

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

OCTOBER 7, 2020

The combined public/work session meeting of the Board of Adjustment held via Remote Zoom Conference beginning at 7:39 pm was called to order by Mr. Rabolli, with the reading of the opening statement followed by the flag salute and a reminder that Board of Adjustment meetings are being videotaped and broadcast live. Both adequate and electronic notice of the meeting have been provided, specifying the time, place and manner in which such notice was provided.

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.

PARTICIPANTS:

Mr. Calijone	Mr. Kearney
Mr. Cannava	Mr. Montroy
Mr. DeSilva	Mr. Rabolli
Mr. Jackson	Mr. Straffin

ABSENT: Mr. Whiteman

ATTORNEY: Mr. Ben R. Cascio, Esq.

I. APPROVAL OF BILLS:

August 5, 2020 & August 19, 2020	\$500.00	Cascio – Meeting Attendance
September 2, 2020 & September 16, 2020	\$500.00	Cascio – Meeting Attendance

A motion to approve the bills was made by Mr. Kearney, seconded by Mr. Cannava. A roll call vote revealed 8 aye votes by Mr. Calijone, Mr. Cannava, Mr. DeSilva, Mr. Jackson, Mr. Kearney, Mr. Montroy, Mr. Rabolli, and Mr. Straffin.

II. APPROVAL OF MINUTES:

1. MINUTES OF SEPTEMBER 16, 2020

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

III. OPEN TO THE PUBLIC:

Mr. Rabolli opened the meeting to the Public for general questions or statements. No members of the Public participated.

IV. PUBLIC HEARING(S):

**1. DOCKET #1479-20 – ANTHONY LAMANNA AND KATHRYN BELL
129 OWENO ROAD, BLOCK 105, LOT 101**

Application for a “C” Variance for a rear yard setback. Minimum required setback is 30’ whereas existing rear yard setback is 22’ and proposed will be 16’ to construct a deck extension to the existing deck and the installation of a hot tub on the proposed deck extension.

Mr. Cascio stated that the Notice was in order.

Mr. Anthony Lamanna and Ms. Kathryn Bell, homeowners of 129 Oweno Road,

were sworn in by Mr. Rabolli. Mr. Lamanna stated that they are proposing an extension to the existing deck to allow for a hot tub. The existing 22’ does not meet the 30’ requirement. The property is a corner lot with two front yards. The back yard is used as a side yard. A previous variance was granted as the lot is non-conforming, being wider and narrower in depth where one side of the house has a further setback than the other.

Mr. Rabolli inquired if any letters had been received from neighbors regarding disturbance due to the proposed deck extension. Mr. Lamanna replied no, and commented that there should not be any complaints; trees block the view, he cannot see his neighbors.

Mr. Rabolli gave opportunity for Members of the Board to address questions to Mr. Lamanna. Discussion took place regarding the size of the existing deck and of the proposed extension. The property was described, including the drainage area that is not a stream or creek. The Survey from All County Survey was displayed indicating that the proposed extension would be 16’ off the back property line.

Due to a discrepancy with the survey; the setback being 16’ feet away from the fence, not the property line, Mr. Rabolli allowed the homeowners to go outside and measure the distance from the property line. During that time, Public Hearing of the next Docket was called at 8:06 p.m.

Hearing for this Docket resumed at 8:14 p.m. Mr. Rabolli reminded Mr. Lamanna and Ms. Bell that they were still under Oath.

Mr. Lamanna gave the finding that from the top (South) the setback was 30'; from the bottom (North) it is 27'. Mr. Lamanna also commented that the fence was no longer there. Ms. Bell added that the Northbound side of the proposed deck extension is indented; there will be grass in that area. Mr. Cascio stated that the indentation changes the variance and Mr. Rabolli added that if the corner is cut off, it lessens the encroachment, making it a moot point from a Zoning perspective. All were in agreement that the 16' setback off the property line is permitted.

There were no further questions for the homeowners.

**2. DOCKET #1480-20 – TATYANA ZASLAVSKY
25 FOREST HILL ORAD, BLOCK 168, LOT 1.01**

Application for a "C" Variance for a rear yard setback. Minimum required setback is 30' whereas 21.3' is proposed to construct an addition to an existing deck.

Mr. Cascio stated that the Notice was in order.

Ms. Tatyana Zaslavsky, homeowner of 25 Forest Hill Road was sworn in by Mr. Rabolli. Ms. Zaslavsky stated that the existing deck is very long and narrow, making it dysfunctional for use in accommodating her family. The existing deck meets the 30' setback requirement; the proposed addition of 8.7' in width would increase the deck size to 16' with 21.3' remaining on the non-conforming lot. There have been no complaints from the neighbors. The property is very long and basically all woods in the rear; there is a rock wall on the neighbor's property. The only visibility to the deck might be from the neighboring house on Strong Street on the side of this property. Side setbacks will not be encroached.

There were no further questions for Ms. Zaslavsky.

A motion to move into Work Session was made by Mr. Montroy, seconded by Mr. Kearney. All voted in favor.

V. WORK SESSION:

**1. DOCKET #1479-20 – ANTHONY LAMANNA AND KATHRYN BELL
129 OWENO ROAD, BLOCK 105, LOT 101**

Application for a "C" Variance for a rear yard setback. Minimum required setback is 30' whereas existing rear yard setback is 22' and proposed will be 16' to construct a deck extension to the existing deck and the installation of a hot tub on the proposed deck extension.

Mr. Rabolli summarized, stating that the property was irregularly shaped, the Applicants have provided testimony to the hardship and that the encroachment would be limited to 16' – 18'.

A motion to approve was made by Mr. Straffin, seconded by Mr. Kearney. A roll call vote revealed 7 aye votes by Mr. Cannava, Mr. DeSilva, Mr. Jackson, Mr. Kearney, Mr. Montroy, Mr. Rabolli and Mr. Straffin, and one nay vote by Mr. Calijone.

Mr. Rabolli informed the homeowners that their Application has been approved and explained the appeal process of 45 days from the time of publication of the Resolution for any objectors to appeal, and that they may begin construction at their own peril. A Building Permit is required prior to construction.

**2. DOCKET #1480-20 – TATYANA ZASLAVSKY
25 FOREST HILL ORAD, BLOCK 168, LOT 1.01**

Application for a “C” Variance for a rear yard setback. Minimum required setback is 30' whereas 21.3' is proposed to construct an addition to an existing deck.

Members of the Board recommended approval based on there being no impact to the neighbors, the lot being very narrow at the end of the street with other houses being at least 100 feet away. The extension would not encroach on neighboring properties.

A motion to approve was made by Mr. Montroy, seconded by Mr. Cannava. A roll call vote revealed 8 aye votes by Mr. Calijone, Mr. Cannava, Mr. DeSilva, Mr. Jackson, Mr. Kearney, Mr. Montroy, Mr. Rabolli and Mr. Straffin.

Mr. Rabolli informed the homeowners of the appeal process and that they could proceed at their own peril.

A motion to move out of Work Session and adjourn was made by Mr. DeSilva, seconded by Mr. Kearney. All voted in favor.

The meeting adjourned at 8:37 p.m.

These minutes were prepared by Sylvia Gerou, Zoning Board Recording Secretary. The minutes were provided to the Board of Adjustment on October 16, 2020 for approval at the Regular Meeting to be held on October 21, 2020.