

**WYCKOFF BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
APRIL 17, 2008**

Regular Meeting: 8:35 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 April 17, 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, Tom Gensheimer, Construction Official 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 March 20, 2008 Work Session and Regular Meeting.

The approval of the March 20, 2008 Work Session and Regular Meeting minutes took place at the Work Session.

RECOMMENDATION FOR APPROVAL

- A. RESOLUTION #08-04** - Approval of vouchers from various developers' escrow accounts.

Approval of Resolution #08-04 had taken place during the Work Session.

RESOLUTIONS FOR MEMORIALIZATION

- 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.

Jerry Lombardo made a motion to memorialize the resolution. Second by Carl Fry. Voting in favor: Chairman Rooney, Bonsignore, Lombardo, Christie, Donkersloot, Ruebenacker and Fry.

- C. 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 reconstruct the deck and add on to the downstairs bedroom.

Doug Christie made a motion to memorialize the resolution. Second by Carl Fry. Voting in favor: Chairman Rooney, Bonsignore, Lombardo, Christie, Donkersloot, Ruebenacker and Fry.

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

CONTINUED APPLICATION

1. **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 reiterated the concerns of the Board made at the work session. Testimony is requested in regards to the 36.6 ft. height of the structure including any remedies to correct the situation. How will the spruce trees be irrigated in the back of the home? The inclusion of a maintenance plan wasn't submitted to the Board. Lastly, what will be done to relocate the air conditioning units which are encroaching into the setback.

Mr. John Spizziri, applicant's attorney, requested that Mr. Ken Ochab, professional planner, discuss the height of the structure. Mr. Ochab was previously sworn and still under oath.

Mr. Spizziri requested that the As-Built Survey dated 11/28/07 and revised through 3/31/08 be marked as Exhibit A4. Mr. Ochab was questioned what the survey indicated with respect to the elevation at the rear walk out basement exit.

Mr. Ochab stated that spot elevations are indicated throughout the perimeter of the building. The Southeast corner of the building, where the basement and patio are located, shows an elevation of 284.2 resulting in a building height of 36.65' which exceeds the 35' height limitation. Previous testimony indicated that the walk out basement was existing. There is a discrepancy with respect to the 284.2 and 320.85 elevations which are due to the topography of the land. The topography of the land was exactly the same for the prior home as it is for this proposed home. The topography in itself is the basis for the height variance and the desire not to bring in any additional fill.

Mr. Ochab, at the request of Mr. Spizziri, stated that the elevation in the front right corner of the structure is 30.55 ft., height at the middle front is 30.35 ft., the height at the left front corner is 30.95 ft., the height in the rear right corner is 33.75 ft. and the rear center is 34.25 ft.

Mr. Spizziri stated that the majority of the structure is at or below the 35' height limitation. To summarize Mr. Ochab's testimony, Mr. Spizziri stated that the reason for the height variance is due to the contour of the land.

Mr. Ochab stated that a C1 variance is necessary due to the topography of the land. From a planning perspective, a C2 variance would be a better option with respect to leaving the existing grades the way they are instead of trying to alter them to bring the height of the building down. The height of the structure is measured from the highest peak of the roof. In this case, the ridge line is located in the center of the home which is not the predominant structure of the roof. There's only a small portion of the structure that peaks at 36+ ft. in height. An average person would not be able to detect that this structure is a 3 story from the front of the house. It looks like a 2 story building. There's at least 200+ ft. in the back of the home making it difficult to determine the height.

Mr. Ochab summarized that in terms of the 1 ½ ft. height differential, there would not be any substantial detriment or impact to the surrounding area.

Doug Christie, Board Member, questioned whether Mr. Ochab found the structure to be imposing from the front or the rear of the property, such as the neighbor's home in the rear.

Mr. Ochab stated that he wouldn't find the home imposing from 200 ft. away.

OPEN TO THE PUBLIC

No comments from the public.

CLOSED TO THE PUBLIC

Mr. Spizziri requested that the Landscape Plan, prepared by Urban Farms, dated 4/03/08, be marked as Exhibit A5. The Lawn Care contract will be marked as Exhibit A6, indicating that care for the property has been in place for at least 3-5 years including the year 2008. Mr. Spizziri didn't want any member of the Board to believe that the applicant has been defiant by not providing an Irrigation and Maintenance Plan. These items weren't available in time to submit for the Board's review.

