

WYCKOFF BOARD OF ADJUSTMENT

JANUARY 17, 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 January 17, 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 Member Attendance: Carl Fry, Chairman; Erik Ruebenacker, Vice Chairman; Mark Borst, Brian Hubert, Brian Tanis, Rosa Riotto, Kelly Conlon and Lou Cicerchia.

Board Member Absent: Ed Kalpagian

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.

* * * * *

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.

ORGANIZATIONAL BUSINESS/MOTIONS

1. Oaths of Office to be administered to the new and continuing members, where applicable.
2. Roll call of Board of Adjustment Members
3. Election of Officers: Chairman and Vice Chairman.
4. Resolution #19-001 for: Appointment of Board of Adjustment Attorney.
5. Appointment of Board Secretary.
6. Compliance with Open Public Meetings Act:
 - 6.1- Annual Notice of Meetings
 - 6.2- Continuation of Current Rules and Regulations
 - 6.3- Official Newspapers – The Record, The Ridgewood News and The North Jersey Herald and News
 - 6.4- Acceptance of Annual Report

A. APPROVAL OF MINUTES

December 20, 2018 work session and public hearing minutes

B. RESOLUTION FOR PAYMENT #19-01**RESOLUTION(S) TO BE MEMORIALIZED**

CALABRESE, MICHAEL & ERIN BLK 230 LOT 9(RA-25), 615 Woodfield Rd. *(The applicant proposes to enlarge existing garage and add a bedroom over garage which will encroach into the side yard setback).* **APPROVED**

STERGIOU, LAMBRYN BLK 344 LOT 9 (RA-25); 460 James Way. *(The applicant proposes to add a great room to the existing home which will triggered the enhanced side yard setback ordinance).* **APPROVED**

Organizational Business and Motions 1 – 6, December 20, 2018 meeting minutes, Resolutions for Payment and Memorialized Resolutions for Calabrese and Stergiou were addressed and approved at the Work Session Meeting.

APPLICATION(S) – CARRIED

TSAPATSARIS, JENNIFER BLK 366 LOT 5 (RA-25); 543 Eder Avenue. *(The applicant proposes to expand the existing house to include a laundry room, living room and a second floor addition for a bathroom and bonus room over the garage which will encroach into the enhanced side yard setback).* **CARRIED TO FEBRUARY 21, 2019 PENDING REVISED PLANS**

APPLICATION(S) – NEW

TAIBI, ANTHONY AND CLAIRE BLK 480 LOT 7 (RA-15) 42 Wyckoff Avenue. *(The applicant proposes to construct a one story addition on the existing house to include a main floor bedroom with closet and enlarge the existing bathroom.)*

Ed Sherman of 26 Smithfield Rd. was sworn. He is a licensed Architect in good standing in the State of N.J. His credentials were accepted by the board. Mr. Sherman stated that the applicants were unable to attend the meeting however their daughter is here. Chairman Fry

asked Mr. Sherman to explain why the applicant is proposing to expand on this small lot. Mr. Sherman testified that the Taibi's have lived in this home in Wyckoff for 50 years and they would like to stay in the home. They are having difficulty going up and down stairs to get to their current master bedroom. The Taibi's would like to add on a first floor master bedroom and enlarge the existing first floor bathroom to make it handicap accessible. Mr. Sherman stated that they are requesting a variance for rear yard where the property should be 125' and only 110' exists. Mr. Sherman added that they are proposing a 28.24 rear yard setback where 30' is required in that zone. There is currently a concrete patio at the rear of the house that extends beyond the footprint of the proposed addition almost to the property line. The entire concrete patio will be removed and replaced with grass thereby reducing the impervious coverage area of the lot. The current impervious coverage is 50.32% and will be brought down to 47.5 where 45 is allowed. Chairman Fry commented that this is a hardship due to the extremely undersized lot and the two frontages. He added that The Board does consider that when granting certain variances. He suggested that there must be a way to scale it back. Based on the size of the addition the home is now encroaching further into the rear yard setback; where 30' is required you are proposing 28.24. Chairman Fry advised that reducing the size by 1 ¾ feet would have eliminated increasing the rear yard setback. He pointed out to Mr. Sherman that with the proposed design, the applicants are over on the principal structure proposing 17.36% in addition to accessory structures at 4.55%. The combined percentages are exceeding the allowed amount. A reduction in size of the proposed addition could be brought closer to the 20% which is very generous on an 8500 square foot lot. Board Member Tanis suggested enlarging the small existing bathroom into the existing sun room which would allow for reduction of the proposed addition, stating that it would be a good option since the plumbing already exists in that area. He added that this revision would facilitate getting to the 20% which would be more favorable to The Board. Mr. Sherman, the Architect said that if the board would look favorably upon that proposal he would speak with the applicants about revising the plans based on The Boards recommendations.

