

**WYCKOFF PLANNING BOARD
NOVEMBER 13, 2019 PUBLIC BUSINESS MEETING 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 Meeting Statement by Chairman Fortunato.

“The regular November 13, 2019 Public Business Meeting of the Wyckoff Planning Board is now in Session. In accordance with the Open Public Meeting Act, notice of this meeting appears on our Annual Schedule of Meetings. A copy of said Annual Schedule has been posted on the bulletin board in 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 Fortunato 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.”

The meeting began with a moment of silence for the passing of Planning Board Attorney, Joseph Perconti. The moment of silence was followed by the Pledge of Allegiance.

Board Member Attendance: Robert Fortunato, Chairman; Kevin Hanly, Vice Chairman; Tom Madigan, Mayor; Rudy Boonstra, Township Committee Representative; Michael Homaychak, Kevin Purvin, Scott Fisher, Glen Sietsma and Sarah Caprio.

Board Members Absent: George Alexandrou and John An.

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

OLD BUSINESS

Approval of the October 7, 2019 Work Session and Regular Business Minutes

The October 7, 2019 Work Session and Business Meeting Minutes were approved during the Work Session.

Approval of Payment Resolution #19-11

Payment Resolution #19-11 was approved during the Work Session.

APPLICATIONS CARRIED

GALASSO ENTERPRISES, LLC BLK 203 LOT 3.04 (L-2) 825 Windham Court North.

Amendment to Existing Site Plan. Applicant proposes to add 56 additional parking spaces to the site which currently has 50 parking spaces.

The application is being carried to the December meeting.

KAYAL, GARY 225 Van Houten Avenue BLK 258 LOT 13 (RA-25).

The applicant imported approximately 774 cubic yards of soil to raise the level of the rear yard and constructed a 3'-4' boulder retaining wall to contain the soil.

Bruce Whitaker, the applicants Attorney, came forward. He stated that this is an application for soil importation of 774 cubic yards and for the construction of retaining walls. Mr. Whitaker said that he is aware that this client was issued a summons for importing the soil without a permit. Chairman Fortunato asked Township Engineer DiGennaro to clarify that statement. Mr. DiGennaro stated that Mr. Kayal was not issued a summons for the soil movement. He was issued a summons for installing Belgium block curbing in the public right of way without a permit as well as a summons for installing a fence without a permit. Chairman Fortunato asked if these two matters have been resolved. Mr. DiGennaro replied that Mr. Kayal appeared in Municipal Court, paid fines for both and subsequently filed for permits with the Township for the curbing and the fence.

Mr. Whitaker went on to say that his purpose at this point is to look at the Wyckoff Ordinance pertaining to soil movement and determine if his client can comply with the requirements of the Ordinance even though the soil has already been imported to the property. He then handed out copies of the Township Code chapter 186-22H to the Board Members. He also referred to 186-36B and 186-22T and expressed the opinion that the Ordinances do not clearly set forth the requirements for soil movement. Vice Chairman Hanly disagreed stating that if you look at the Ordinances logically, they cross-reference each other, and the different components of each outline the requirements. Mr. Whitaker said the Ordinances are vague in his opinion and he wants this on the record. Chairman Fortunato asked Mr. Whitaker to proceed with the presentation of the application.

Mr. Whitaker stated that upon reading the transcripts of the two previous meetings, he understands that there were four major concerns expressed by The Board and all of those concerns have been or will be addressed as follows:

1. Drainage concerns. The applicant's Engineer, Angelo Onello, has revised the plans to show that a drywell will be installed as per the recommendation of Mr. DiGennaro.
2. Integrity of the retaining wall. The Applicant's Engineer, Mr. Onello, submitted a letter of certification that the wall meets the structural standards of the Township of Wyckoff's Building Department.
3. Origin and composition of the 774 cubic yards of imported soil. Mr. Whitaker stated that Mr. Kayal initially testified that all of the soil came from two pool excavations in Franklin Lakes however, he will rehabilitate his testimony this evening and state that he obtained additional soil from the property of The Christian Health Care Center. In addition, two soil testing reports, from Petro Science have been provided. One soil analysis of the soil taken from the pool excavations and one from the CHCC soil which was tested prior to being imported to Mr. Kayal's property. The soil samples have been found to be suitable for unrestricted use.
4. An application has been submitted to the Bergen County Soil Conservation District.

Mr. Whitaker stated that he would like to address those four issues this evening and to meet the concerns of the Board. He added that his client did things the wrong way however he would like to make it right by addressing any concerns the Board may have.

