

**WYCKOFF ZONING BOARD OF ADJUSTMENT
JANUARY 17, 2019
PUBLIC WORK SESSION MINUTES**

Public Work Session: 7:30 p.m. Second Floor Court Room, Memorial Town Hall
Public Business Meeting: 8:00 p.m. Second Floor Court Room, Memorial Town Hall

The meeting commenced with the reading of the Open Public Meetings Statement by Board Secretary Maureen Mitchell:

"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.

Members of the public are welcome to be present at this meeting. However, in accordance with Section 7 (A) of the Open Public Meetings Act, participation on the part of the public at this meeting will not be entertained."

Ms. Mitchell 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 time."

ORGANIZATIONAL BUSINESS/MOTIONS

1. Oaths of Office were signed by the new Board Members Rosa Riotto, Louis Cicerchia, Kelly Conlon and continuing member, Carl Fry.
2. Roll call was taken.
Board Members in Attendance: Carl Fry, Erik Ruebenacker, Mark Borst, Brian Hubert, Brian Tanis, Rosa Riotto, Kelly Conlon and Louis Cicerchia.
Board Member Absent: Ed Kalpagian
Staff Present: David Becker, Board Attorney; Mark DiGennaro, Township Engineer; Maureen Mitchell, Board Secretary.
3. Election of Officers: Chairman and Vice Chairman.
Board Member Ruebenacker made a motion to elect Carl Fry as Chairman of The Township of Wyckoff Zoning Board of Adjustment for the year 2019. Second, Board Member Hubert. Voting in favor: Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Borst, Mr. Ruebenacker, Ms. Conlon and Mr. Cicerchia.

Board Member Borst made a motion to elect Eric Ruebenacker as Vice Chairman of The Township of Wyckoff Zoning Board of Adjustment for the year 2019. Second, Chairman Fry. Voting in favor: Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Borst, Ms. Conlon, Mr. Cicerchia and Chairman Fry.

4. Resolution #19-001 for: Appointment of Board of Adjustment Attorney.
Vice Chairman Ruebenacker made a motion to reappoint David Becker, Esq. as the Township of Wyckoff Zoning Board of Adjustment Attorney for the year 2019. Second, Mr. Borst. Voting in favor: Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Borst, Ms. Conlon, Mr. Cicerchia, Mr. Ruebenacker and Chairman Fry.
5. Appointment of Board Secretary.
Mr. Hubert made a motion to re-appoint Maureen Mitchell as Secretary of the Township of Wyckoff Zoning Board of Adjustment. Second, Mr. Ruebenacker. Voting in favor: Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Borst, Mr. Ruebenacker, Ms. Conlon, Mr. Cicerchia and Chairman Fry.
6. Compliance with Open Public Meetings Act 6.1 – 6.4.
 - 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 ReportVice Chairman Ruebenacker made a motion to accept compliance with the Open Public Meetings Act 6.1 – 6.4 for 2019. Second, Mr. Tanis. Voting in favor: Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Borst, Ms. Conlon, Mr. Cicerchia, Mr. Ruebenacker and Chairman Fry.

Chairman Fry discussed the 2018 Annual Report and in doing so pointed out the great efforts taken by The Board members to exhibit fairness and assistance to all applicants who come before The Board seeking variance relief. Chairman Fry then welcomed new Board Members Rosa Riotto, Kelly Conlon, Alternate #1; and Louis Cicerchia, Alternate #2. He gave a brief overview of the voting process as it pertains to the alternate members. The MLUL N.J.S.A 40:55D-23.1 and 40:55D-69 provides a system whereby alternates may be appointed to Planning and Zoning Boards. Alternates shall be designated as Alternate No. 1 and Alternate No. 2. Alternates may participate in all matters but may only vote in the absence of or disqualification of a regular member. If both alternates have attended all of the hearings and are qualified to vote, Alternate No. 1 must always vote. The board secretary will announce at the start of each meeting if an alternate or alternates will be called upon to vote during the meeting depending on the number of absentee board members.

OLD BUSINESS

Approval of the December 20, 2018 work session and public business meeting minutes.
Board Member Ruebenacker made a motion to approve the December 20, 2018 work session

and public business meeting minutes. Second, Board Member Borst. Voting in favor: Mr. Tanis, Ms. Riotto, Mr. Hubert, Mr. Borst, Mr. Ruebenacker and Chairman Fry.

RESOLUTION TO APPROVE VOUCHERS FOR PAYMENT

RESOLUTION #19-01 Approval of vouchers from various escrow accounts.

Board Member Hubert made a motion to approve Resolution #19-01 for payment of vouchers. Second, Vice Chairman Ruebenacker. Voting in favor: Mr. Tanis, Ms. Riotto, Mr. Borst, Mr. Hubert, Mr. Ruebenacker and Chairman Fry.

FOR DISCUSSION

The Klein application for 530 Overlook Drive.

Board Attorney Becker addressed The Board Members with regard to the Klein application which The Board voted to deny after careful consideration during the December 20, 2018 meeting. He stated that he has drafted the Resolution however it will not be voted on at tonight's meeting. After the application was denied, Mr. Whitaker, Attorney for the applicant, indicated that his client would probably file a Prerogative Writ litigation. Mr. Becker stated that as a result of the threat of litigation, he and Mr. Whitaker engaged in some conversations. Attorney Becker made a recommendation to The Board to make a motion to enter into an Executive Session after the Public Session meeting to discuss the threatened litigation and what our recourse will be. During their conversations, Mr. Whitaker told Board Attorney Becker that he will waive the 45 day deadline to memorialize the resolution in order to afford The Board the opportunity to enter into an Executive Session to discuss the pending litigation. Mr. Becker added that the resolution will be adopted at the February meeting if we do not proceed with any other recourse but litigation.