Mr. Spizziri requested that Mr. Gostkowski explain the situation with regard to relocating the air conditioning units on the property.

Mr. Steven Gostkowski had been previously sworn in and was continuing under oath. Mr. Gostkowski stated that the air conditioning units were existing on the property in their current location. The house next door has their air conditioning units there as well. The distance between the two houses is roughly 28 ft., with the neighbor's units located 13.7 ft. off of the property line. The manufacturer of the air conditioners has a stipulation as to how far the units can be apart. After doing some calculations, the units would still be encroaching into the setback requiring a variance.

Mr. Spizziri questioned whether Mr. Gostkowski would be willing to submit a plan showing the relocation of the air conditioning units under the deck as a condition of the variance approval. The variance requested would not exceed 1 ft. into the side yard setback and to be relocated under the constructed deck.

Mr. Gostkowski stated that he would be willing to relocate the air conditioning units with those conditions. A revised plan would also be submitted to the Construction Official for approval.

Mr. Spizziri requested that Mr. Gostkowski discuss the lawn care maintenance contract currently in effect.

Mr. Gostkowski stated that the lawn care service has been in effect for at least 5-7 years. The lawn is fertilized and maintained by this service. In reference to irrigation, 10 hoses will be run in and around the trees in the back of the home. Irrigation was intended to be added in the back of the home in the future. If required, as a condition of approval, irrigation will be added in the rear of the home.

Mr. Spizziri questioned if Mr. Gostkowski understood the suggestion to raising the fill level in the rear of the home in order to avoid the height variance.

Mr. Gostkowski stated that he would be willing to modify the plan to construct a covered porch to correct the height variance request and eliminate the 3 story. New architectural plans will be provided to the satisfaction of Tom Gensheimer, Construction Official.

Mr. Spizziri stated the original free standing garage has been modified to become part of the main dwelling. The original garage was permitted to be within 10 ft. of the side yard. A zoning classification error along with the wall on the side of the garage is what has created the side yard variance. A provision can be added, as part of the granting of approval that would allow the revised plan to be presented to Tom Gensheimer, Construction Official and Mark DiGennaro, Township Engineer, allowing the applicant to move forward.

Carl Fry, Board Member, questioned where the air conditioners would be moved to?

Mr. Spizziri stated that Exhibit A4 showed where the deck would be constructed and the vicinity of where the units will be located. The units won't go past the plane of the house.

OPEN TO THE PUBLIC

No comments from the public.

CLOSED TO THE PUBLIC

Chairman Rooney summarized the following: irrigation will be extended to the spruce trees and lawn, a two year maintenance agreement will be in place to care for the trees and shrubs, and the air conditioning units will be moved to the rear not to extend the plane of the house. Additionally, the grade in the rear will be raised, installing a cover over the set of doors, thereby reducing the height and 3 story.

Mr. Spizziri stated that each application needs to be judged on their own merits. A comparison was made at the work session between this application and another.

Jerry Lombardo, Board Member, wanted to state for the record that a comparison wasn't being made between two applications. The purpose of the reference was to request the Board's interpretation of the logic applied between the two. Secondly, testimony from Mr. Ochab has proven that the height of the structure from the street is lessened from the front as seen from Lafayette Avenue. Since there is 200+ ft. in the rear, the neighbor in the rear is not impacted. In regards to the height, the entire premises needs to meet the height requirement not just a majority of the structure as testified. New construction didn't need to end up 12 ft. from the property line.

Chairman Rooney referenced Mr. Lombardo comments. The neighbors on the left side of the property have not objected to this application. There is sufficient screening which doesn't correct the encroachment but does soften it. The applicant is working with the Board to correct the impact. If the Board received comments from the neighbors, an objection would carry more weight.

Doug Christie made a motion to approve the application as amend. Second by Richard Bonsignore. Voting in favor: Chairman Rooney, Christie, Bonsignore, Donkersloot, and Fry. Voting in Denial: Lombardo and Ruebenacker.

NEW APPLICATIONS

2. **SANTULLI, DAVID & CATHERINE**, BLOCK 270, LOT 3 (R-15-CORNER); 119 Wood Street.
Request for a rear yard and two front yard setbacks. Total principal and total lot coverage variances are also requested.

Catherine and David Santulli were sworn in by the Board Attorney.

