

## MANALAPAN ZONING BOARD OF ADJUSTMENT

### MINUTES OF THE REGULAR MEETING Thursday, July 19, 2018 TOWNSHIP OF MANALAPAN – Courtroom Manalapan, NJ 07726

The meeting was called to order with the reading of the Open Public Meetings by Chairman Stephen Leviton at 7:45 PM followed by the salute to the flag.

Roll Call: Janice Moench

In attendance at the meeting: Mollie Kamen, Terry Rosenthal, Larry Cooper, David Schertz, Adam Weiss, Eric Nelson, Stephen Leviton

Absent from the meeting: Eve Strauss, Mary Anne Byan, Eliot Lilien,

Also present: John Miller, Esq., Zoning Board Attorney  
Brian Bocciafuso, Board Engineer  
Jennifer Beahm, Board Planner  
Nancy DeFalco, Zoning Board Officer  
Janice Moench, Recording Secretary

***Ms. Kamen arrived at 7:55 PM***

### **MINUTES:**

A Motion was made by Mr. Weiss, Seconded by Mr. Schertz by to approve the Minutes of June 21, 2018 as written.

Yes: Schertz, Weiss, Leviton  
No: None  
Abstain: None  
Absent: Strauss, Byan, Lilien, Kamen,  
Not Eligible: Rosenthal, Cooper, Nelson,

### **RESOLUTIONS:**

**Application No: ZBE0632A-EXT**

Applicant: Crown Car Wash Extension of Time  
*Memorialization of Approval*

Location: 395 Route 9 –Block: 10.02/Lot: 2.05

A Motion was made by Weiss, Seconded by Schertz to approve the Resolution of memorialization for Application ZBE0632A-EXT.

Yes: Schertz, Weiss, Leviton  
No: None  
Abstain: None  
Absent: Strauss, Byan, Lilien  
Not Eligible: Rosenthal, Cooper, Nelson, Kamen

**PUBLIC HEARINGS:**

**Application No. ZBE1820**

Applicant: Joan Lizo-Urbano  
Proposal: Ratify existing shed  
Request: Bulk variance rear/side yard setback  
Location: 233 Union Hill Road  
Block/Lot: 1309/19  
Zone: R20

Mr. Jason Urbano was present and sworn in by Mr. Miller. Mr. Urbano is currently employed with the United States Army and the Board thanked Mr. Urbano for his service.

Mr. Urbano was present to ratify a shed on his property. Mr. Urbano explained the shed on the property was present when he purchased the home and there is a permit on file from the previous owners. Mr. Urbano was made aware the shed encroached into the side and rear setback by the zoning office when he applied for a pool permit. Mr. Urbano explained he would be unable to move the shed into compliance due to a large hill next to the current shed location. The other option would be to dismantle the shed. Mr. Urbano explained he is present tonight to ratify the shed in the current location.

Chair Leviton and the Board discuss the encroachments in further detail.

Ms. Beahm asked Mr. Urbano if the encroachment creates a detriment to the neighbors, or negative impact to the zone plan. Mr. Urbano answered no. Ms. Beahm explained there is adequate air, light and open space in the area and there is no detriment to the surrounding land use. Ms. Beahm explained she would take no exception if the Board were to acted favorably to the application.

Chair Leviton opened the meeting to the public for comment or questions on the application. Seeing there were no comments Chair Leviton closed public.

A Motion of Approval for application ZBE1820 was made by Mr. Weiss and Seconded by Ms. Cooper.

Yes: Rosenthal, Cooper, Nelson, Schertz, Weiss, Leviton  
No: None  
Abstain: None  
Absent: Strauss, Byan, Lilian, Kamen  
Not Eligible: None

Chair Leviton explained the next application on the agenda, Lash and Brow, LLC is a use variance which would require a full complement of the Board. Ms. Kamen was held up in traffic coming from work. The Board and the applicant agree to hear Lash and Brow, LLC as the third application when Ms. Kamen will be present.