There was a discussion about the distance of the new addition from the detached 2 car garage. Mr. Sherman stated that there will be a distance of 5 feet from the foundation of the new room to the foundation of the garage. In addition there will be a 12 inch overhang on the new room as well as the 9 inch overhang on the garage which makes the distance between the 2 structures much smaller. Chairman Fry advised Mr. Sherman that The Board would certainly want to see a greater distance between the two structures. Vice Chairman Ruebenacker recommended pulling the addition in 2 feet or more closer to the house to provide more space between the garage and the house.

OPEN TO THE PUBLIC

NO ONE APPEARED

CLOSED TO THE PUBLIC

Chairman Fry stated that The Board would provide some guidance as to what the goals should be for the revisions based on the discussions this evening as follows:

1. 30' rear yard setback where 28.24' has been previously proposed.
2. Combined principal and accessory structures impervious coverage at 20% or below.
3. Increase the structure to structure distance between the detached garage and the new addition.

Mr. Sherman, the Architect was agreeable to The Board's recommendations.
The application will be carried to the February 21, 2019 meeting.

VRTIS, ANGELA & MICHAEL BLK 352 LOT 37.01 (RA-25); 268 Wyckoff Avenue. *(The applicant proposes to seek approval for a tree fort installed in a grove of trees 9 feet off the ground).*

Angela and Michael Vrtis were sworn. Mr. Vrtis stated that they began construction of the tree house because they did not know that tree houses are not allowed in The Township of Wyckoff. The applicant stated that when he previously inquired about any rules and regulations regarding building a tree house, he was told that there are no rules. He understood that to mean that he could build the tree house to any specifications he liked. In actuality, there are no rules and regulations pertaining to building tree houses because they are a non-permitted use. Mr. Vrtis stated that he believed it was the same as building a shed and he planned to keep the size under 100 square feet. Chairman Fry asked how far along the construction of the tree house is at this point. Mr. Vrtis stated that he has already drilled into the 2 trees and placed large tree attachment bolts which anchor the triangular beams that support the foundation for the decking. The foundation, which has already been installed is comprised of 2' x12' pieces of lumber and the floor decking has been placed above the foundation. The framing for the tree house has also been installed. The decking is 10.5 feet above the ground and the proposed ridge line will be 14.2 feet above the decking.

Board member Borst inquired about the variety of trees that are being used to support the tree house. Mr. Vrtis stated that one of the trees is a Wild Cherry and the other is a Wild Birch. Mr. Borst said that he was troubled by this since these are weak wood trees and will not survive very long. Mrs. Vrtis stated that they had the trees inspected by their Tree Maintenance Company and they were told these trees were hard wood. Mr. Borst strongly disagreed. Chairman Fry stated that if this application gets approved, the applicant will then have to do an engineering study to prove that a tree is going to support the weight and that it will last. He went on to say that he does not see how anyone will be able to confirm that fact. Mr. Vrtis stated that he does not understand why this needs that type of analysis. He questioned if the structure could qualify as a shed. Township Engineer DiGennaro responded by stating that the Construction Official will not be able to issue a building permit because nobody can prove the soundness of the foundation which in this case is a tree. Trees are susceptible to movement and rot. Attorney Becker stated that this structure does not qualify as a shed because it will not be used as a shed. He reminded the applicants that they are building a tree house and there will be people up in the structure. The proposed structure will be 10 feet off the ground and they are not proposing to use it to store pool supplies or chairs. Mr. DiGennaro added that you cannot prove the support structure and you're going to have people up in the structure with an unknown foundation stability.