Frank Hall, 27 Chestnut Street, Ridgewood, NJ, professional architect was sworn in by the Board Attorney. Mr. Hall stated that he was a licensed architect in New Jersey since 1992 with a Bachelor of Architecture from the New Jersey Institute of Technology in 1987 and has testified at numerous Planning and Zoning Boards throughout the State of New Jersey.

Mrs. Santulli stated the home was purchased before she was married. They would like to start a family and make the home larger.

Mr. Hall stated that the Santullis are requesting to bring their home up to today's standards. The existing home is a one story cape which is 24' deep with no basement and a small detached garage. The proposed improvements include 3 bedrooms with a 2nd floor and fairly restrained additions. The spaces within the home are not particularly large. The house was bumped out a bit in the rear. A foyer was added to include a coat closet, which also serves to modulate the front façade of the home with different planes. The front porch was added as an aesthetic benefit to the house. It's an open element which is quite shallow. The porch is under 6'6 which is the minimum size for usage. The existing garage is 5' from the property line. A new two car garage was originally proposed but was sitting 3' from the property line and not realistic. A one car garage was decided with a small section for storage since there isn't any basement in the home. The buildable area on the lot is highlighted in red on the site plan. This lot is exceptionally narrow and shallow making it difficult to add any improvements to the home. The home is located on a corner, which is turn, changes the orientation of the home with the 'front yard' designated to be on Harding. The positioning of the home doesn't lend itself to conforming with the ordinance. The intention was to bring the home up to current lifestyle conditions for today's standards and the need to create a pleasant facade for both street fronts.

Jim Donkersloot, Board Member, stated that the site plan has information taken from a survey in 2004.

Mr. Hall stated that the home was purchased in 2004 with the survey certified to Mr. Santulli.

Richard Bonsignore, Board Member, questioned if any trees were to be removed on the property.

Mr. Hall stated that there is no intention of removing the double trunk beech tree. Every attempt will be made to save a beech tree located behind the garage. There are a couple of trees in the front of the home that are intended to be removed along with an oak tree in the rear. The TBR symbol on the landscape plan indicates which trees are to be removed.

Chairman Rooney questioned what measures are to be put in place to protect the existing trees, especially the beech tree? The tree's roots go out as far as the tree is tall.

Mr. Hall stated that there will not be any foundation where the existing tree is located. The proposed garage will not be any closer to what is existing. If the depth of the foundation isn't below grade, then it may need to go down further. Care will be taken to not carelessly over dig in order to protect the beech tree.

Chairman Rooney questioned the state of the beech tree. Will the tree be removed if there isn't sufficient foundation and the need to excavate is required. If it is removed, is the applicant planning to come back before the Board to revise their site plan?

Mr. Hall questioned what the stipulations are in respect to an event of this nature.

Chairman Rooney stated that if approved, what's submitted to the Board needs to be adhered to in respect to tree removal, etc.

Mr. Hall indicated that the landscape expert's opinion was that with careful measures, the beech tree should be saved. The application may need to be state that, if approved, the tree may be removed if necessary but that every effort will be made to save it.

Mr. Bonsignore questioned why the Oak trees are going to be removed in the front of the property?

Mr. Hall indicated that it was due to the shallow spreading roots and falling acorns. Green grass is the applicant's choice.

Mr. Santulli stated that a landscaper indicated that the two oak trees in the front yard were determined to be in poor health.

Jerry Lombardo, Board Member, questioned if there was any thought given to a partial basement?

Mr. Hall stated that there is no portion of the house that would allow for a basement without taking a significant portion of the house down. A basement would be difficult to construct since it would be below grade. It would be a windowless basement.

Mr. Lombardo wanted that testimony on the record. The house is very small and is exacerbated by it being a corner. The final principal is only going to be 1684 sq. ft.

Doug Christie, Board Member, stated that he was struggling with the porch's size and location. The porch is too close to the curb and too much for this lot. The lot is troubled because it's a corner lot. The project needs to work within the confines of the property itself. This proposal is too ambitious with the total lot coverage proposed at 23% which is too high. The porch would need to be removed.

Mrs. Santulli stated that the logic for the porch is due to the fact that the yard is small. The neighborhood has all walk in traffic since it's by the park and allows us to see and enjoy people passing by.

Mr. Hall thought that the porch softened the effect of the home close to the front yard setback. As the applicant's architect, the addition of the front porch was added to modulate the front façade of the home. The location of the foyer entrance can be changed if necessary.

Mr. Christie stated that the bump in the front of the home is the problem.