**Application No. ZBE1817**

Applicant: Eivind Hauge  
Proposal: Construct a 2 story single family dwelling  
Request: Bulk variances  
Location: Woodward Road  
Block/Lot: 76.02/12.02  
Zone: R20

Mr. Eivind Hauge and Ms. Carol Hauge were present and sworn in by Mr. Miller. The applicant proposed to construct a two story single family home on Woodward Road. Mr. Hauge explained in 1985 he and his wife purchased a

piece of property owned by Dorothy Lamb on Lamb Lane and Woodward Road. During negotiations Mr. Hauge was informed the sellers were in the process of subdividing the 2.4 parcel of land. The seller asked Mr. Hauge if he wanted to leave the parcel as one lot (at the time lot 12.01 and 12.02 was one lot) or subdivide the property into two lots. The applicant decided to have the land subdivided prior to the purchase. They currently live on the property they bought. At the time the subdivision was completed, the front setback was 60 feet. About a year ago the applicant's decided to build a home that would be suitable for Mr. Hauge's health issues. When they went to the Zoning Board office they were advised the front setback had changed from 60 feet to 75 feet. Therefore, the proposed home will have a portion of the garage that encroaches into the front setback.

Chair Leviton explained the Board was unable to take the health issues into consideration, he asked the applicant give some more detail about the land.

Mr. Hauge explained the property is uniquely shaped like a right triangle. The house could fit with a 60 Foot setback.

Mr. Boccanfuso explained to the Board as part of the variance application CME completed a Plot Plan review. The Plot Plan Review would be required prior to building the home should they received an approval by the Board. Mr. Boccanfuso asked Mr. Hauge if he was in receipt of the Engineering Report dated June 29, 2018. Mr. Hauge confirmed he received the report and reviewed it on his own without a design professional/Engineer. Mr. Boccanfuso asked Mr. Hauge if there was anything in the report he would have an issue complying with. Mr. Boccanfuso explained in more detail the variances, design standards and engineering comments in the report. Mr. Hauge and Mr. Boccanfuso discussed the report in greater detail. Mr. Boccanfuso explained what would be required before the applicant could obtain a building permit. The Zoning Board application was for the setback variances and the improvable area, diameter and lot depth.

Chair Leviton reviewed the Health report from Mr. David Richardson with the applicant. Chair Leviton explained to the applicant the issues from the Health Department need to be satisfied.

Ms. Beahm explained the corner of the three car garage is encroaching into the setback. She asked the applicants if they have considered a two-car garage to be in compliance. There is also an area behind the home that can be shifted back that will put the home further into compliance. The applicant explained there is a bonus room over the garage that would make it hard to remove a bay from the garage. Ms. Beahm explained relief is needed for the front yard setback, lot depth and improvable area. Perhaps a smaller home may be more appropriate for the lot. Ms. Beahm explained the applicant has to demonstrate that the benefit of deviating from the ordinance outweighs and detriment. The home is over 3,000 square feet on a lot that doesn't have the improvable area.

Ms. Hauge explained she looked at homes for a year to find something that would fit the lot. She has been living in Manalapan for over 33 years and would like to build something that her and her husband both like. Ms. Hauge explained her plan is to have one of her children live in her current home after they build the new home.

Ms. Beahm explained to the applicant that there are statutory requirements to be met for the Zoning Board to make a decision. Variances run with the land. If relief is granted on the lot, should the lot be sold in the future the variance stays with the lot. There must be a solid Land Use reason to deviate from the ordinance. The house is sizeable for a lot that doesn't have the improvable area. The improvable area and lot depth factor into the size and shape of the lot. That is a hardship to the land. The front yard setback relief, the C2 variance

requested, is in direct relation to the size, shape and orientation of the proposed home.

