

**WYCKOFF BOARD OF ADJUSTMENT
SEPTEMBER 20, 2018 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 Erik Ruebenacker, Vice Chairman:

"The September 20, 2018 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.

Acting Chairman Ruebenacker 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.

Pledge of Allegiance.

Board Member Attendance: Robert Ebel, Rich De Leo, Brian Tanis, Ed Kalpagian, Brian Hubert, Mark Borst, Chairman Carl Fry

Board Member Absent: Susan Yudin, Vice Chairman Ruebenacker

Staff Present: David Becker, Board Attorney; Mark DiGennaro, Township Engineer; Susan McQuaid, Board Secretary, Denise Capparelli. Administrative Support Asst.

The Board of Adjustment Meeting began with the Pledge of Allegiance.

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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.

OLD BUSINESS

APPROVAL OF MINUTES

August 16, 2018 work session/public business meeting. Special Meeting minutes (May 22, 2018; May 30, 2018; June 12, 2018; July 10, 2018; July 24, 2018)

The minutes were approved at the work session meeting.

RESOLUTION TO APPROVE VOUCHERS FOR PAYMENT

RESOLUTION #18-09 Approval of vouchers from various escrow accounts.

Resolution #18-09 was memorialized at the work session meeting.

EXTENSION OF TIME

SANBORN, DANIEL & LINDSAY BLK 395 Lot 3 (ra-25) 207 Henry Place (The applicant proposes to add a second floor level requiring variance relief for rear yard and front yard setback)

Township Attorney, Mr. Becker, confirmed they were memorialized a year ago but have not commenced any activity. The Board requires them to file a new application to notice and apply for a variance. Planning Board Secretary will contact applicant to file a new application for extension.

RESOLUTION(S) TO BE MEMORIALIZED

CHRISTIAN HEALTH CARE CENTER BLK 443 LOTS 49.03, 52.01 & 51 (RA-25); 301 Sicomac Avenue. *(The applicant proposes to amend the Vista's previously approved variance and site plan to comply with the Bergen County Planning Board approval, dated January 18, 2018.) , for dedication of property to increase the width and improve Sicomac Avenue along the frontage of the CHCC with a revised driveway at the intersection of Sicomac Avenue and Cedar Hill Avenue. The improvements to Sicomac Avenue and Cedar Hill Avenue intersection include road widening, dedicated turning lanes and signalization. The applicant also proposes to include additions to the lower campus Building No. 1 and Southgate Building).*

WALTHER, DANIEL & KRISTY BLK 466 LOT 5 (R-15); 71 Mary Ann Lane. *(The applicant proposes to construct a cover over the front steps which will encroach into the front yard setback).*

The above referenced resolutions were memorialized at the work session meeting.

APPLICATION(S) – CARRIED

KOCHER, DAN & LAURIE BLK 352 LOT 25 (RA-25); 274 Merlin Place. *(The applicant proposes to add an addition to the rear of the homes for a kitchen, great room and porch on the first floor and master bedroom on the second floor which will trigger the enhanced side yard setback requirement). BOA requested revised site plan as it relates to septic system setbacks and location of AC units on the site plan but need to address underground electric.*

Township Engineer DiGennaro reported that the existing single family dwelling is situated in the RA-25 zone and is non-conforming due to lot area, frontage, front yard and side yard setbacks. The applicant is seeking relief from the code to expand and renovate the structure. Township Engineer inquired about the orange fence around the trees not shown on the landscape plan and tree protection on the site. Township Engineer made a note that the slab adjacent to AC unit is a gate and not a generator.

Edward Clark from Landscape Architect, 362 Rt. 206 Flanders NJ 07836, licensed landscape architect representing the Kocher's was sworn in to testimony. He addressed the foundation and

landscape issues. New exhibit as A-7- rev 9/5/18 was entered into the report representing the new landscape plan with AC units screening on the right side of the house to act as a buffer for Merlin place. Arborvitaes will be planted to help protect deer and traffic. Applicant will ensure the fence will be 4 feet tall and agrees to put the utilities underground. Applicant has requested to sign a waiver to hold the Township of Wyckoff harmless and go ahead with obtaining permits for construction at their own risk while awaiting memorialization of their application.

OPEN TO THE PUBLIC

No one appeared

CLOSED TO THE PUBLIC

Board Member DeLeo made a motion to approve this application as amended. Second, Board Member Kalpagian. Voting in favor: Mr. Ebel, Mr. DeLeo, Mr. Tanis, Mr. Kalpagian, Mr. Hubert, Mr. Borst and Chairman Fry.

