

**WYCKOFF PLANNING BOARD
APRIL 3, 2017 SPECIAL MEETING MINUTES**

Public Meeting: 7:30 p.m. Second Floor, Memorial Town Hall

The meeting commenced with the reading of the Open Public Meeting Statement by Robert Fortunato, Vice Chairman:

This special meeting of the Wyckoff Planning Board dated Monday, April 3, 2017 is now in session. In accordance with Section 8 of the Open Public Meeting Act, I wish to advise that notice of this meeting has been posted on 2 bulletin boards in the main level of Memorial Town Hall and posted on the Wyckoff Township website since Wednesday, February 1, 2017. This notice establishes a special meeting for the review of the RS Builder, LLC application. A copy of the notice has been filed with the Township Clerk and copies were mailed to the Ridgewood News, Bergen Record and the North Jersey Herald and News on Wednesday, February 1, 2017, all papers with general circulation throughout the Township of Wyckoff.

Board Member Attendance: Robert Fortunato, Vice Chairman; Rudy Boonstra, Mayor; Tom Madigan, Township Committee Representative; Kevin Hanly; George Alexandrou; Kevin Purvin, Alt.

Board Member Absent: Richard Bonsignore, Chairman; Glenn Sietsma; Justin Hoogerheyde, Alt.

Staff Attendance: Joseph Perconti, Board Attorney; Mark DiGennaro, Township Engineer; Gary Ascolese, Boswell Engineering Representative; Susan McQuaid, Board Secretary.

Vice 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"*

Roll call was taken.

The Planning Board meeting began with the Pledge of Allegiance.

PUBLIC HEARING

WYCKOFF PROPERTIES, LLC (The Brick House) BLK 293 LOT 6.01 (B1); 179 Godwin Avenue. Amended site plan. *(The applicant is seeking approval for the construction of an 867 square foot patio in front of the existing restaurant building with access to the patio from the restaurant itself on Godwin Avenue).*

Bruce Whitaker, from the law firm McDonnell & Whitaker, said he is representing Wyckoff Properties, LP, 179 Godwin Avenue. He said the applicant is seeking amended site plan approval for purposes of permitting the installation of a patio of 867 square feet to be in the front of the existing restaurant building with access to the patio from the restaurant itself. This is a continuation of the public hearing from the previous meeting of March 8, 2017. The applicant will show you a revised plan taking into account some of the suggestions taken by Board

Members in shifting the patio and also create a better buffer between the patio and the residential neighbors. The second aspect of the presentation this evening was to engage a planner to explain what is being proposed. Mr. Wayne Johnson will explain what the modifications to the plans. He said that 2 variances are being requested. One (1) is for location of the 853 square foot patio where 15.33' is proposed where 20' is required; and the second variance is for 80.5% of imperious coverage where 75% is required.

Board Attorney Perconti asked that the following exhibit be marked as identification:

A-1 (4/3/17) Revised site plan

A-2 (4/3/17) Site and surrounding area

B-1 Boswell Report dated April 3, 2017

Mr. Wayne Johnson was reminded by Board Attorney Perconti that he was sworn at the previous meeting and remains under oath. Mr. Johnson said the purpose of the revised plans was to isolate the patio further from the residential neighbors. He moved the patio 5' to the north away from the residential property owners and placed a mid and upper retaining wall to the south side of the patio. He said that cypress trees will be planted to isolate the patio and the largest table has been moved to the right of the patio area. He said that bubbling urns have been added to damper the noise from the patio area. Mr. Whitaker asked what the heights of the plantings are. Mr. Johnson said the cypress trees will be 6' to 8' in height and even higher when planted in the planters. Low landscape plantings will also be installed. Board Member Fisher asked if the purpose of the pots is for landscaping. Mr. Johnson said the planters will create a permanent barrier from the street and will block the tables for safety. Vice Chairman Fortunato asked what the height will be of the wall seating. Mr. Johnson said the wall seating will be 18". Board Member Fisher also asked what kind of lighting will be located on the pillars. Mr. Johnson said the ornamental lighting will be low LED lighting and fully shielded. Mayor Boonstra asked if the tables and chairs will encroach into the front yard setback. Mr. Johnson said the tables and chairs will not cross the 30' front yard setback buffer from the curb line and 20' from the sidewalk. Board Member Hanly said the township requires a 6 month period of time from installation to adjust the lighting

OPEN TO THE PUBLIC questions for Mr. Johnson

Al Parisi, 167 Godwin Avenue, questioned the lighting stipulation and asked if they would go off at 11 p.m. Mr. Whitaker said the patrons will exit the patio area at 11 pm and then the lights will be turned off at 11:30 pm. after clean-up of the area as per the outdoor dining ordinance. He added that all aspects of the outdoor dining ordinance will be complied with by the applicant. Vice Chairman Fortunato asked if the cypress trees can be stretch above the patio to enhance the sound barrier. He asked that larger plants be installed. Mr. Johnson said larger plants can be installed and the bubbling urns will also shield and address any noise leaving the patio area.