Chairman Fry asked Mr. Vrtis to provide the positive criteria. Mr. Vrtis stated that he believes that their wooded back yard property is unique for this area for that use, they have over an acre of land and it is fully fenced. The tree house will be at least 25 feet from each property line and it will be screened. He added that he believes that a tree house is the most beneficial use for the trees in his yard and without the tree house he might just clear cut the trees on the lot.

Having heard the testimony, Chairman Fry stated that he believes that The Board is going to struggle to find the positives in this proposal. He also expressed his regrets that the applicant is in this position of having to defend the desire for a tree house. Attorney Becker while agreeing with Mr. Fry that it is an unfortunate situation, the Ordinance does not permit tree houses and The Board has to make decisions based on the law and the criteria being met.

Board Member Tanis suggested placing 2" x 4" boards under each corner of the platform, closing in the bottom portion and leaving the the platform above open with safety railings. By doing that, there would be a support system for the structure. Vice Chairman Ruebenacker

supported that idea.

Attorney Becker advised Mr. and Mrs. Vrtis to withdraw the application for the tree house, revise the plans based on The Boards comments, and reduce the height of the structure to eliminate the Use Variance.

OPEN TO THE PUBLIC

Paul Suhar of 387 Height Road was sworn. He is a neighbor. Mr. Suhar stated that the tree house is unsightly. He added that it is massive in size, very high off the ground and is in direct line of sight with his master bedroom window at the rear of his home. He requested that the tree house be taken down until something else can be planned. Chairman Fry thanked Mr. Suhar for expressing his concerns adding that The Board values the Publics opinion on how they may be impacted by a neighbor's construction. He informed Mr. Suhar that it is not a function of this Board to ask for the structure to be taken down; it is up to the Building Department.

Mr. DiGennaro suggested that The Board set a deadline for action to be taken on the matter if the application is withdrawn. Specifically, if a new application will be submitted or, the applicants choose not to proceed and the partially constructed tree house will be taken down. A decision was made that if the applicants wish to proceed, a new application should be submitted to The Zoning Board office by March for review by the Township Engineer. The application can then be placed on the agenda for the April 18, 2019 meeting before The Board. Mr. DiGennaro said that the Building Department will agree to withhold any enforcement until after the April meeting.

OPEN TO THE PUBLIC

NO ONE APPEARED

CLOSED TO THE PUBLIC

MILAZZO, DANIEL AND MELISSA BLK 314 LOT 30. 425 Hamden Court. (The applicant proposes to construct a one story addition to the rear corner of the existing residence to enlarge the kitchen and dining room).

Daniel Milazzo of 425 Hamden Court was sworn. He stated that the existing kitchen is small in size which makes it difficult when he and his wife entertain their family during Holidays and other occasions. They would like to enlarge the kitchen. They are impacted by an existing enhanced side yard setback. The proposed design will maintain the existing side yard setback of 20.43'. The plan is to square off the back of the house by adding an additional 100 square feet to create a more functional kitchen. It will be a one story addition which will match the existing 21' ridge. Township Engineer DiGennaro said that it does not qualify for Storm Water Management. Board Member Tanis asked about the placement of the AC units which are currently in the side yard. Mr. Milazzo said the AC unit will be moved to the rear of the house off the new addition. Vice Chairman Ruebenacker inquired about the siding. Mr. Milazzo said that the new siding will match the existing.

OPEN TO THE PUBLIC

NO ONE APPEARED

CLOSED TO THE PUBLIC

Chairman Fry asked for a motion to approve the application. Mr. Ruebenacker made a motion to approve. Second, Mr. Hubert. Voting in favor: Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Borst, Vice Chairman Ruebenacker and Chairman Fry.

Chairman Fry asked for a motion to enter into Executive Session. The reason for the Executive

Session is to give The Board an opportunity to discuss threatened litigation in the matter of a denied application.

Motion was made by Mr. Hubert. Second, Mr. Ruebenacker. Voting in favor Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Borst, Mr. Ruebenacker and Chairman Fry.

* * * * *

There being no further business the Public meeting was adjourned at 10:30 p.m.

Respectfully Submitted,

Maureen Mitchell, Secretary
Wyckoff Board of Adjustment