

WYCKOFF BOARD OF ADJUSTMENT

APRIL 18, 2019 PUBLIC BUSINESS MEETING MINUTES

Work Session: 7:30 p.m. Second Floor, Memorial Town Hall

Public Meeting: 8:00 p.m. – Court Room, Second Floor, Memorial Town Hall

The meeting commenced with the reading of the Open Public Meetings Statement by Carl Fry, Chairman:

"The April 18, 2019 Public Work Session 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." Formal action may be taken.

Chairman Fry read this statement into the record: *"All applicants are hereby reminded that your application, if approved, may be subject to the terms, conditions and payment of the Affordable Housing Development Fee requirements of the Township. Information can be obtained from the Code of the Township of Wyckoff, Chapter 113-8 on the Township's website, www.wyckoff-nj.com"*

"This meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times."

Roll call was taken.

Board members in attendance: Carl Fry, Chairman; Erik Ruebenacker, Vice Chairman; Board Members: Brian Tanis, Ed Kalpagian, Brian Hubert, Rosa Riotto Mark Borst, Kelly Conlon and Louis Cicerchia.

Staff present: David Becker, Board Attorney, Mark DiGennaro, Township Engineer; and Maureen Mitchell, Board Secretary.

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

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Chairman Fry stated that all phones, pagers and hand held electronic devices should be turned off or switched to silent mode in order to avoid interrupting the public session.

APPROVAL OF MINUTES

March 21, 2019 work session and public hearing minutes were approved during the Work Session.

RESOLUTION FOR PAYMENT #19-04

Payment Resolution #19-04 was approved during the Work Session.

RESOLUTION(S) TO BE MEMORIALIZED

118 SHELDON STREET LLC, BLK 267 LOT 26 (R15) 118 Sheldon Street (Applicant proposes to add a second story to the existing one story family dwelling.) Approved

107 HARDING STREET, LLC BLK 263 LOT 66 (R-15) 107 HARDING ROAD (The applicant proposes to add a second story to the existing one story family dwelling) Approved

WARE, DAVID AND ELIZABETH BLK 291 LOT 29 (RA-25) 290 Sunset Blvd. (The applicant proposes to add a second story to the existing single store family dwelling.) Approved

KORINIS, KRISTA & JUSTIN BLK 219 LOT 1 (RA-25) 314 Godwin Avenue. (The applicant proposes to reconstruct the existing residence which was damaged by fire. The project involves expansion and alteration of the home.) Approved

The four Resolutions were memorialized during the Work Session.

NEW APPLICATIONS

CORDOVA, JOSE BLK 425 LOT 28.01 405 SICOMAC AVENUE. The applicant proposes to add a second story to the existing one story home.

Chairman Fry asked the applicant to come forward to provide an overview of the application. Jose Cordova was sworn. He stated that he is proposing to add a second story to the existing one story home. There is a pre-existing side yard setback of 14.6' where an enhanced 25' is required due to a proposed gross building area greater than 3700 square feet. This resulted in the request for variance relief. There will be four bedrooms on the second floor, a guest bedroom will remain on the first floor and there will also be a first floor study. The height of the second story will be 33.5'.

Board Member Borst stated that the lot is undersized at 23,036 SF however the applicant is proposing to stay within the existing setbacks. Chairman Fry agreed stating that it appears that the applicant made every effort to stay outside of the enhanced side yard setback with the second story addition on the right side having a setback of 30.83'.

Board Member Hubert inquired about the height of the existing garage. Township Engineer DiGennaro said that it is approximately 17' in height. Mr. Cordova stated that the garage is one story and will remain the same. He is not proposing to build over the garage.

Mr. DiGennaro asked if the first floor was going to be demolished during the construction. Mr. Cordova said that the exterior walls will remain in place and the first floor will be renovated. Mr. Kalpagian noted that 2 large trees have recently been removed and asked if they were going to be replaced. Mr. Cordova said that the trees will not be replaced and the stumps will be removed because the new septic will be placed in that location.

Vice Chairman Ruebenacker asked about the two large oak trees on the property. Mr. Cordova said that the oak on Terrace Drive was not a healthy tree and has been removed. The oak on Sicomac will remain.

Mr. Hubert asked about the location of the A/C units as he does not see them on the plans. Mr. Cordova said that the existing unit is to the left of the garage door. Another unit will be

added once the second story is completed. Mr. Borst said that the plan should also show screening for the A/C units. Chairman Fry suggested evergreen plantings so as to provide year round screening. He then summarized the Board's discussion as follows:

The 2 A/C units and evergreen screening will be added to the plans.