Mr. Hall was trying to use the positive aesthetics to offset a negative. Removing the bump in the front would lose the small foyer and closet. A front door without the bump creates a sheer façade which was intended to be avoided. Aesthetics was trying to be used as positive criteria to offset the negative.

Mr. Christie stated a front door with a covering over the stoop would be better suited than the front porch. The lot coverage proposed at 23.5% needs to be reduced. Losing the front porch would help in that respect.

Chairman Rooney stated that the Board requires a maintenance plan which will protect the investment of the proposed plantings.

Jim Donkersloot, Board Member, stated that a front porch could potentially be closed in at a later date and become living space.

Mr. Lombardo stated that the front porch is 6'6" which could easily go to 4'6". The foyer is 6'6" which is an area that could be condensed in order to reduce the lot coverage.

Mr. Hall requested to carry this application to the next meeting in order to regroup with regard to the Board's suggestions.

3. ACITO, JOSEPH, BLOCK 353, LOT 4 (RA-25); 290 Newtown Road. Variance requested for lot frontage.

Mr. Frank Tattoli, 780 Ackerman Avenue, Glen Rock, NJ, was sworn in by the Board Attorney. Mr. Tattoli indicated that he was before the Board on behalf of his brother-in-law who is out of town. An affidavit from Joseph Acito was presented to the Board Attorney.

Harold P. Cook, Board Attorney, reviewed the affidavit, which was notarized, and found it acceptable. The testimony will be limited to factual issues.

Ms. Jill Hartman, 21 Sparrow Bush Road, Mahwah, NJ, was sworn in by the Board Attorney. Ms. Hartman stated that she was a Planning Consultant with a BA in Biology, and a Masters in Urban Planning from NYU. Ms. Hartman is a licensed professional planner in the State of NJ practicing since 1983, a member of the American Institute of Certified Planners and is presently the planner in a number of different towns along with a private practice of her own.

Ms. Hartman stated for the record that the lot is a hardship. The house on the left is much closer to the property line than what the plans show with a frontage of 130 ft. The corner property to the right has a very narrow piece of property with a frontage of 50 ft. In order to meet the zoning requirement, property could not be purchased on any neighboring lots to meet the required frontage without creating a variance situation on one of those lots. The property is 128 ft. wide in the back, widening from front to back. One of the comments made in the work session was that the garage is located in the front. This contemporary design, which creates interior spaces necessary for today's four bedroom standard, was due to the narrowness in the front of the property. It wouldn't be feasible to attach a garage to the side of the house. The front yard setback requirement is 40 ft. The existing front yard is 64', with 63' being proposed. The houses on each side are either equal to or positioned in front of this house. Pushing the home further back would create a conflict of front or rear yard private spaces for the neighboring properties.

Ms. Hartmann continued to state that this house should be located in a reasonable location in order to ensure that the rear yards of the adjoining properties are respected. The wall on the right side where the garages are located is long and needs to be broken up. There are a number of things like finished windows with moldings along with a more elaborate landscape plan. The landscape plan would include trees such as 6-8' evergreens, azalea bushes, and rhododendrons to give both texture and size to the 20'+ long right side wall to break up the monotony. There is also a new five bedroom septic system located on the site plan in the front yard of the house.

Mr. Tattoli stated that the inquisition of whether the electrical service could be relocated under the ground would be an option Mr. Joseph Acito would approve if PSE&G will allow it.

Richard Bonsignore, Board Member, questioned if Mr. Acito was developing the home for his own use?

Mr. Tattoli confirmed that he was developing the home for his own use. Mr. Acito's family has grown requiring a larger home.

Carl Fry, Board Member, questioned if Mr. Acito will be his own General Contractor (GC)?

Mr. Tattoli stated that Mr. Acito is a professional contractor, a licensed master plumber in the State of NJ, and is currently developing other projects.

Mr. Fry stated that the Board is seeing a lot of homeowners who GC their own homes. Errors are made during the construction process requiring the homeowners to come back to the Board for additional variance requests.

Mr. Tattoli stated that he understood the situation, being a Construction Official himself. Doug Christie, Board Member, stated that the side yard setbacks are cutting it close with 20.5' and 20.6' on the either side.

Mr. Tattoli stated that if the approved side yards setbacks are violated, a stop work order would be issued by the Township's Construction Official.

Mr. Lombardo requested more detail on the design of the windows on the right side elevation of the house. A 6-8" jog to break the sight line on that side could be reviewed.