Sarah Caprio, 161 Godwin Avenue, asked if the exterior patio door will be an established egress door from the bar area. Mr. Johnson said no it will not be an egress door.

CLOSED TO THE PUBLIC

Brigitte Bogart, the applicant's planner, was sworn. Board Attorney Perconti said that Ms. Bogart has testified before the Board on previous occasions. Ms. Bogart said she received her Bachelor Degree in Architecture and Environmental design and a Master's Degree in regional planning from the University of Pennsylvania and has been licensed as a professional planner in the State of New Jersey since 2001 and has previously testified before municipalities. The Board accepted Ms. Bogart as an expert witness.

Ms. Bogart said she has reviewed the site plan, application and exhibits and has listened to the recording of the previous meeting. She said this existing restaurant is pre-existing and a permitted use in the B2 zone and located on a parcel of land that is 1.4 acres in area which is 10 times the minimum lot area that is required. This size parcel creates greater setbacks from all property lines particularly from the neighboring residential zone. The dimensional requirements say that the restaurant can be 12' from the property line, but due to the residential zone the setback needs to be 30' and the existing building setback is currently 113' from the adjacent residential zone or more than 4 times the setback requirement. She said that the existing conditions and the applicant's proposal automatically start to mitigate any negative impact on the residential zone along with an oversized lot. She added that this historic building can build a full room within 20' in the front yard setback and not require a variance. She added that the B2 zone allows the applicant to have 50% building coverage and the present coverage is at 19.99%. She said the Board needs to consider these issues.

Marked as identification at this time was the following exhibit:
A-3 A colored rendering of the patio area

She continued that currently there is an existing buffer along the property line created by evergreens between the Brick House and the residential property. She said the proposed patio will be behind the historic canon and in line with the proposed landscaping berm. She said that all table and chairs will comply with the outdoor dining ordinance. She said the applicant is before the Board because the applicant would like to add additional patio area to allow for a planting buffer for aesthetic purposes and the planters for safety and drainage benefits. She said from a planning perspective the building complies with dimensional requirements, the outdoor dining use is permitted in this B2 zone and the only reason the applicant is before the Planning Board is for the added amenities of additional landscaping that will buffer the patio area, create a noise barrier and have a positive planning benefit and safer environment for the tables and chairs. She said the patio area is not a full-fledged structure and only encroaches 15' into the setback in 2 small curved areas. She continued with regards to the impervious coverage the request is for an increase of .76% or 490 square feet which is the size of a parking space and a half. She said the drainage will be improved with regards to the retaining walls. She believes that the C1 variance can be justified since there is a lawful existing structure, a lawful existing use and lawful existing zoning requirements. The C1 criteria states that the applicant must demonstrate a lawfully existing structure. As far as the C2 criteria the variance will further the Municipal Land Use Law (MLUL) to encourage municipal action by appropriate use involving the land which in a B2 zone the use is appropriate for a restaurant and tavern use, the variances granting the variances outweigh any of the detriments and promote desirable visual environment or aesthetic enhancements that will create the variances and creating a retaining wall which will improve the drainage on site. She said the potted plants should be considered as non-impervious coverage which will assist in creating a noise barrier which is an amenity to the neighbors.

Boswell Engineering Representative Gary Ascolese said a few clarifications will need to be made on the schedule of dimensional requirements; the front yard still reads 30' where it should read 20'; the maximum lot coverage should be indicated on the site plan and should read required at 75% and proposed 80.69% on the chart. Also there is no overall dimension on the length of the patio where it should read 73'; the table and chair layout should be scaled on the west end and east end to the edge of the building to the farthest edge of the table for the renewal of any licensing.

Board Member Hanly said in question #15 of the Boswell engineers report the applicant should present testimony as to public safety of outdoor dining area with respect to any errant vehicles from Godwin Avenue. He said there is a 24'+ high retaining wall along the street line. Ms. Bogart said the tables and chairs comply with the outdoor dining ordinance where there should be a 30' setback from the county right of way (ROW). He said additionally there is a landscape tiers that are set higher from grade of the property. He said the potted planters will hold large landscaping and will also provide a safety barrier. Board Member Fisher asked if the current buffer is sufficient from the neighboring property owners. Ms. Bogart said it is substantially sufficient being the building is 118' from the property line where the applicant is permitted 30'. She said the neighbor's patio is nowhere near the outdoor dining patio area. Mayor Boonstra asked what the reasoning is behind considering the planters as non-impervious. Ms. Bogart said by adding landscaping and landscaping planters they will accept drainage from the rain and absorb more water than grass and impervious coverage.

