

**WYCKOFF BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
FEBRUARY 21, 2008**

Regular Meeting: 8:30 p.m. – Court Room, Second Floor, Memorial Town Hall

The meeting commenced with the reading of the Open Public Meeting Statement by Kevin Rooney, Chairman:

"The February 21, 2008 Regular Meeting of the Wyckoff Board of Adjustment is now in session. In accordance with the Open Public Meetings Act, notice of this meeting appears on our annual Schedule of Meetings. A copy of our Annual Schedule has been posted on the bulletin board of Memorial Town Hall; a copy has been filed with the Township Clerk, The Record, The Ridgewood News and the North Jersey Herald and News--all newspapers having general circulation throughout the Township of Wyckoff. At least 48 hours prior to this meeting, the agenda thereof was similarly posted, filed and mailed to said newspapers."

Board Member Attendance: Kevin Rooney, Richard Bonsignore, Doug Christie, Jerry Lombardo, Jim Donkersloot, Erik Ruebenacker and Carl Fry. Absent: Libby Ciampo.

Staff Attendance: Harold P. Cook, Board Attorney, Mark A. DiGennaro, Township Engineer and Jacqueline Denequolo, Board of Adjustment Secretary.

The Board of Adjustment Meeting began with the Pledge of Allegiance.

OLD BUSINESS

Approval of Minutes from the January 17, 2008 Work Session and Regular Meeting.

The approval of the January 17, 2008 Work Session and Regular Meeting minutes took place at the Work Session.

RECOMMENDATION FOR APPROVAL

- A. RESOLUTION #08-02** - Approval of vouchers from various developers' escrow accounts.

Approval of Resolution #08-02 had taken place during the Work Session.

FOR DISCUSSION

- B. LUCCA, STEVEN & DENISE**, BLOCK 250, LOT 30 (RA-25), 369 Pinewood Drive. Variance requested for a front yard setback, lot coverage and existing non-conformities. A new entryway and steps will extend into the front yard setback.

Chairman Rooney stated that the work session discussion indicated the application needs to be amended. Due to the septic system, a new set of plans need to be submitted for a three bedroom versus the previously approved four bedroom. The septic system can't be expanded due to limited space on the site.

Mr. Steven Lucca had previously been sworn in at the last meeting and was continuing under oath. Mr. Lucca presented three sealed copies of new plans indicating a three bedroom home. The size of the door opening was changed on the first floor as requested by the Building Department. Overall, the Luccas indicated that they were more than happy with a three bedroom septic and home.

Chairman Rooney stated that the Board is unable to review the plans being presented to the Board this evening. The application would need to be reviewed and heard at next month's meeting. A letter from the Luccas is needed in order to amend the application from a four bedroom to three bedroom home within the next two weeks.

Mrs. Denise Lucca questioned when the resolution would be memorialized.

Chairman Rooney stated that if the Board approves the application next month, the applicant can see the Township Engineer the next day for a Permit Waiver. This waiver allows the applicant to begin the process at their own risk until the application is memorialized the month after it's approved.

Mr. Lombardo questioned if Mr. Lucca's commercial vehicle was still in their driveway.

Mr. Lucca stated that it was in the garage.

RESOLUTIONS FOR MEMORIALIZATION

1. **MAMOLA, JOE**, BLOCK 510, LOT 5 (R-15), 506 Franklin Terrace. Variance requested for a front yard setback to allow for a new covered front porch. The slope of the property exposes the basement requiring an additional variance for a third story after a second story addition is constructed.

Chairman Rooney stated for the record that the above referenced resolution was approved at the Work Session.

Memorialized resolutions are available upon request in Room 110 at Memorial Town Hall.

2. **LUCCA, STEVEN & DENISE**, BLOCK 250, LOT 30 (RA-25), 369 Pinewood Drive. Variance requested for a front yard setback, lot coverage and existing non-conformities. A new entryway and steps will extend into the front yard setback.

Further discussion on this application has required a letter from the applicants to amend the previous approval from a four to three bedroom home. New three bedroom plans need to be resubmitted and reviewed by the Board at next month's meeting.

CONTINUED APPLICATION

3. **BROUWER, SCOTT & CARYN**, BLOCK 462, LOT 17 (RA-25), 375 Butternut Avenue; Request for a front yard setback.

Mr. Scott Brouwer had been previously sworn in and was continuing under oath.

Chairman Rooney questioned if the Brouwers had met with an expert as the Board had suggested.