Ms. Hartman stated that if approved, oversized or finished windows could be added consistent with the front of the house. Additional landscaping will soften the structure. The facade of the garage which it is 21'.4" inches long could be brought in a foot or 6-8" and brought forward.

Chairman Rooney stated that a more detailed landscape plan would need to be submitted depicting the quantity, species, and sizes of the plantings with an associating key or legend. An irrigation plan needs to be included to support this landscape plan. In addition, a two year maintenance plan with one year prepaid is a requirement. All of these elements need to be submitted before a vote can be taken.

OPEN TO THE PUBLIC

No comments from the public.

CLOSED TO THE PUBLIC

Jim Donkersloot, Board Member, questioned why there was a retaining wall on the left side of the property?

Ms. Hartman indicated that the property does slope down to create the flat area and to protect the adjacent neighbor.

Chairman Rooney wanted landscaping on the left side of the home where the retaining wall was located referenced by Mr. Donkersloot.

Mr. Lombardo questioned if there was any thought given to using a different finish other than stucco. The structure has an office building appearance. A product such as hardie plank would soften the exterior of the home.

Mr. Tattoli stated that it was his understanding that his brother-in-law, Mr. Acito, is stuck with the stucco and the cornices depicted on the plans.

Ms. Hartman indicated that an octagonal turret with metal roofs are being proposed along with a front porch.

Mr. Lombardo stated that the Board would be interested in seeing some type of dimension change on the right side of the home when the plans are resubmitted.

Chairman Rooney stated that the application would be carried to next month and would be not required to renotice all of their neighbors.

4. AINSWORTH, JENNIFER, BLOCK 317, LOT 19 (RA-25); 370 Martom Road. Request for principal building lot coverage and two existing side yard setbacks.

Ms. Jennifer Ainsworth, 370 Martom Road, Wyckoff, NJ was sworn in by the Board Attorney.

Mr. Mark Braithwaite, 80 E. Ridgewood Avenue, Paramus, New Jersey, was sworn in by the Board Attorney. Mr. Braithwaite stated that he acquired a Bachelor of Arts and Bachelor of Architecture from the University of North Carolina in Charlotte and has been licensed in the State of NJ since 1993 and has presented before other Boards as an expert.

Mr. Braithwaite stated that the home is a 1951 ranch, with three bedrooms and 1 ½ baths. This request is for principal building coverage of 18.24% and two existing side yard setbacks. The existing frontage is 100' where 125' is required. The side yards would be okay if the lot had the 125' frontage requirement. This addition is attempting to use as much of the existing foundation as possible. The proposal is adding an extended foyer with a covered front porch over the door area and a covered porch in the rear. The principal coverage is existing at 15.63%. The addition brings the home to 18.64%. Sheet A2 shows a dotted line adding 3 ft. of heated space in the addition and sheet A4 shows the front elevations. The intent is to keep the cottage look and appearance as if the home always looked this way. The proposed exterior is hardie shingle and hardie shake.

Chairman Rooney stated that the side yard setback is existing at 9.8' without taking the air conditioners into account which further encroach into the setback. Secondly, is the home a four bedroom dwelling?

Mr. Braithwaite stated that one bedroom is located in the basement with a closet and egress windows. The septic was upgraded and has been approved and certified as a four bedroom dwelling.

Chairman Rooney stated that since the entire home is being renovated, is there any issue with relocating the air conditioning units to a new location outside of the setback?

Mr. Braithwaite stated that the units will be moved.

Chairman Rooney questioned if the applicant would have an issue with limiting the house to a four bedroom home with a deed restriction.

Mr. Braithwaite stated that there wouldn't be a problem with limiting the home to a four bedroom dwelling.

Carl Fry, Board Member, stated that the home seems to conform with all the other additions on the block which is nice to see. Moving the air conditioning units out of the side yard setback would make the approval for this application more favorable.

Carl Fry made a motion to approve the application as amended. Jerry Lombardo seconded. Voting in favor: Chairman Rooney, Bonsignore, Lombardo, Christie, Fry, Donkersloot and Ruebenacker.

Tom Gensheimer, Construction Official, questioned if a permit can be issued prior to the reissuing of a deed.

Harold P. Cook, Board Attorney, stated that a permit can be issued prior to the reissuance of the deed.

The meeting was adjourned at 10:45 p.m.

Jacqueline Denequolo
Board of Adjustment Secretary