Mr. Hauge stated when he purchased the land the front yard setback was 60 feet. He expressed he felt that Manalapan Township had changed the rules in the middle of the game. Ms. Beahm explained zoning is factor of the governing body. The Zoning Board can decide if a variance should be granted. The applicants and Ms. Beahm discuss the orientation of the home in further detail.

Mr. Miller explained the Township did not change the rules in the middle of the game. The lot was vacant. There was an ordinance change and anyone that would choose to build after the change in ordinance would have to adhere to the current setbacks. Mr. Miller explained to the applicant there has to be testimony given for the positive and negative criteria for the variance requested. Finding a model of a home that is suitable to the likes of the applicant does not satisfy the statutory criteria for the variance. If a slightly smaller home were to be considered, you would be in compliance.

Chair Leviton confirms with Ms. Beahm that all of the relief being requested would be considered by the Board based on testimony given in reference to the shape of the land except for the front yard setback which is a C2 variance. Ms. Beahm reviews the following:

- Lot Depth – (C1 Variance) Hardship due to the shape of the lot
- Improvable Area – 6,000 square feet is required and 4,396 square feet is existing- (C1 Variance) Hardship due to the shape of the lot
- Improvable Diameter-60 feet is required and less than 60 feet is existing – C1 Variance (C1 Variance) Hardship due to the shape of the lot
- Front Yard Setback variance is a direct result of the size and shape of the proposed home. The applicant will have to prove there is a benefit to deviating from the standard and the benefit outweighs the detriment.

Ms. Beahm explained in her professional opinion there has be to a reason the Governing Body modified the setback in the zone.

Ms. Kamen and Ms. Beahm discuss possible handicap reasons for building the footprint of the home to remain encroaching into the setback. Ms. Beahm explained the three car garage with a bonus room above is the portion of the home that is encroaching into the setback. Ms. Beahm explained further if there was a handicap ramp proposed and that was the portion of the home encroaching into the setback, that may qualify as a land use reason.

Ms. Hauge explained the other homes in the area, including her current residence on the next lot, do not have a front setback of 75 feet. Ms. Beahm suggested the applicant should come back to the Board with an Engineer that can demonstrate the character of the neighborhood and provide testimony regarding the same.

Mr. Weiss asked if the homes along Woodward Road, going towards Sweetmans Lane, were there before or after you purchased your current home. Mr. Hauge answered the homes were there before he purchased his current home. These homes do not meet the 75 feet front setback.

Mr. Rosenthal suggested the applicant check with their builder to see how they can modify the garage.

Ms. DeFalco and Ms. Beahm discuss some ideas with the applicants to allow for the home to be more in compliance. The applicants argued most of the homes on the road do not meeting the setback. Ms. DeFalco explained Woodward Road and Lam Lane are very traveled and are now sub-collector roads that require a 75 feet setback.

Chair Leviton asked the Board members if they have any questions for the applicant. Mr. Rosenthal stated he agreed with Ms. Beahm. The applicants should come back to the Board showing the character of the neighborhood. The Board suggests showing pictures from Google Maps.

Mr. Weiss suggested highlighting the Woodward Road area when returning to the Board with the Google Maps photos.

Mr. Miller explained the aerials will not have the measurements for the setbacks and it would be in the applicant's best interest to discuss it further with the engineer that prepared the survey. Mr. Miller advised it is the obligation of the applicant to provide the evidence and the testimony.

Chair Leviton advises the applicants to set a date to return to the Board with the feedback given by the Board and the professionals.

Mr. Boccanfuso explained Mr. Zelina who signed the proposed plan has been before the Zoning Board before. Mr. Boccanfuso advised the applicant to consult with Mr. Zelina and review the engineering report with him, prior to returning to the Board.

Chair Leviton opened the meeting to the public for questions or comments regarding the application.

