposed 96-Unit Assisted Living Facility" initially dated September 11, 2008 with a revision date of February 23, 2011 were marked as Exhibit A-2. Mr. Mileto described each sheet in detail. The facility will have 25-30 employees per shift on site 24 hours a day/7 days a week.

The ground floor will have such uses as dining room, on-site medical care, media room, fitness room, library and a beauty salon/barber shop. Mr. Kezmarsky questioned a covered porch in the rear of the facility on the plans shown by Mr. Mileto. The plans the Board members had did not show this porch. Mr. Mileto indicated the plans would be revised showing the covered porch on the elevation sheet of the plans.

The living units will be located on the second and third floors. Each single-person room will have one bed, one bathroom, living space and a small area to prepare food. Mr. Sinisi reviewed the Board of Health regulations. Mr. Mileto described the kitchen indicating it will comply with all the Health Department requirements. The RSIS (Residential Site Improvement Standards) has specific designations for assisted living facilities. Medical waste and garbage were discussed and will be picked up daily. It is Mr. Mileto's opinion, as an architect, that this proposal is an inherently beneficial use and that the building is designed for an assisted living facility. The building is appealing and blends in with the residential neighborhood.

Mr. Cimisi questioned how couples would be accommodated at the facility. Mr. Mileto replied they would each get their own room. The RSIS standards and the number of parking spaces were questioned in regards to the number of employees and the number of assisted living drivers. Mr. Mileto indicated he followed the RSIS standards to calculate the number of parking spaces and are in compliance. There are 49 parking spaces proposed. Mr. Mileto indicated that many of the staff will be bussed to and from the facility. Mr. Cascio questioned the width of the parking spaces. There were statements made in regards to the garbage being picked up daily as a condition within the resolution.

Mr. Cimisi addressed the two local hospitals, Good Samaritan and Valley. Mr. Sinisi indicated, in general, assisted living facilities make arrangements with local hospitals to arrange for emergency pick up. Mr. Dator noted neither of the local hospitals provides ambulatory services. The only one that does is in Hackensack. Mr. Dator would like to see input from Ambulance Company #4. Mr. Cimisi noted that all of Mahwah's services are run by volunteers. Mr. Sinisi addressed the Board and the ambulatory issues. He indicated that the application is being presented without an operator at this time. This issue will need to be addressed in the future as well as what kind of conditions can be made once an operator is named. Mr. Cimisi suggested that the Applicant obtain their own ambulance.

Mr. Cascio questioned Mr. Mileto's statement that assisted care facilities have been legally determined as an inherently beneficial use. Mr. Mileto indicated the planner will address this statement but this is Mr. Mileto's opinion as a planner, not a legal opinion.

Mr. Rabolli addressed the Public and the audience members. He explained what is meant by inherently beneficial use.

Ms. Nadine Lagarde, of 22 Fairmount Avenue, approached. She questioned Mr. Mileto on the daily pick up of garbage and the location of the dumpsters. Mr. Mileto noted the garbage and dumpsters will be addressed by the site engineer.

Mr. Dator questioned there only being one entrance for all traffic, including people and deliveries. A discussion followed regarding the different types of traffic, the different rooms that will be located at the facility (such as the community room / multi-purpose room) and recreational space. Mr. Laforet also questioned the traffic going through the front doors. Mr. Sinisi indicated it will be the responsibility of the operator to schedule deliveries, for example, during off-peak hours. He also remarked there may not be daily deliveries.

Mr. Cimis referred to Section 24-6.5 titled "Nursing and Convalescent Homes" of the Mahwah Municipal Code. Mr. Cimis read the section titled "Recreational Space" into the record. He noted this is not a perfect fit for an assisted living facility. The engineer will discuss recreation further.

Mr. Savino questioned the number of guests and will there be enough room for guests to visit. Mr. Mileto indicated there are lounges, the community room, the library and the quiet room that can all be utilized for guest visits.

Mr. Kezmarsky asked about exits in case of a fire. Mr. Mileto replied there are two egresses at each end of the building, with doors on every level.

There were no further questions for Mr. Mileto.

Mr. Sinisi called Mr. James R. Brown of Brown & Associates. Mr. Rabolli swore in Mr. Brown. Mr. Brown was offered and accepted as an expert professional engineer. Mr. Brown described the site as a 4.55 acre tract in the R-10 and GI-80 Zones. He indicated the Applicant is proposing an assisted living facility and a residential lot subdivision. Mr. Brown described the location of the site.

Site plans dated December 25, 2008 with a revised through date of March 3, 2011 were introduced. These plans, totaling 12 sheets and titled "Proposed Assisted Living Facility and 6 Lot Subdivision," were marked as Exhibit A-3. The "Drainage Calculation Report" was marked as Exhibit A-4. Mr. Cimis asked if the plans would be updated based on Boswell Engineering's letter dated March 30, 2011. Mr. Brown replied yes, the plans would be updated.

The following sheets were provided for Exhibit A-3:

<u>SHEET NUMBER</u>	<u>TITLE</u>
1	Cover Sheet
2	Site Plan
3	Existing Features Plan
4	Subdivision Plan
5	Grading and Drainage Plan
6	500' Radius Drainage Plan
7	Soil Erosion and Sediment Control Plan
8	Landscaping Plan
9	Lighting Plan
10	Details
11	Tree Removal Plan
12	Details

Each sheet was described in detail. Ingress, egress, site circulation and parking at the facility were discussed. Mr. Brown indicated he did speak to the Fire Department and the turn radius of the tanker truck.