At this time Mayor Madigan asked for clarity regarding the matter that was raised by Mr. Whitaker at the October meeting with regard to the substitute Planning Board Attorney, Thomas Garlick. Mr. Whitaker had previously stated that it was a conflict of interest for Mr. Garlick to be representing the Board. Mr. Garlick also researched the statute and felt it was in his best interest to remove himself. Chairman Fortunato asked Mr. Whitaker to address this. Mr. Whitaker stated that he is not raising this formally as an issue.

Angelo Onello, the applicant's Engineer, was reminded that he was previously sworn and is still under oath. Mr. Boonstra stated that he would like to place on the record that Mr. Onello colluded with Mr. Kayal to mislead this Board with his previous testimony and while he is suspect of anything he might say tonight, he will give Mr. Onello the benefit of the doubt. Mr. Whitaker asked what the basis of that statement is. Mr. Boonstra said that there was a discussion about obtaining soil from the two pool excavations in Franklin Lakes and Mr. Onello denied that he knew where the soil was going. Mr. Onello acknowledged that he is aware that he is still under oath and that he did not know where the soil was going when it left the property in Franklin Lakes. He then proceeded with his presentation of the revised Engineering plans.

The revised plan was marked exhibit A-7. Mr. Onello explained that a 500-gallon drywell with 2 ½ inch crushed stone around and below it is proposed. The dry well and the stone have been bifurcated, set back from the retaining wall that you see at the back of the property so that the stone does not collide with the other stone from the retaining wall and just bleed right through. It is surrounded by compacted soil for drainage infiltration purposes. The north western roof leader from the garage and the trench drain in front of the garage, which captures the driveway stormwater, will all discharge directly to the proposed onsite drywell for infiltration. The Stormwater Certification prepared by Onello Engineering, exhibit A-8, states that there will be zero increase in the rate of stormwater runoff as a result of the proposed project and associated drainage calculations. Chairman Fortunato inquired about the runoff from the principal building roof leaders and why they are not also being directed to the proposed drywell. Mr. Onello stated that the proposed 500-gallon drywell is not sufficient to capture that much rainwater and it would be over-taxed.

There was a lengthy discussion regarding the drainage system that was installed without permits or inspections and what is currently being proposed that has not yet been completed. Ms. Caprio asked if there is any evidence of the manifold system that Mr. Kayal previously testified had been installed without permits and therefore without inspection by the Township Engineer. Mr. Onello stated that he has seen construction photographs of the northeast property line manifold going in. Mr. Boonstra asked where those photos exist. Mr. Onello replied that Mr. Kayal can provide the photos. Regarding the southeast section he added, we could probe or dig down with a shovel for follow up inspection, as he did not witness the installation of that section of the drainage system. Mr. Whitaker stated that the drywell is the only item that has not yet been installed and will be subject to Township Engineer DiGennaro's inspection. Any work that has already been completed, specifically the drainage system, will have to be shown and inspected for appropriateness and corrected if need be.

Chairman Fortunato asked Mr. Onello if, as a professional Engineer, he believes that based on his proposal of the drainage system, he could guarantee that runoff from the subject property would not flood the library property again in the future. Mr. Onello said that he did not think he could make such a guarantee. Mr. Whitaker requested that Township Engineer DiGennaro be sworn in to testify as to the effectiveness of the proposed drywell, in his expert opinion.

Mr. DiGennaro was sworn. Chairman Fortunato asked Mr. DiGennaro if he could state with any

certainty, based on what is being proposed, that there will not be another flooding situation as a result of runoff from Mr. Kayal's property. Mr. DiGennaro stated that he cannot ensure that it would not happen again however he feels that the measures that are being proposed such as adding a drywell where one currently does not exist and capturing the roof runoff as well as the driveway runoff is an improvement. He added that there has been no increase in impervious coverage therefore there will be no increase in runoff. Mr. DiGennaro said that the installation of the drywell would reduce the runoff from the site. Based on the calculations, the drywell would pick up 1,050 square feet of impervious coverage runoff, where previously it flowed uncontained and uncontrolled. Finally, he stated that it is reasonable to say that the amount of runoff from the site will be less than the amount that came off before.

Mr. Homaychak asked why the applicant is not proposing to tie the right side of the garage roof runoff to the drywell. Mr. DiGennaro stated that it is not required for this application as per Township Stormwater Management Ordinance. Mr. Whitaker announced that his client is willing to increase the size of the drywell from 500 gallons to 1000 gallons and tie in the runoff from the right side of the garage roof.