Robert Weissman, 686 Godwin Avenue, Midland Park, NJ, stated that he was a licensed professional engineer and surveyor practicing for 20 years in New Jersey.

Harold Cook, Board Attorney, swore in Mr. Weissman and indicated that the Planning Board and Board of Adjustment have accepted Mr. Weissman's qualifications as acceptable.

Mr. Weissman indicated that the survey and architectural plans were reviewed along with a landscape plan whereby the stairs are screened. The two step protrusion beyond the previously approved setback is the heart of the discussion. Based on the review of the site, there are a couple of alternatives that can eliminate the steps. The most obvious alternative is to raise the grade around the steps, which would require raising the wall with the driveway from approximately 4 feet to over 5 feet, thereby eliminating the steps. The grade would also need to be raised on the left side for the same purpose. In Mr. Weissman's opinion, it would not be as aesthetically pleasing than what is in place today. The wall height is approximately half of the porch height. The porch is elevated above the driveway. There is a difference in elevation approximately 98" from the top of the porch to the driveway. This wall is up about 45" from the driveway with a small area for landscaping between the driveway and the walkway. Mr. Weissman would recommend raising the whole grade in the front, by raising the wall on the right side along the driveway. In order to achieve the differential grade closer to the street, the wall would be 5' tall.

Mr. Weissman continued to state that the porch is covered which is within the setback approved by the Board. In my opinion, if a substantial amount of screening was placed high enough on a berm in front of the stairs, there would be no visible evidence of this encroachment. Irrigation or if necessary posting a bond to properly maintain the landscaping can be an option. In this case, from an engineer's prospective, the benefit of keeping the steps where they are would far outweigh the detriment. The detriment would involve eliminating the two step encroachment by either raising the grade, taking the porch out to recess the steps or by another means. Raising the grade would not be as aesthetically pleasing as it is today.

Richard Bonsignore, Board Member, questioned if Mr. Weissman would have different thoughts for the structure if the stoop had not been installed yet.

Mr. Weissman stated that other means during construction could have taken place in order to recess the steps into the porch.

Mr. Bonsignore stated that when the field decision was made, the decision could have been worked out to meet the original setback requirement which was approved.

Mr. Weissman stated that it was his understanding that Mr. Brouwer wasn't aware of the encroachment at the time. It's possible to eliminate the encroachment as indicated earlier.

Mr. Bonsignore stated that the existing structure should be removed and reinstalled correctly.

Mr. Weissman stated that the wall could be raised along with the grade by joining it to make the steeper pitch. This would bring more grade and a large wall closer to the road.

Mr. Bonsignore stated that before the project was built in the original application, the build up of landscape was a non-issue. There was a way in which this structure could have been built properly. As proposed, I'm not in favor of it.

Jerry Lombardo, Board Member, questioned if an irrigation system is part of this application?

Chairman Rooney indicated that a simple landscape plan is all the Board has been presented with at this point.

Mr. Weissman stated that when the weather permits, significantly high evergreens will be planted. It wouldn't be prudent to plant now. A performance bond could be placed to ensure the maintenance of the landscaping for two years to ensure its survival.

Chairman Rooney stated that if the Board were to favor this application, a full detailed landscape plan would be required along with irrigation and a two year, one year prepaid maintenance contract.

Mr. Lombardo stated that the Board struggled to approve the original setback at 31.75'. This design was completed in a very cavalier manner. The benefit versus the detriment are the issues to be determined.

Mr. Bonsignore questioned if Mr. Weissman reviewed this site and had seen that the top platform was further to the street than what was approved. Was consideration taken in respect to the platform being at the same elevation as the first floor? If the platform had been dropped a riser, they would have eliminated the problem altogether.

Mr. Weissman stated that he had not known that the existing platform extended further to the street as originally approved. This is not an attempt to minimize the situation. The purpose and rationale for granting variances is understood. This proposal is to screen the steps. Technically, if the steps were 3 feet closer to the street in front of the steps existing now, it would be still be compliant since they'd be part of the walkway. The steps in this case are part of the structure and need to adhere to the setbacks. The visual aspect would be the same as it is today. The practicality of raising the wall and the grade to eliminate these two steps would detrimentally outweigh the option of screening the steps which is the crux of the argument.

Mr. Bonsignore added that this case involves a physical structure coming into the front yard. The solution is to take the stoop down to conform to the original approved setback versus the screening alternatives presented before the Board. As part of the original application, the stoop was approved at 4'5" feet and now it's 5'9". The stoop is essentially a full tread larger.