Mr. Rashard Spiller who resides at 21 Manalapan Woods Drive is sworn in by Mr. Miller. Mr. Spiller states after speaking with his neighbors upon receiving the notice for the meeting, he would like to object proposed single family home. The chief concern is that the lot does not meet the existing zone requirements. Mr. Spiller is further concerned the home would invade privacy and be too large. This home will interrupt the look and feel neighborhood and have a negative impact on Mr. Spillers property value. Mr. Spiller advised his neighbors have signed a petition.

Mr. Miller interrupts Mr. Spiller to explain the Board is unable to accept a petition on behalf of this matter. Petitions are considered hearsay evidence and testimony.

Chair Leviton acknowledged Mr. Spillers testimony.

Ms. Moench and the applicants discuss and decide the applicants will return on August 16, 2018.

Mr. Miller announces to the Board and the public this application will be carried to the August 16, 2018 date with no further written notice to the public. There will be another public portion at the August 16, 2018 hearing for comments or questions on the application.

**Application No. ZBE1809**

**Applicant:** Lash & Brow, LLC  
**Proposal:** Micro-blading or permanent make up  
**Request:** Use Variance\*\*\*\*  
**Location:** 345 Route 9 South (Design Center)  
**Block/Lot:** 10/15.02  
**Zone:** C3C2M

Mr. Peter Klouser of Heilbrunn Pape, LLC was present to represent Lash and Brow, LLC for the use variance relief. The applicant proposed to occupy her business of Microblading and permanent make-up in an existing store front located in the Design Center on Route 9 South. In addition to the business there will be training at the facility specific to those services. Personal Services, similar to the services at a studio are permitted in this zone. However, based on State

regulations and Manalapan Township Health regulations the Microblading is treated more like tattooing which is not a permitted use in the zone. In addition, the training component is also not permitted in the zone. Therefore, a use variance would be required. Mr. Klouser has one witness Laura Reina for testimony. Mr. Miller explained to Mr. Klouser under state law Planner testimony is required for a use variance. Mr. Miller further explained, the Board can hear Ms. Reina's testimony however, Planner testimony will need to be provided at a later date. Mr. Klouser explained with the type of variance relief being requested and the similarity of the uses that are permitted in the zone, he felt comfortable that Ms. Reina's testimony would provide the Board with enough testimony to make a determination that a use variance was appropriate. Mr. Miller explained the testimony as to the criteria for the use variance requested must be provided by a Planner under state law. It was determined by both the Chairman and Attorneys to proceed with Ms. Reina's testimony and then have a short break so Mr. Klouser can speak with his client and see how they want to proceed.

Ms. Laura M. Reina was sworn in by Mr. Miller. Mr. Reina is a member of Lash and Brow LLC. Mr. Klouser asked Ms. Reina to share with the Board her background in microblading and permanent make-up. Ms. Reina explained there are many certifications that need to be held, as required by Manalapan Health Department. Ms. Reina has complied and now has and American Academy of Micropigmentation License, two microblading certifications and a New York tattoo License.

Mr. Klouser passed out a two page google map aerial view the Design Center location marked as A-1. Page two is a closer view to the Design Center with an approximate location of where the store front will be.

Mr. Klouser asked Ms. Reina to explain Microblading and permanent make-up to the Board. Ms. Reina explained the permanent tattooing is just what it sounds like. A man or woman can have their lips so it appears as if they have lipstick on or eyeliner or eyebrows. There is also scalp micropigmentation for men that are balding. Ms. Reina explained she creates something that actually resembles a hair follicle to allow the look of hair. It gives a more youthful look. This also benefits woman for eyebrows as well especially for woman who have Cancer, Alopecia and Trichotillomania. These are conditions in which there is hair loss on their face or head. Ms. Reina explained she sees many people prior to radiation or chemotherapy. They come in prior to losing their hair to have their eyebrows tattooed. Ms. Reina finds it to be rewarding to make someone feel beautiful about themselves.

Mr. Klouser asked Ms. Reina to speak about the procedure itself. Ms. Reina explained the permanent eyebrows application takes about three hours. There is dialog with the patient to get the shape and placement correct this take time. It then takes about two hours to implant the pigment into the skin. The services are limited to the neck up. This is more a cosmetic service that you would receive at a salon as opposed to a tattoo on the body at tattoo parlor.

