

**BOARD OF ADJUSTMENT MINUTES**

**March 1, 2017**

**REGULAR MEETING**

**Salute to Flag: 8:02pm**

**OPENING STATEMENT:**

**This is the Regular Meeting of the Wanaque Board of Adjustment and adequate notice has been given and it has been duly advertised by the placement of a notice in the Herald News and the Suburban Trends on January 11, 2017 respectively, and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque and a copy thereof has been on file with the Borough Clerk**

**ROLL CALL: Chairman Jack Dunning, Vice Chairman Bruce Grygus, Members Frank Covelli, Barry Hain, Peter Hoffman, Don Ludwig, Michael Levine, Suzanne Henderson and Attorney Ronald Mondello and Engineer Christopher Nash**

**ABSENT: Member David Karp**

**Application #ZBA2016-05 – MKR Enterprises, LLC  
17 Park Street, Wanaque, NJ (Block 240/Lot 3)**

**See Attached Transcript For This Matter**

**OPPONENTS EXHIBIT**

**O-25 1979 Ordinance of the Borough of Wanaque**

**Attorney Rubin and Attorney Fernicola both gave Closing Statements**

**Board Attorney Mondello reviewed with the Board Members the different questions/issues that they had to think about and deliberate to put a vote forward on this matter.**

**MOTION BASED UPON THE TESTIMONY AND THE EVIDENCE PRESENTED HERE THAT SOME FORM OF THE CONSUMPTION OF FOOD AND/OR DRINK DID OCCUR PRIOR TO 1979:** made by Vice Chairman Grygus and seconded by Member Covelli.

Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hain, Hoffman.

Voting no were Members Ludwig, Levine and Henderson.

Motion Carries – 5 Yes/3 No

Attorney Mondello advised that the majority of this Board has determined that this use occurred. Your next question is “was there an abandonment of this pre-existing use”? An abandonment again, is some overt act, some failure to act, which carries a sufficient implication that the owner neither claims nor retains any interest in the subject matter of the abandonment and number two had an intention to abandon.

**MOTION TO MEET THE LEGAL DEFINITION OF ABANDONMENT I DON'T BELIEVE THAT THIS BOARD COULD DETERMINE BASED UPON THE TESTIMONY GIVEN THAT THE USE WAS NOT ABANDONED:** made by Vice Chairman Grygus and seconded by Member Covelli.

Voting yes were Vice Chairman Grygus, Members Covelli, Hain, Hoffman, Ludwig and Henderson.

Voting no were Chairman Dunning and Member Levine

Motion Carries – 6 Yes/2 No

Attorney Mondello advised that the next question is was there an illegal expansion of the non-conforming use from what it was at the time of the adoption of the ordinance?

**MOTION THAT YES THERE WAS AN ILLEGAL EXPANSION OF THE NON-CONFORMING USE NOT ONLY AT THE TIME OF THE ADOPTION OF THE ORDINANCE BASED UPON THE TESTIMONY THAT WE HEARD, BUT ALSO SINCE THE PREVIOUS APPLICANT USE APPROVAL BEFORE THIS BOARD IN 2005:** made by Vice Chairman Grygus, seconded by Member Covelli. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hain, Hoffman, Ludwig, Levine and Henderson.

Motion Carries – 8 Yes/0 No

**Applicant must come back before the Board for a D2 Variance**

**WITH THE APPROVAL OF ALL PARTIES, THE HEARING FOR A D2 VARIANCE ON THIS MATTER WILL BE HEARD ON WEDNESDAY, APRIL 5, 2017 AT 8:00PM WITH NO FURTHER NOTICE BEING GIVEN. ALL TIME ISSUES HAVE BEEN WAIVED.**

**MOTION TO CARRY THIS APPLICATION TO THE APRIL 5, 2017 MEETING DATE:** made by Vice Chairman Grygus, seconded by Member Ludwig. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hain, Hoffman, Ludwig, Levine and Henderson. Motion Carries

**PUBLIC DISCUSSION:** Let the record show no one came forward.

**RESOLUTION:** None

**CORRESPONDENCE:** None

**VOUCHERS:** submitted by Ronald Mondello, Esq. for attendance at the March 1, 2017 Meeting in the amount of \$300.

**MOTION TO APPROVE:** made by Member Covelli, seconded by Member Ludwig. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hain, Hoffman, Ludwig, Levine and Henderson.

**MOTION TO APPROVE FEBRUARY 1, 2017 MINUTES:** made by Member Covelli, seconded by Member Hain. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Hain, Hoffman, Ludwig, Levine and Henderson.

**ENGINEER'S REPORT:** Nothing new to report

**DISCUSSION:** Board Secretary will forward the 2005 Resolution on MKR Enterprises to the Members.

Member Covelli mentioned that another town allowed their Board of Adjustment to put their sheets up on the screen for the benefit of the Board and public and we could ask applicants to forward all documents in a PDF Format. Board Secretary advised that she believes she would need another computer and that the screens are for Court use.

1049 Ringwood Avenue, LLC has brought in permits and all outstanding matters with Engineer Nash have been taken care of.

**MOTION TO ADJOURN AT 9:58 PM:** made by Member Ludwig. Motion carried by a voice vote.

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Jennifer A. Fiorito  
Board of Adjustment Secretary