The existing garage is closest to the side yard setback at 14.16.

The second story addition will be outside of the enhanced side yard setback at 30.83'.

The revised landscape plan should reflect that one of the 30 inch oak trees has already been removed. The other 2 larger trees that are reflected on the plans are to remain.

Vice Chairman Ruebenacker recommended that due to the discrepancies with the landscape Plan, The Board should vote on the application tonight and then withhold Memorializing the Resolution based on the Township Engineer's review and verification of the revisions of the landscape plan.

Mr. Fry asked if there is a possibility to place the utilities underground. Mr. Cordova said that the utility pole is not close to his property. It is up the street on Terrace Heights therefore he cannot put the lines underground.

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Marjorie Korteweg of 411 Sicomac Avenue was sworn and inquired about the size of the addition. Township Engineer DiGennaro stated that the existing home has a gross building area of 2,582 square feet and the proposed gross building area is 4,620 square feet.

Ms. Korteweg said that she believes the Cordova home was the first ranch style home built in Wyckoff and she is a little sad to see it change however she added that she is sure Mr. Cordova will do a nice job.

CLOSED TO THE PUBLIC

Mr. Kalpagian made a motion to approve the application with the stipulation that a revised landscape plan will be provided and it will reflect the A/C units with screening as well as identify trees that have been removed and trees that are to remain as recommended by The Board. Second, Mr. Borst. Voting in favor: Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Borst, Mr. Kalpagian, Mr. Ruebenacker and Chairman Fry.

FILA, GREG & DANIELLE BLK 291 LOT 10 (RA-25) 317 West Stevens Avenue

The applicant proposes to construct a 2 story addition/alteration to existing residence.

Ben Cascio, Attorney for the applicants announced that the Architect was unable to attend the Meeting. Engineer Robert Weissman and Greg and Danielle Fila were sworn.

Mr. Cascio gave the following overview of the application:

This is an application for an existing single family home in the RA-25 zone with a non-conforming undersized lot of 18,037 square feet where 25,000 SF is required, frontage, front setback and side yard setback. The variance requests are for pre-existing non-conformities of lot size, existing front yard setback of 35.2' where 40' is required, side yard #1 setback is 22' and side yard #2 setback is 11.9' where 25' is required. Front yard and two side yard setbacks will remain unchanged. Due to the existing non-conformities, we are requesting the variance. With that Mr. Cascio asked Mr. Weissman, the Engineer to provide his testimony.

Mr. Weissman stated that everything proposed is conforming however the new construction triggers the enhanced side yard setback. The existing right and left yard setbacks will remain unchanged. The proposed front porch respects the front yard setback and the existing garage setback is to remain. The addition of the second floor addition is bumped in to stay within the 25' enhanced side yard setbacks on both sides. The height of the proposed second story will be 34' ¼". The proposed new 4 bedroom septic system has been reviewed and approved by Township Engineer DiGennaro and the submitted storm water management plan satisfies the Township code.

Vice Chairman Ruebenacker inquired about the height elevation of the second story addition over the garage. Mr. Fila stated that it will be higher than the other portion of the second story addition. The architect was not in attendance to testify to the exact proposed height difference however the consensus was that it appears to be approximately 3' higher according to the architectural drawings and the pitch of the roof. Mr. Ruebenacker stated that the proposed second floor over the garage is infringing into the setback.

The Fila's came forward to provide testimony. Mrs. Fila stated that the existing room over the garage has a very low slanted ceiling and the idea is to raise the ceiling height of the room to enable a squared off room with the addition of closets. She also said that she likes the architectural design of it and believes it is very similar to other homes in the neighborhood that have a room over the garage. Chairman Fry said that it appears that the mass of the proposed addition is outside of the side yard setback.

Board Member Kalpagian asked if the proposed ceiling height is 9' for all of the rooms on the second floor. He also noted that it appears that the room over the garage is not at the same level as the rest of the addition. Mrs. Fila stated that there will be 9' ceilings on the second story and that there is a step down into the room over the garage.

Board Member Tanis asked the applicants if the outside walls of the house are being taken down or built upon. Mr. Fila said they are taking them down. Chairman Fry asked how much of the house is actually coming down and if this will be a complete knock down. Mr. Fila replied that he has no idea how much of the house the builder is proposing to take down but believes that the garage will remain. Mr. DiGennaro said that the architectural drawings show all of the walls of the structure are shaded which typically represents that those walls are new therefore we need some clarification. Mrs. Fila stated that the walls of the garage are not going to be taken down.