OPEN TO THE PUBLIC for questions of Planner Bogart

Sarah Caprio, 161 Godwin Avenue asked how far is the Brick House from the nearest residential zone which is the parking lot. Ms. Bogart said the building is approximately 30' from the edge of the parking lot. Ms. Caprio asked if the potted planters will be removed when the outdoor dining season is over. Mr. Whitaker said the planters will be removed.

CLOSED TO THE PUBLIC

OPEN TO THE PUBLIC for comments from the public

Sarah Caprio, 161 Godwin Avenue, said that she is cum laude graduate from the school of policy, planning and development at the University of Southern California. She said the Planning Board is entrusted with balancing our community as well as improve the quality of life for the residents in the township. She said the first objective is to maintain and enhance sound residential neighborhoods and that Wyckoff maintain a small town feel. She said in 2006 a banquet facility for 250 people was added to the Brick House Restaurant which increased traffic and noise. She said this proposed 867 square foot outdoor dining area will push further past the established parameters of the Master Plan. From my degree in education and planning perspective I can advise you that a reexamination of facts in this situation specific to the B2 zone should warrant the result of a rejection of this application and that it be considered a use variance before the Board of Adjustment as the expansion of a non-conforming use should fall under their jurisdiction. However if the Board see fit to approve She concluded that if this application is approved my recommendation would be that the outdoor seating be reduced, the outdoor dining hours be limited and larger landscaping and wall be installed to eliminate sound.

Al Parisi, 167 Godwin Avenue said his concern is what assurances do we as neighbors have to outdoor music, no smoking on the patio, the closing time of 11 pm, lighting compliance and patio use after the closing of the patio area.

Board Member Hanly asked Ms. Caprio if she is a licensed planner in the land development business. Ms. Caprio said her policy, planning and development is her educational collegiate degree and not her professional career. She said she is not a licensed planner in the State of New Jersey.

CLOSED TO THE PUBLIC

Mr. Whitaker said that a master plan is the beginning point with any municipality as it pertains to planning aspects that Planning Boards adopt and then zoning ordinances are then adopted by the governing body. He said the applicant is not seeking a use variance because the B2 zone

permits a restaurant and outdoor dining. He said the outdoor dining meets the criteria of a setback of 30' from a county road and outdoor dining conditions will be met. With regards to how the conditions will be enforced he said there will be licensing each year through the town and there will be compliance with all the conditions of the ordinance. He said the outdoor dining and patio is permitted, it will be setback 30' from curb line and 20' setback for the tables and chairs because the patio area will be buffered with plants and pottery in order to screen the dining area which meets the criteria for safety and the enhancement for drainage. He said the increase in impervious coverage is diminimus and the C1 criteria because we do have a lawfully existing structure where the building could be extended further into the front yard setback. He added that the outdoor dining use is permitted in this zone. He asked that the variance relief be adopted.

Board Member Fisher noted that the patio will be used for food service only and not a cocktail area. Township Committeeman Madigan said he had listened to the tape of the previous meeting in which he was absent and said drainage is an important and beneficial part of the application. He said the patio has been moved away from residential home and the retaining wall has been stepped with a landscape and water fountain element around the patio area. Board Member Hanly said the applicant's planner has clarified the planning issues which made it easier for the Board Members to formulate a decision based on her testimony. In addition the applicant did make concessions by moving the patio over by 5' and adding another retaining wall. He said the key is that there is no substantial detriment to the public good. Vice Chairman Fortunato said the applicant's planner's testimony was very persuasive. He said the lot coverage is minor and the applicant could install the patio without coming before the Board and the reason for the variance is for safety and aesthetics purposes. Mayor Boonstra said he agrees with the Vice Chairman and the variance request is caused by screening and security issues for the patio area.

Board Member Hanly made a motion to approve this application for the following reasons: the outdoor dining is a permitted use with a restaurant in this B2 zone; the dining area will be within the 30' setback; the variance request for the 20' setback is basically for the aesthetics, safety and drainage reasons and noise abatement; diminimus C1variances will be granted; applicant's planner has proved a C2 variance for the enhancement of the zoning ordinances; the applicant should be aware of the enforcement issues by the neighbors concerning this approval; he added that the negative criteria has been met by the planner subject to the following conditions: clarifications will be revised on the drawing; lighting will be adjusted and revisited by the town and adjustments will be made within 6 months of installation. Second, Board Member McNamara. Voting in favor: Mr. Alexandrou, Mr. Hanly, Ms. McNamara, Mr. Purvin, Mr. Fisher, Mr. Madigan, Mayor Boonstra and Vice Chairman Fortunato.

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There being no other business permitted to be considered, a motion to adjourn the meeting was made and seconded and passed unanimously. The meeting concluded at 9:24 p.m.

Respectfully Submitted,

Susan McQuaid, Secretary
Wyckoff Planning Board