Mr. Klouser confirmed with Ms. Reina should the Zoning Board grant relief the next step would be for her to comply with all of the technical requirements from the Health Department as to the safety and well-being of your patients and clients. Ms. Reina explained she also works out of a doctor's office located in Middletown, New Jersey and the proper permits and inspections had to be in place so she understands this is not to be taken lightly.

Chair Leviton asked how many hours of training per technician was required. Ms. Reina explained The American Academy of Micropigmentation over 100 hours if training is required for a certification. Chair Leviton asked if Manalapan Township standards exceed the industry standards. Ms. Reina explained the State of New Jersey standards exceed the industry standards. Ms. Reina explained in the State of New Jersey once she receives the American Academy of Micropigmentation she is not permitted to teach microblading for five years.

She feels this was done intentionally so there is less competition for the academies that are already present here. Chair Leviton asked who would be providing the training at Ms. Reina's site. Ms. Reina explained she would be providing the training; however, she has to wait an addition four years.

Ms. Beahm explained to the Board the applicant is seeking relief today on the training portion, so that if the use variance is approved they will not need to come back before the Board four years from now for another approval.

Mr. Klouser asked the applicant to explain on her qualifications to train. Ms. Reina explained she is contracted by a company out of Serbia. Ms. Reina had to complete a year and a half of apprenticeship before becoming a Master. Ms. Reina received the Master title last November. She is permitted to train anywhere in the world with the exception of New Jersey. She has been training for nine months.

Mr. Weiss asked about the interplay between Avanti Salon and Spa and this outfit. Mr. Klouser explained there is a common owner between the two business however, this is a self-contained operation. The Board of Cosmetology would oversee Avanti Salon and Spa. Lash and Brow is overseen by the Manalapan Health Department and the State Health Department.

The appointments will be taken at the Lash and Brow facility by their own receptionist. Ms. Reina plans on being open five days a week and closed two days. The training is typically done on Sunday and Monday and the remaining three days during the week would be reserved for personal services. Training days and personal services do not occur on the same day. Mr. Klouser, Ms. Beahm and Ms. Reina discuss what possible days the salon will be open. It was determined the applicant couldn't pinpoint exact days and times because they would be going by the demand at the time.

Chair Leviton asked if the regulations dedicate an area outside of microblading for training. Mr. Klouser said there is only one area for the microblading to occur and that is the reason the training and microblading occur separately.

Mr. Klouser discussed the hours with his client to be 9 AM to 7 PM. On a Sunday training day there would be five ladies plus Ms. Reina present. There would be no receptionist present on training days. So there would be a total of six cars. On Monday there would they would introduce a model and there would be one model to two students. So there would be a total of nine cars for Monday. During the week Ms. Reina expects to have three artists for personal services. One for microblading, one for permanent make-up and one for scalp micropigmentation. Mr. Klouser asked what the maximum number of people each artist could service based on your experience. Ms. Reina said she can only speak from her own experience and she only has two clients per a day. Each session lasts three hours. She needs to allow for time to clean and sterilize you station for the next client.

Mr. Rosenthal asked if Ms. Reina will be training people to work all over the Country and she confirmed same.

Mr. Klouser explained there are no proposed changes to the Design Center. The applicant will put in for a zoning permit for sign that will comply with the zoning requirements.

Mr. Boccanfuso's report he referenced an approval in 2017 with regard to Avanti and a car pooling system for training. Mr. Klouser explained although there was an approval that plan never came to be.

Mr. Klouser states he has no further questions for Ms. Reina but she is available to the Board if questions should arise.

Mr. Cooper asked if an approval was granted when would the applicant expect to open. Ms. Reina explained the interior of the space would need to be reconstructed and all of the furniture will be made in Serbia. Ms. Reina anticipates three months.

