TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT

MINUTES

OCTOBER 5, 2016

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ, beginning at 7:30 pm was called to order by Mr. Dator, 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. DeSilva	Mr. Whiteman
	Mr. Ervin	
	Mr. Kearney	
	Mr. M. Kelly, P.E.	
	Mr. J. Layton, P.P.	
ATTORNEY:	Mr. B. Cascio, Esq.	
ABSENT:	Mr. Rabolli	
	Mr. Montroy	

I. APPROVAL OF BILLS:

9/07/16; 9/21/16	$500.00	Ben R. Cascio, Esq.- Attendance Two Meetings

A motion to approve was made by Mr. Whiteman, seconded by Mr. DeSilva. A roll call vote revealed 6 aye votes by Mr. Dator, Mr. DeSilva, Mr. Ervin, Mr. Larson, Mr. Straffin, and Mr. Whiteman.

II. APPROVAL OF MINUTES:

A. September 7, 2016

Motion to approve the minutes was made by Mr. Whiteman and seconded by Mr. Straffin. All eligible members voted in favor.

III. RESOLUTIONS FOR MEMORALIZATION:

1. DKT. #1412-16 – RONALD J. COLUMBO
122 SEMINARY DRIVE, BLOCK 23.02, LOT 1

Resolution of Approval to construct shed in rear of property.

Motion to approve the resolution was made by Mr. Whiteman, seconded by Mr. DeSilva, and passed upon affirmative votes of Mr. Dator, Mr. DeSilva, Mr. Ervin, and Mr. Whiteman.

IV. OPEN TO THE PUBLIC – 15 MINUTES

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

V. PUBLIC HEARING:

A. DKT. #1410-16 – RICHARD MARCHESI
25 MOUNTAIN ROAD, BLOCK 2, LOT 5

Application for construction of a single family home on vacant land. Carried from September 21, 2016.

At this time, Mr. Dator recused himself from the application and Mr. Whiteman took the seat as Chairman.

Bruce Whitaker, of McDonnell and Whitaker, LLC, appeared before the Board on behalf of the applicant. He gave brief description of the application seeking variance relief to construct a single family home to replace the one destroyed. The roadways are not improved, so the applicant is requesting to permit construction on this roadway, which already services a number of other homes. The existing property consists of a number of nonconforming conditions including lot area, lot depth and lot frontage; none will be exacerbated with the proposed construction. The proposed home is modest, meets improved coverage requirements, and if the lot was conforming, the applicant would only need to come for variance relief for the roadway. Mr. Whitaker believed, based upon the unusual circumstances of the lot, variance relief would be appropriate. He explained the applicant requested to purchase all or a portion of the property owned by Maria Gorczyca that surrounds the lot and also offered to sell his lot; Ms. Gorczyca was not interested in either, which is detailed in the letter provided to the Board. Mr. Whitaker marked exhibits A-1 (Letter from Maria Gorczyca) and A-2 (the revised plan dated 9/2/16).

Robert Weissman, P.E., appeared before the Board and was sworn in and qualified as an expert witness. He described existing conditions of the property, noting that a portion of Mountain Road travels through the property as a gravel road to a cell tower. This right-of- way is proposed to continue through the property. The map also shows a private road going through the westerly side of the property, but this does not appear on deeds, nor is there a road that could traverse that portion of the property due to topography. The applicant is proposing a modest dwelling and existing nonconformities are not exacerbated. There is deficiency in frontage along Mountain Rd. and they were able to determine that the site is able to support a new septic system. The new plan reduces the size of the retaining walls and they have met the slope requirements.

Mr. Weissman explained the variances requested include one for rear yard setback- 33 ft. is proposed, 40 ft. is required. He noted the absence of a line of demarcation where the property line is and topographic conditions do not permit construction to occur within the legal lot line. All of the Gorczyca land surrounding the property is currently vacant and construction could not occur in that

area if the land was ever developed. The applicant is proposing a deck projecting into the rear yard (28.9 ft. and the required is 38 ft.); however, based on topographic conditions, the deck is the appropriate type of structure to as proposed. Based upon the severe topographic conditions that exist, the size of the home is modest. The orientation is depicted to give a semblance of frontage for the road, allows the owner to take advantage of the level ground and provide for an appropriate location for the driveway and garage. If the house was oriented differently, it would require more excavation and would result in a greater disturbance. Mr. Weissman confirmed the paved area of the existing roadway provides safe access.

Mr. Weissman explained there was a waiver request for the slopes in s small area on the southeastern portion of the lot, which would result in a 1:3 rather than 1:4 slope. Comments from Boswell Engineering and Maser regarding drainage and retaining walls will be complied with as per their requests. In response to Mr. Cascio, Mr. Weissman noted the total net soil export is 547 cubic yards to allow for stone in the seepage pits. In response to Mr. Larson, there should be a correction to the application regarding test #2 and there will be no blasting on site.

Mr. Kelly commented regarding the private road noted on the tax map that crosses along the west of the property. Mr. Whitaker explained they conducted a title search, which turned up with no information; he believes no easement exists and it could have been an error on the tax map. Mr. Kelly noted that it would be an issue between the two property owners should the easement exist and become an issue later. Mr. Kelly also advised if the finished grade was greater than 6 ft. below the first floor elevation for more than 50% of the building, it would become a story rather than a basement; this must be kept in mind to ensure the presence of a basement and not an additional story. In response to Mr. Whiteman, Mr. Weissman informed Mountain Rd. ended at the Gorczyca property.

Mr. Dator opened the meeting to the public for questions or statements on the application. None were received.

Motion to move into Work Session for this application was made by Mr. Whiteman and seconded by Mr. Montroy. All voted in favor.

VI. WORK SESSION:

A. DKT. #1410-16 – RICHARD MARCHESI
25 MOUNTAIN ROAD, BLOCK 2, LOT 5

Application for construction of a single family home on vacant land. Carried from September 21, 2016.

In response to Mr. Whitaker, Mr. Kelly advised they have the Highlands information on file.

Motion to approve the application was made by Mr. DeSilva and seconded by Mr. Ervin. A roll call vote revealed 5 aye votes by Mr. DeSilva, Mr. Ervin, Mr. Larson, Mr. Straffin and Mr. Whiteman.

At this time, Mr. Dator returned to the meeting as Chairman.

B. ITEMS FOR DISCUSSION

1. 2017 TENTATIVE MEETING DATES FOR BOARD OF ADJUSTMENT

Motion to approve the 2017 meeting dates was made by Mr. Straffin and seconded by Mr. Larson. A roll call vote revealed 6 aye votes by Mr. Dator, Mr. DeSilva, Mr. Ervin, Mr. Larson, Mr. Straffin and Mr. Whiteman.

VII. ADJOURNMENT

The meeting adjourned at 8:06 pm on a motion by Mr. Larson and seconded by Mr. Straffin.

These minutes were prepared by Donelle DeCouto, Recording Secretary.