Ms. Caprio inquired about the drainage line on the south east side. Mr. Onello said that there is a large layer of clean crushed stone behind the wall which acts as a drywell and forces the water into the ground.

At this time Mr. Whitaker proceeded on to the second item for discussion which pertained to the integrity of the retaining wall which had been constructed without a permit or oversight by the Township Engineer. Mr. Whitaker asked Mr. Onello if he made routine and periodic visits to the site during construction of the wall. Mr. Onello stated that he did make routine and periodic visits to the site and has provided a Letter of Certification which verifies the integrity of the wall. The letter was marked exhibit A-9.

Mr. Homaychak commented that when the wall was initially built, the drainage pipes were directing runoff through the wall and onto the rear of the property towards the Library property via those pipes. Mr. Homaychak then asked, since those pipes were intended to serve as the drainage system, can you ascertain that enough crushed stone had been installed during construction to now act as a water retention system? Mr. Onello stated that a substantial amount of crushed stone was installed behind the wall to serve the purpose.

Ms. Caprio asked what Mr. Onello would describe as routine and periodic inspections. Mr. Onello responded that he would guess he visited the site every other week or so. Ms. Caprio asked Mr. Onello how much of the wall was complete when he was first retained by Mr. Kayal. Mr. Onello stated that the wall was approximately 3.9' tall. Ms. Caprio asked if the wall was close to complete for the most part when he was retained by Mr. Kayal and began his periodic inspections. Mr. Onello said that the back of the wall was exposed, and it was an open construction site. Chairman Fortunato asked Mr. Onello if he took photos when he first visited the site as well as photos during his periodic inspections. Mr. Onello stated that he has some photos during construction as does Mr. Kayal. Mr. Whitaker said that the photos can be provided.

Board Member Fisher asked Mr. Onello about the timeline of events from April, when he was retained, through the application submission to the Planning Board office in August while work was being done without permits. Mr. Onello stated that there were design concepts being considered for the project. Mayor Madigan pointed out that Mr. Onello previously testified that Mr. Kayal contacted the Engineer in April with a sense of urgency to get the plans drawn up and

submitted. He added that there was no mention of the review of numerous concepts designs in any prior testimony.

OPEN TO THE PUBLIC

Eileen D'Urso of 227 Van Houten Avenue was sworn. She said that she believes Mr. Kayal has done nothing but improve the property which is next door to hers. She said that it is a pleasure to look outside and see this beautiful yard and house. Chairman Fortunato asked Ms. D'Urso if she has had any issue with water runoff since Mr. Kayal bought the property. Ms. D'Urso stated that in her 12 years as a resident she has never seen water runoff from her property or Mr. Kayal's property onto the Library property. Mr. Fortunato informed Ms. D'Urso that there are photos, taken this past summer, of the runoff from the Kayal property onto the Library property. Mayor Madigan reiterated Ms. D'Urso's testimony by stating that in her 12 years she never saw runoff affect the Library property. He added that in the 40 years of the existence of the Library at the current location, they never had any water issues until Mr. Kayal started his project.

Joanne Reinauer of 224 Van Houten Avenue was sworn. She stated that there was an excessive amount of rainfall this past spring and perhaps that contributed to the runoff to the Library. She added that she feels that Mr. Kayal has improved the neighborhood however he may have to remove the soil and retaining wall that he constructed without permits if the Board denies his application. Ms. Reinauer went on to say that she would not like to see all of the dump trucks back on her street again should he have to remove the soil and retaining wall. Mayor Madigan commented that there was also a considerable amount of rain in 2018 however there was no runoff onto the Library property.

CLOSED TO THE PUBLIC

Chairman Fortunato announced that the meeting would adjourn at 10:00 pm. He recommended that prior to the next meeting, the applicant provide photos of the retaining wall during the course of construction, preferably with dates as well as photos of the drainage system being installed with dates. Both the applicant and his Engineer have testified that they have these photos. Mr. Fortunato also requested that the applicant submit proof of where the soil came from especially since Mr. Whitaker informed the Board that his client is going to change his testimony regarding the origins of the 774 cubic yards of soil.

There being no further business, a motion to adjourn the Public Business Meeting was made, seconded and passed unanimously. The meeting concluded at 10:00 p.m.

Respectfully submitted,
Maureen Mitchell, Secretary
Wyckoff Planning Board