Mr. Schertz asked Ms. Reina if she considered the business to be a school. Ms. Reina said not at this time.

Chair Leviton mentioned he read that microblading would need to be reapplied. Chair Leviton asked if Ms. Reina could speak to this issue and give more of an explanation. Chair Leviton also asked for an explanation of the difference of tattooing and microblading.

Ms. Reina explained Tattooing and microblading are the same. As soon as you are implanting pigment into the skin it becomes a tattoo that is why microblading is under body art tattoo with the State. Microblading is implanted into the epidermis of the skin, the top layer. Over time from exfoliation and product use on the skin, the pigment comes out quicker. The client comes back in approximately two years for reapplication. When the client comes back if Ms. Reina is able to still see the tattoo she will not reapply because she does not want to scar the skin. The permanent make-up application goes deeper into the derma layer so it last longer and this require reapplication every two years.

Mr. Weiss asked how big the space is in the Board room and/or training room. Ms. Reina explained she doesn't have the square footage of the room on hand. Mr. Weiss asked over the next four years, the time period in which you have to wait to begin training, would she plan on expanding the number of stations in the board/training room. Ms. Reina explained there is no intention to expand. The reason she is looking into the future is because the furniture is being custom made in Serbia.

Ms. Beahm and Chair Leviton discuss in further detail the training and procedure times and confirm that they will not take place on the same day. Ms. Reina gave an explanation to the Board on how it is impossible to train and perform a procedure at the same time. Ms. Beahm confirmed with Ms. Reina that there is no regulatory requirement on training and procedures occurring at the same time. It is Ms. Reina's business model. Ms. Beahm confirmed with Mr. Klouser and Ms. Reina that a condition of the approval to be training and procedures would not take place at the same time, should the Board act favorable on the application.

Mr. Boccanfuso explained, based on the testimony, there would be ten individuals at the facility including staff and this is consistent with the parking requirements with most other permitted uses in the zone. Mr. Boccanfuso explained there was a comment in the CME report relative to the previous approved Planning Board application that permitted parking on this site and a car pool arrangement to the Zoom property across the street. While that may not be in operation now, there is an approval on the books for it and it could happen in the future. Mr. Boccanfuso further explains he does not see this proposed facility to have an adverse parking impact on the existing condition on site.

Mr. Cooper asked if the application were to be approved would tattooing be permitted at this location in the future. Ms. Reina explained there is no licensing required for body tattooing. The requirement would be the business owner would have to be under a person who owns a tattoo facility. Ms. Beahm explained the applicant would be back before the Board.

Chair Leviton opened the meeting to the public for comment or questions regarding this application. Seeing there were no public comments, Chair Leviton closed public.



Mr. Klouser asked to take five minutes to explain the required Planner testimony to his client.

It was agreed upon by all parties that the applicant, Lash and Brow, LLC would adjourn until the August 2, 2018 meeting date with no further notice to the public. At the August 2, 2018 meeting the applicant will return with testimony from a licensed Planner.

At 9:25 PM a Motion was made to move into executive session by Mr. Schertz and Seconded by Mr. Cooper.

Yes: Kamen, Rosenthal, Cooper, Nelson, Schertz, Weiss, Leviton  
No: None  
Abstain: None  
Absent: Strauss, Lilien, Byan  
Not Eligible: None

The Board Attorney briefly updated the Board members regarding pending litigation on the prior application of Boundless Adventures. Executive session closed at 9:29PM

Chair Leviton re-opened the meeting to the public for any non-agenda items, seeing there were no public comments, he closed public.

**ADJOURNMENT:**

A Motion was offered by Mr. Schertz and seconded by Mr. Cooper to adjourn the meeting at 9:30 PM

Respectfully Submitted,

Janice Moench  
Recording Secretary

RECORDED COMPACT DISCS OF THE ZONING BOARD OF ADJUSTMENT ARE  
AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY  
APPOINTMENT.