Mr. Brouwer stated that even if the structure is pushed back, the grade still needs to be raised. The setback would be conforming but at a higher level. The property slopes up.

Mr. Donkersloot stated that the submitted photographs indicate that the neighbor has the same elevation sloping towards this house. Raising the grade would meet the same elevation of the neighbor next door.

Mr. Brouwer indicated that he had a mason who was out of control.

Mr. Bonsignore stated that a General Contractor (GC) would be liable but the applicant was his own GC.

Chairman Rooney stated that the Board goes through painstaking care weighing the merits and hardships of each application. Back in April, the Board made a decision that worked for the applicant and for the zoning ordinances for the Township of Wyckoff. It was the applicant's choice to disregard the decision, move forward and build a structure that doesn't meet the variance approval. Is the Board expected to look past the fact that your mason went out of control. In April 2007, you agreed to build the structure as approved. Today, you're back two feet further into the encroachment because you chose not to abide by the approved setback.

Mr. Weissman stated that he became involved with this project two weeks ago and doesn't feel that the additional encroachment was done maliciously.

Mr. Bonsignore stated that the Board at times feels that they may need to require more from an applicant to tell their story. Typically, it isn't fair to have applicants bare additional costs. This case signifies that the Board should have required topography. This is more than a simple mistake. Dimensions don't lie. To come out 5'9" instead of 4'5" on the porch platform is a big mistake.

Mr. Weissman agreed that there's no excuse except for the fact that Mr. Brouwer was his own GC and wasn't fully aware of the situation. Up until recently, towns typically requested the basic paperwork to apply for a variance. Now towns are instituting additional documents such as foundation locations, as-builts, etc. from applicants.

Chairman Rooney requested testimony on the proposed landscape screening submitted. Four azaleas are being proposed to screen the porch structure.

Mr. Weissman stated that he would recommend 5-6 high arborvitaes staggered.

Chairman Rooney stated that these plantings being discussed have not been presented to the Board. The revised landscape plan includes 4, 2 gallon azaleas. How will these bushes soften this structure and lessen the impact?

Mr. Weissman stated he would recommend substantial evergreens or landscaping that would be suitable for the Board with ample screening from the street.

Chairman Rooney questioned if Mr. Weissman had thought about how the railing system would be softened?

Mr. Weissman stated that the railing would be exposed above the wall.

Chairman Rooney stated that the railing system was a concern discussed at the last meeting with the additional encroachment into the setback.

Mr. Weissman stated that the front steps and half of the steps going up would be softened by the proposed landscaping. The railing on the porch would be exposed.

Chairman Rooney stated that if the original variance was abided by, less railing would be proposed.

OPEN TO THE PUBLIC

Chairman Rooney stated that questions for the applicant or engineer would be heard from the public.

Mary Lyons Kim, 376 Butternut Avenue, Wyckoff, was sworn in by the Board Attorney. Ms. Kim stated that she lived directly across the street from Scott and Caryn Brouwer and found the comments and questions interesting and logical. From Ms. Kim's perspective, aesthetically she would not want to see a large retaining wall. Secondly, Ms. Kim thought that the Brouwers were a nice couple and would not want to see a large financial burden put on a young family. The Brouwers didn't intentionally try to deceive the Board.

Chairman Rooney stated if the structure was built as approved, the front stoop wouldn't be as large as it is now. The Board didn't want such an imposing mass keeping that interest in mind. If the structure had been built as approved, we would not be faced with what's here today.

Mr. Bonsignore questioned why the retaining wall was built so high on the lower steps? Aside from the stoop, why was the same elevation kept. In order to maintain the elevation, it's been extended out another 15' creating the need to build another wall instead of sloping or going along the contour of the property.

Chairman Rooney questioned if Mr. Brouwer discussed the need to stay within the setbacks with the mason? Didn't the mason take it into consideration at all?

Mr. Brouwer stated that he gave the mason full responsibility. The mason said that it was impossible to meet the setback requirement.

Chairman Rooney questioned if at that point, Mr. Brouwer knew the project was in violation?

Mr. Brouwer stated it was a foolish move on his part to move ahead. He stated that he had a lot going on at the time and didn't realize the impact of the violation. The mason was a professional and his comments were taken for fact.

Chairman Rooney confirmed that Mr. Brouwer knew he was in violation but proceeded anyway.