Mr. Brown indicated that according to RSIS, the number of parking spaces (49 spaces) was calculated by multiplying .5 by the number of occupants. Mr. Rabolli questioned the parking spaces and possibly adding a few more spaces. Mr. Brown noted that because of the steep slope, the additional spaces could not be added. Other areas of the property were discussed where parking spaces could possibly be added.

There was a discussion on the width of the parking spaces and the size of the detention basin between Mr. Sinisi, Mr. Brown, Mr. Cimisi and Mr. Savino. Per Mr. Brown, the parking spaces will be nine (9) feet wide. The easement was also discussed. Mr. Sinisi noted there was no evidence of any pipe in the easement. The easement can be vacated as there is no use for it. Mr. Sinisi indicated Malcolm Pirnie also has no evidence of any pipe in this easement. Sewers in the area were also discussed.

Mr. Cimisi requested Mr. Brown reaffirm the number of shifts and employees per shift. Mr. Brown confirmed there will be three (3) shifts with approximately 25-30 employees for each shift. It is Mr. Brown's opinion that the number of parking spaces is adequate.

Mr. Brown continued describing the additional sheets in Exhibit A-3.

Ms. Holmqvist questioned the location of the driveway. Mr. Brown indicated there were slope issues. Ms. Holmqvist also questioned why the plans did not have the level of detail such as spot elevations and grading. Mr. Brown noted this information will be provided on the revised plans.

Mr. Laforet questioned the number of parking spaces. Mr. Brown referenced the RSIS calculations. The parking area continued to be discussed.

Mr. Cascio noted this application is not a traditional application for site plan approval where it is a permitted use in a permitted zone. The Applicant is asking for a use variance. The conditions that can be placed upon the approval of the use variance are all tied together and the whole picture needs to be viewed. Reducing the setback in exchange for more parking spaces, for example, can be discussed and determined.

Mr. Brown continued describing the plan sheets. Mr. Cimis reverted back to Sheet #5 in regards to drainage. Drainage from the five houses was discussed. Mr. Cimis asked if the number of catch basins was sufficient. Mr. Brown replied that it was his opinion that the number of catch basins is adequate to contain water from the residential areas. The discussion of drainage from the homes and catch basins continued. Signage was also discussed.

The Board requested that the revised plans be sent on disc so the plans could be viewed on a computer. Mr. Brown agreed to provide the plans in this manner prior to the next meeting.

Mr. Dator addressed Mr. Sinisi and Mr. Brown reiterating his concern with front-door only access. He suggested deliveries be done in the back as the kitchen and the laundry is located in the back. Mr. Sinisi indicated they did not want to have any activities in the rear of the building due to the residences in the back.

Mr. Whiteman asked Mr. Brown to confirm the changes that will be made on the revised plans. Mr. Brown noted changes to the parking lot, the size of the parking spaces and possibly moving the truck loading area to either the rear or the side. Mr. Whiteman also asked that the dumpster in the back be moved.

At Mr. Rabolli's request, Ms. Nadine Lagarde, of 22 Fairmount Avenue, reapproached and was sworn in. She commented on the dumpster and requested it be moved to the further side of the property. Ms. Lagarde questioned Mr. Brown on the minimum rear-yard setback of 65 feet. There was a discussion regarding the setback numbers and the Applicant is requesting a variance as the setback is less than 65 feet. Ms. Lagarde also questioned the variances, lot depth and dimensions. She is concerned with the emergency access road. Mr. Brown commented he did speak to the fire chief and the turning radius is acceptable for the Fire Department's tanker truck.

Ms. Kimberly Tanis, of 21 Fairmount Avenue, approached. Ms. Tanis asked what the plans for Jefferson Street are. Would it remain as is? She would prefer there be no access via Jefferson Street. The street vacancies were spoken about. Ms. Tanis also asked if there would be further notifications regarding the subdivision. Mr. Sinisi indicated that this is all one application and no further notifications were necessary.

Mr. Cimis questioned the height of the building within the GI-80 Zone. Since this is in two zones, Mr. Cascio indicated the zone the building is physically in will be used.

Mr. Whiteman commented on headlights from vehicles shining into the residential yards. He asked how the lights will be screened. Mr. Whitman also asked if changing the number of units from 96 to 90 would effect the rear yard variances. He suggested the Applicant take a look at decreasing the number of units.

There were no further questions for Mr. Brown.

Mr. Sinisi's engineer will need to revise the plans. The planner will be the next witness. Due to the late hour, the hearing will need to be continued. Calendars were checked and it was agreed to continue this hearing on May 18, 2011 at 8:00 pm. A motion to carry the Public Hearing to May 18, 2011 was made by Mr. Whiteman, seconded by Mr. Dator with all voting in favor.

VI. WORK SESSION:

There were no items for the Work Session portion of the meeting.

VII. ADJOURNMENT:

The meeting was adjourned at 11:18 pm by Mr. Whiteman, seconded by Mr. Dator.