At this point Chairman Fry stated that The Board needs more information to identify exactly what is and what is not staying. As Mr. DiGennaro stated, it appears on A-2 that all of the exterior walls are depicted as new which means that this is a complete teardown. The fact that this is a slab on grade home, you could easily modify the plans to try to fit the new home within the restrictions for the zone. It would be problematic for The Board to approve the construction of a non-conforming home if it is a complete teardown. Mrs. Fila said she thinks that is why they were going to keep the garage walls intact. Chairman Fry said we need to hear testimony from the architect who designed this so that we know exactly what is proposed. Mr. Ruebenacker added that we have to understand certain details and questions that cannot be answered right now and once we have testimony from your architect Mr. Braithwaite, we will be able to proceed.

Finally, Mr. Fry said that the A/C units are not shown on the plans and need to be added with screening plantings. He also asked if the utilities could be placed underground. Mr. Weissman stated that the utility pole is not close enough to the home to do so.

OPEN TO THE PUBLIC
NO ONE APPEARED
CLOSED TO THE PUBLIC

Board Attorney Becker advised the Fila's that if there are changes made to the plans they should submit the revised plans 10 days before the next meeting adding that they do not have to re-notice.

UFFERFILGE, TED & BONNIE BLK 281 LOT 1 (RA-25) 558 Taunton Rd.

The applicant proposes to construct a Pool House addition onto the rear of the existing home.

Board Member Borst recused himself and stepped down from the dais. Bruce Whitaker, Attorney for the Applicant came forward to discuss the application. He stated that this is a two pronged application. The first portion of the application is to appeal Township Engineer's opinion as to the necessity for a variance on the property. In doing so, Mr. Whitaker referred to Township of Wyckoff Ordinance #186-37(b) which states:

Anything herein to the contrary notwithstanding, where a residence in a residential zone is nonconforming because it fails to meet the minimum lot requirements and/or the minimum yard requirements set forth in the Schedule of Dimensional Requirements, the residence may be added to, provided that such addition does not in itself encroach upon the minimum setbacks or height requirements or exceed the maximum lot coverage requirement (when added to the coverage of other buildings) set forth in the Schedule of Dimensional Requirements. Should the addition itself encroach upon the minimum setback or height requirements or exceed the maximum lot coverage requirements set forth in the Schedule of Dimensional Requirements, a variance shall be required.

Mr. Whitaker's argument being that his client has a residence in a Residential Zone that is non-conforming because it fails to meet the minimum side yard setback requirements. He went on to say that the proposed addition does not further encroach upon the setback or violate the height or lot coverage requirements therefore Ordinance 186-37(b) provides that the addition may be built without a variance.

Board Attorney Becker stated that the ordinance does not list the requirements, other than a foot note, for the gross build area therefore this ordinance in and of itself may not be applicable in this instance adding that you have to look to 186-66 as to what dictates the gross building area. He stated that what is non-conforming is the setback which is now being exacerbated by the proposed addition. By its nature the only reason for looking at gross building area, you have to look at the setback. Gross building area cannot stand alone; it cannot be separated from the setback non-conformity. A lengthy discussion ensued between Attorneys Becker and Whitaker who had differing views on the interpretation of the aforementioned Ordinance.

Chairman Fry stated that there is a clear divide adding that after listening carefully to both Attorneys, he does not believe the intent of the ordinance supports the case that Mr. Whitaker presented. It was suggested that The Board vote on Mr. Whitaker's appeal based on the Ordinance. Mr. Whitaker stated that the Board has to look at what this Ordinance states and suggested that the Board proceed with voting to affirm or deny his appeal.

Vice Chairman Ruebenacker stated that he was not provided with a copy of 186-37(a) or

186-66 which were both referenced during this discussion. In light of that he said that he was apprehensive to make a decision on this appeal without having the time to fully review all of the information. Mr. Ruebenacker stated that he believes The Board would be challenged by having to determine the intent of the ordinance which appears to be the case.

Mr. Whitaker stated that if there are Board Members who do not feel confident that they have been given enough time to evaluate this, he will agree to move forward with presenting his case for the variance for his client. Mr. Becker stated that this ordinance is something the Board should look into. Chairman Fry agreed that this ordinance must be reviewed and its purpose clarified.