Chairman Fry stated that at the conclusion of the evening Public Session Meeting he would make a motion to enter into Executive Session to allow The Board to take a look at what the applicant is now proposing as a settlement offer. During the meeting The Board will review the revised plans and the letter that was presented to us regarding pending litigation, adding; we will see if we would like to move forward and how we would like to move forward.

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**

Chairman Fry asked for a motion to approve the Resolutions for the Calabrese application and the Stergiou application. Board Member Borst made a motion to approve the above referenced Resolutions. Second, Mr. Ruebenacker. Voting in favor: Mr. Tanis, Mr. Hubert, Mr. Ruebenacker, Ms. Riotto, Mr. Borst and Chairman Fry.

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).*

Chairman Fry announced that the application was heard at the December meeting and will not be heard tonight. The application will be carried to the February 21, 2019 meeting pending revised plans.

NEW APPLICATIONS

Chairman Fry announced the new applications to be presented before The Board at the Public Session Meeting:

1. **TAIBI, ANTHONY AND CLAIRE** BLK 480 LOT 7 (RA-15) 42 Wyckoff Avenue. *(The applicant proposes to put a one story addition on the existing house to include a main floor bedroom with closet and enlarge the existing bathroom.)*
2. **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).*
3. **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).*
4. **ST. ELIZABETH'S CHURCH** BLK 216 LOT 16.02 (RA-25); 700 Wyckoff Avenue. *(The applicant proposes to construct a Daily Mass Chapel).*

Chairman Fry asked Township Engineer DiGennaro to speak about the St. Elizabeth's application since the plans were not presented to The Board prior to this meeting. Mr. DiGennaro stated that upon review he found the submitted application to be incomplete. He added that St. Elizabeth's team is working on revisions for the February meeting. Mr. DiGennaro added that they are also considering the possibility of requesting a Special Meeting. Attorney Becker expressed some concern over the possibility of trying to schedule another meeting for The Board during the Month of February due to scheduling conflicts. He recommended that the application first be heard at the February 21 Public Session Meeting. Subsequently, if it appears that a Special Meeting is needed, we will schedule one for March. Chairman Fry was in agreement with that recommendation. Township Engineer DiGennaro explained that the variance relief is being requested by St. Elizabeth's due to the encroachment of the new Daily Chapel addition into the minimum required rear yard setback which is adjacent to residential properties. Attorney Becker stated that Churches are a Conditional Use in any of the zones they are in. If they do not meet the conditions, it is technically a D variance not just a bulk variance because of the Conditional Use. The point was made by Attorney Becker that the D variance relief will require a minimum vote of at least five. The Board needs to be aware that their attendance at the February meeting is crucial.

Chairman Fry reminded the New Board Members that they are required to take a mandatory 5 hour training class. Ms. Mitchell stated that she has been in contact with all of the new Board Members and will be registering them for either the March 23rd training class in Paramus or the April 29th training class in Hackensack depending on their preferences.

Chairman Fry asked Township Engineer DiGennaro to provide a summary of the new applications to be presented before The Board during the Public Session. Mr. DiGennaro summarized the 3 new applications:

Taibi - 42 Wyckoff Avenue Block 480 Lot 7

The existing single family dwelling is situated on a corner lot in the R-15 zone and is non-conforming due to lot area, lot depth, front yard setbacks, side yard setback and accessory structure setbacks. The applicant is proposing a single story addition to the rear of the home requiring variance relief from the code for enhanced side yard setback, rear yard setback, impervious coverage, excessive principal building and combined lot coverages. Chairman Fry suggested a couple of points for discussion by The Board during the Public Session Meeting. First pertained to the number of variances which is unusually high. Secondly, he stated that The Board should question what if anything was done during the planning stages to minimize the impact; what is the need; what are the benefits and do they outweigh the detriments? The applicant will provide testimony during the Public Session Meeting.

Vrtis – 268 Wyckoff Avenue

The existing single family dwelling is situated in the RA-25 zone and is non-conforming due to lot frontage and enhanced side yard setback. The applicant has received a variance to permit the pool slide to encroach into the side yard. The applicant is currently seeking relief from the code to allow the partially constructed tree house to be permitted in the zone requiring a use variance for a non-permitted use. In addition, the proposed tree house should be considered an accessory structure with regard to bulk criteria. Therefore, the proposal requires variances for principal building enhanced side yard setback, accessory structure height as well as accessory structure use.

Board Attorney Becker stated that nowhere in the Township of Wyckoff Ordinance does it allow for a tree house or tree fort in any zone. He added that the applicants will have to meet the positive and negative criteria and the benefits must outweigh the negatives. This being a D variance will require a minimum of 5 affirmative votes. Chairman Fry pointed out that even if The Board approves the application, the applicants will still have to obtain building permits from the Building Department and meet the building code. Engineer DiGennaro added that a permit cannot be issued to build a structure that does not have a foundation therefore it will not meet building code. The applicants will provide testimony during the Public Session Meeting.

Milazzo – 425 Hamden Court Block 314 Lot 30

The existing single family dwelling is situated in the RA-25 zone and is non-conforming due to the enhanced side yard setback requirement. The applicant seeks relief from the code in order to construct a single story addition of approximately 120 SF to expand the kitchen off the left rear corner of the home. Chairman Fry commented that this is a minor addition and it is obvious that the applicant made every effort to stay within the existing side yard setback

thereby avoiding further encroachment. The applicant will provide testimony during the Public Session Meeting.

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There being no further business, a motion was made to adjourn the Work Session Meeting, was seconded, and passed unanimously.

Respectfully Submitted,

Maureen Mitchell, Secretary
Wyckoff Board of Adjustment