

**WYCKOFF PLANNING BOARD  
JUNE 10, 2020 PUBLIC BUSINESS MEETING MINUTES**

Public Work Session: 7:30 p.m. via ZOOM video conferencing and YouTube live stream  
Public Business Meeting: 8:00 p.m. via ZOOM video conferencing and YouTube live team

The meeting commenced with the reading of the Open Public Meeting Statement by Chairman Fortunato.

“The regular June 10, 2020 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](http://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.”*

Pledge of Allegiance.

**Board Members in Attendance:** Robert Fortunato, Chairman; Kevin Purvin, Vice Chairman; Tim Shanley, Mayor; Rudy Boonstra, Township Committeeman; Michael Homaychak, Sarah Caprio, Anthony Riotto, Scott Fisher and John An.

**Absent:** Glen Sietsma and George Alexandrou

**Staff Present:** Kevin Hanly, Board Attorney; Mark DiGennaro, Township Engineer and Maureen Mitchell, Board Secretary.

**OLD BUSINESS**

Approval of the May 13, 2020 Work Session and Regular Business Minutes

The May 13, 2020 Work Session and Business Meeting Minutes were approved during the Work Session.

**RESOLUTIONS TO BE MEMORIALIZED**

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

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

The Resolution 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 34 additional parking spaces to the site which currently has 50 parking spaces and 58 spaces are required)

It was announced during the Work Session that the application will be carried to the July 8, 2020 meeting for public hearing.

**FOR REVIEW AND DISCUSSION**

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

(The applicant's Attorney submitted a proposal for consideration of the denied application)

Chairman Fortunato announced that Mr. Whitaker submitted a letter on behalf of his client, Mr. Kayal, regarding additional work he would like to do on his property that is related to the denial of the soil movement application. At this time, Chairman Fortunato again recused himself, and vacated the Chair to Vice Chairman Purvin.

Mr. Purvin stated that Mr. Whitaker submitted a letter dated May 29, 2020 and asked Mr. Whitaker if he would like to comment on the letter. Mr. Whitaker stated that his client is offering an alternative to rectify the issues that exist relative to the denial of his soil movement application. He went on to say that Mr. Kayal would like to install a swimming pool on his property and on that basis would be removing the soil that had previously been imported. The swimming pool plan will be submitted to the Building Department for permits. Once the permits are issued, construction of the pool would commence. The first step in the construction process would be to remove the existing soil in the back yard for the inground pool installation. At that time the Township Engineer will have an opportunity to inspect the existing retaining walls and any drainage design submitted related to the construction of the proposed pool. The drainage system would have to be approved by Mr. DiGennaro prior to the issuance of any permits for the pool construction.

Vice Chairman Purvin stated that it appears that the proposal is substantively different from the original application. He asked if the Board could withhold on the enforcement of the Resolution for sixty (60) days to allow the applicant to submit a new application as proposed in Mr. Whitakers letter.

Board Attorney Hanly said that Mr. Kayal can file an application with the Building Department for the pool construction. It is also within his rights to appeal the Board's decision of denial. Since the Resolution has been approved, any enforcement of the denial would have to be handled by the Building Department's Code Enforcement Officer. My Hanly added that as a matter of courtesy, the Board can request that the Building Department withhold any enforcement for 60 days to allow Mr. Kayal to file a new application with the Building Department and move this matter forward.

Township Engineer DiGennaro stated the Board's denial of the soil movement application creates a situation whereby the site, as it currently exists, is not lawful. As such, submitting an application for permits to construct a swimming pool would result in a denial and the matter would be referred back to the Planning Board for a soil movement application, grading, construction of a retaining wall and pool installation. Mr. DiGennaro said that it is his opinion, since there is a standing Resolution to deny the application, the applicant would have to come back before the Board with a substantially changed application and the incorporation of a swimming pool may achieve that result. The Building Department cannot issue a permit to construct a pool on a site that has not received the Board's approval for the existing fill conditions.

Mr. Whitaker asked for clarification on what actions will have to be taken if his client decides not

to submit an application for the construction of a pool. Mr. DiGennaro stated that the existing soil that was imported would have to be removed. Mr. Whitaker said he will advise his client of his two (2) options as discussed this evening so he can make a decision on how he wishes to proceed.

OPEN TO THE PUBLIC  
NO ONE FROM THE PUBLIC COMMENTED  
CLOSED TO THE PUBLIC

Chairman Fortunato stated that enforcement of the Resolution will be withheld for sixty (60) days to allow Mr. Kayal to decide how he will proceed.

Board Member Homyachak made a motion to grant a sixty (60) day stay before enforcing the Resolution to allow the applicant to decide whether he will submit a new application for the construction of a pool, which will require a new hearing before the Board, or remove the soil that was imported to his property. Second, Mr. An. Voting in favor: Ms. Caprio, Mr. Riotto, Mr. An, Mr. Homyachak, Mr. Fisher, Mr. Purvin, Mr. Boonstra, Mayor Shanley. Chairman Fortunato abstained.

Mr. Whitaker stated that he has no objection to Mr. Fortunato participating in a future application hearing for his client, should there be one. Chairman Fortunato asked Mr. Whitaker to provide a letter to the Board Attorney stating such. Mr. Whitaker said he will do so.

The Board Members thanked Ms. Caprio for being a great asset to the Board and wished her well in her relocation to California.

There being no further business, a motion to adjourn the Public Business Meeting was made, seconded, and passed unanimously. The meeting concluded at 8:30 p.m.

Respectfully submitted,  
Maureen Mitchell, Secretary  
Wyckoff Planning Board