At this point Robert Weissman, the Engineer for the applicant, was sworn. His submission was labeled exhibit A-1 and he provided the following overview :The existing house encroaches into the side yard setback at 20.3 feet on the south side. The proposed addition is a one story addition that will not exceed the maximum building coverage requirement and does not further encroach into the existing side yard setback. There is currently a swimming pool being constructed on the property. Mr. Whitaker presented 4 photos of the property labeled exhibit A-2. The addition will be integrated into the house. Board Member Tanis mentioned that the landscaping from the house to the fence line at the edge of the garage has been removed and asked if it would be replaced in kind? Mr. Whitaker stated that the landscaping will be replaced. It was removed to provide access to the pool construction site. Township Engineer stated that there are currently 4 or 5 dead green giant arborvitae on the property. The applicant said that they are planning to replace those as well. Mr. Tanis asked about the overhang on the proposed addition. Mr. Weissman said that it will match what is on the garage and will not further encroach into the setback.

OPEN TO THE PUBLIC
NO ONE APPEARED
CLOSED TO THE PUBLIC

Mr. Ruebenacker made a motion to approve the application as submitted with it being noted that any landscaping that has been removed or will be removed during construction will be replaced in kind and the roof line on the new addition will not further encroach into the setback. Second, Mr. Tanis. Voting in favor: Mr. Kalpagian, Mr. Hubert, Ms. Riotto, Mr. Tanis, Mr. Ruebenacker and Chairman Fry.

COHEN, DAVID & LAUREN BLK 421 LOT 40 (RA-25) 783 Charnwood Drive

The applicant proposes to construct a 3rd bay to the existing 2 car garage, construct a master bedroom above the garage and construct an enclosed vestibule on the front of the house where an open porch exists.

Lauren and David Cohen were sworn. Mrs. Cohen gave the following overview of the application: We are proposing to add a third garage bay, a second floor master bedroom above the garage and an enclosed front vestibule. The new addition will result in a gross building area greater than 3700 feet which triggers the enhanced side yard setback. Side yard #1 has an existing setback of 20.2' where 25 is now required (enhanced). The side yard setback will remain unchanged. Side yard #2 has an existing setback of 45.4 and will also remain unchanged. The existing front yard setback is 37.8' where 40' is required. There is an existing non-conforming open front porch which extends from the front door to the garage. We are proposing to remove the existing porch and construct what we feel is a tasteful 3' by 7'4"

vestibule at the front entryway. The existing front yard setback is 37.8' and we are proposing 34.7 where 40 is required. The additional encroachment is due to the front steps; not the principal structure. We are seeking variance relief for the front entryway vestibule and the second story addition.

Chairman Fry stated that the mass of the addition is on the right side where the setback is 45.4' and nothing is being expanded on the left side where the existing setback is 20.2'. The height will be 29' which will match the existing second story ridge line.

Township Engineer DiGennaro asked how they will access the attic space. The Cohen's said they have pull down stairs. Mr. DiGennaro also recommended containing the water run-off from the expanded driveway by adding Belgium Block curb and putting tree protection around the 2 existing trees in the front.

Board Member Hubert asked what type of siding they are proposing. Mrs. Cohen stated that they are deciding between cedar and hardy plank however their decision is not final yet.

Chairman Fry inquired about the construction that is already underway. Mrs. Cohen said that they were approved back in January to add a third garage bay, a kitchen and a covered porch to the right rear of the home. It was after those plans were made that they decided to add the second story master bedroom and front vestibule which is why they are before The Board.

Board Member Borst stated that ordinarily with variance requests The Board requests a professional landscape plan. Mr. Hubert agreed that he would like to see something more substantial. Mr. Tanis made the suggestion that types of plants and number of plants and spacing should be listed on the landscape plan. Mr. Borst provided a landscape design sample as guidance for the Cohens. Mr. DiGennaro reinforced the importance of a substantial landscape plan and following through with what is presented. He also advised the applicants to add evergreen plantings to screen the A/C units.

OPEN TO THE PUBLIC
NO ONE APPEARED
CLOSED TO THE PUBLIC

Mr. Borst made a motion to approve the application as proposed with the provision of a revised landscape plan and screening of A/C units. Second, Mr. Ruebenacker. Voting in favor: Mr. Tanis, Mr. Kalpagian, Mr. Hubert, Ms. Riotto, Mr. Borst, Mr. Ruebenacker and Chairman Fry.

There being no further business, a motion was made to adjourn the Public Session Meeting, seconded, and passed unanimously. The Public Business Meeting was adjourned at 11:15 p.m.

Respectfully Submitted,

Maureen Mitchell, Secretary
Wyckoff Board of Adjustment