Lance Koller, 105 Wyckoff Avenue, Wyckoff, was sworn in by the Board Attorney. Mr. Koller stated that he was not an architect, engineer or contractor. The structure looks well built and not obtrusive in any way. All I can look at is the simplicity of everything. In getting to know Scott and Caryn Brouwer, the structure was not intended to be completed maliciously. If it were up to Mr. Koller, he would be in favor of the approval.

Alex Gilshteyn, 101 Mary Ann Lane, Wyckoff, was sworn in by the Board Attorney. Technically, the Brouwers are wrong but aesthetically, the structure is pleasing and don't see why people should be forced into an extra expense.

CLOSED TO THE PUBLIC

Doug Christie, Board Member, stated that he had spent a fair amount of time at the site today. Taking into consideration comments made by Board Members, the issues are as follows. First, as a GC, when you do something wrong you have to take responsibility for the mistake and redo it if necessary. In this case, the financial burden would be excessive. I don't think that the Brouwers tried to pull a fast one but were misinformed. People try to do it on their own since GCs cost a lot of money. The neighbor's comments in regards to not adding any more retaining walls is being taken into account. The railings of the neighbors who recently were granted an approval did a nice job with a brown railing that blended in nicely with the stone. I'm sympathetic to your financial needs, though not allowed to take finances into consideration. Weighing the detriment of leaving the structure as it exists against the way it was approved originally is the question.

Jerry Lombardo, Board Member, agreed with Mr. Christie to a certain extent. The neighbor directly across the street who's okay with the existing structure is being considered. Leaving the structure the way it stands does not present a strong enough detriment to the town. A detailed landscape plan, irrigation system and or a performance bond to ensure that the plantings stay alive would be required in order to lean towards allowing the structure to stay.

Mr. Bonsignore stated that a mockery is being made of the Board. There's a cavalier attitude without accountability and the Board is almost condoning it.

Chairman Rooney stated that when the application was approved in April 2007, the Board struggled with this and other applications when making a decision. A lot of time is spent visiting the sites. If this application was brand new, without a prior variance approval, it would be viewed differently. With the applicant's knowledge, per your testimony, the project should have been stopped with an expert's opinion being sought, but the applicant chose to move forward. Moving forward put the applicant in the position of accepting the consequences and whatever vote is cast.

Carl Fry, Board Member, questioned if the mason was presented with the fact that this error was made on their behalf and the cost to correct it should be their responsibility.

Mr. Brouwer stated that the mason tried to meet the criteria as best as he could.

Mr. Bonsignore indicated that the Board is focusing on the expense and shouldn't be. The mistake needs to be corrected.

Chairman Rooney called for either a vote to be taken or for the applicant to come back next month.

Mr. Brouwer stated that in an effort not to waste time, he felt that each Board Member has their own specific opinions on the subject and will choose to move ahead and take a vote.

Harold P. Cook, Board Attorney, stated that if the variance is granted, the front porch could potentially be enclosed at a later date.

Mr. Bonsignore moved to deny the application, 375 Butternut Avenue, Block 462, Lot 17, as revised 2/01/08.

Chairman Rooney indicated that the motion dies without a second. Is there a motion to approve the application?

Mr. Cook stated that if there is no action by the Board, the application would be an automatic approval once the expiration of the time required for the action has expired. The applicant would need to publish their own resolution in the paper granting an approval based on the Board's inaction during that time period.

Mr. Bonsignore again moved to deny the application submitted by Mr. and Mrs. Brouwer, Block 462, Lot 17 as revised dated 2/1/08. Second by Christie. Voting in Denial: Chairman Rooney, Christie, Bonsignore, and Donkersloot. Voting in Favor: Lombardo and Fry. The application has been denied.

NEW APPLICATIONS

4. **MARGROFF, JOHN**, BLOCK 265, LOT 68 (RA-25), 192 Crescent Avenue. A request for a front yard and side yard setback for a principal structure in order to relocate the deck and add on to the downstairs bedroom.

Chairman Rooney indicated that this application has been postponed to next month.

5. **GOSTKOWSKI, STEVEN & PARTHENOPI**, BLOCK 498, LOT 40.01 (R15), 474 Lafayette Avenue. Request for two side yard setbacks and the ability to continue a walk out basement in an existing structure.

Chairman Rooney indicated that this application has been postponed to next month.

The meeting was adjourned at 10:30 p.m.

Jacqueline Denequolo
Board of Adjustment Secretary