PERFORMANCE INVESTOR SERVICES (ALLEN STILES) BLK 461 LOT 17 (RA-25); 434 Caldwell Drive. *(The applicant proposes to demolish the existing structure to construct a new conforming home which will meet all the bulk requirements)* Township Board members discussed a revised landscape plan to include planting more shade and foundation trees. Confirmation for new height of the structure at 34 feet identification and landscaping should be noted on the plans

Board Member Hubert and Board Member Borst have recused themselves from this application

Waldo H. Carkhoff, Attorney for Performance Investor Services, stated that 434 Caldwell Drive is applying for a hardship variance. Mr. Carkhoff mentioned a letter written to the board from neighbors about Restrictive Covenant and he expressed if a Restrictive Covenant exists it must be in writing. He stated if one should exist it requires a determination of the intent of the parties. Mr. Becker emphasized he addressed the Restrictive Covenant during the work session. He stated it is not in the Boards purview to address this covenant and they will only act within the ordinance of the town.

Mr. Alan Stiles, 434 Caldwell Dr. was reminded that he was previously sworn in and remains under oath.

Mr. Stiles confirmed that he did not resubmit a revised landscape plan as he was informed by his landscape architect because there were 3 shade trees already existing on the landscape plan. In respect to the height of the proposed structure, Mr. Stiles offered to change the grading to equal the front at an elevation of 98 feet to reduce the height of the structure by half a foot. The prior plan showed it at 97½. There is a notation on the plot plan that indicates the requirement and proposed plan height at 34 feet. The windows added to the upstairs bedrooms and left side of the study are included in the revised plot plan. Placement of windows was confirmed with Township Engineer to be in compliance with the zoning requirements. Chairman Fry commented about landscape plants and trees on the power lines. Mr. Stiles stated that on the plans there was a notation that trees will be planted further back so they will not encroach on power lines as they mature. Two trees on the left and one on the right side of driveway.

Township Engineer DiGennaro requested the applicant revise Section J on their application to reflect the height of 34 feet. The plans currently show 34.5 ft. and will be modified to the correct 34 ft. height. Mr. Stiles confirmed the wires will be underground and the AC units on the plot plan are placed away from windows. Chairman Fry inquired about relocating the generator and Mr.

Stiles agreed to remove the generator. Engineer DiGennaro asked about screening AC units – using arborvitaes or boxwoods. Chairman Fry summarized the applicant will add screening around 3 AC units, underground wiring, the generator will be removed and a revised Schedule J to show height of 34 feet.

OPEN TO THE PUBLIC

Patricia Booth, 410 Caldwell Drive Wyckoff is requesting the Board to deny the variance for a non-conforming lot and that no structure be erected at more than 2 stories high. Mr. Stile's structure of an attic at 14 feet high would constitute a third floor. This adversely affects the character of the residential neighborhood and therefore, we are asking that he reduce the square footage of the home. There is no justification for this hardship variance. If he proceeds we will file a temporary restraining order if construction takes place.

Margaret Terry, 418 Caldwell Dr., Wyckoff states this is not a hardship variance as it is a non-conforming lot. There is no reason for a 5 bedroom home to be built on this lot which is less than a half an acre. This will create an eyesore for this neighborhood. We contacted Mr. Stiles in advance to request a reduction in height. Most houses on this street are 21-25 feet in height and Mr. Stiles proposes to build at a height of 34 feet. We ask the board not to consider this application as an exceptional or undue hardship variance. We want to work with the builder to bring down the height to avoid the Restrictive Covenant contract.

Charles Booth, 410 Caldwell Dr. Wyckoff stated they would like to work with the builder to reduce the height of this house by at least five or six feet to prevent creation of a third story.

William Giaimo, 418 Caldwell Dr. stated Mr. Stiles would like to build a home almost 3 times the size (3700 sq. ft.) of the current homes size of 1500 sq. ft. on the same lot size. Mr. Giaimo presented photos of some homes in the neighborhood. He also presented a current subdivision map. Mr. Giaimo requested a postponement to get certified copies of photos and maps. Mr. Becker stated that Mr. Stiles attorney needs to review the maps as Exhibits before they are submitted.

Mr. Carkhoff, Attorney for Performance Investor Services, objected to the maps on the basis they are unsubstantiated and undocumented and no one is present to verify their authenticity. There is no date on them. Mr. Giaimo confirmed it is a map of the original plot of Cedar Hill Estates and photos were taken by Mr. Giaimo six months prior. Mr. Becker confirmed it is a tax map. Chairman Fry confirmed that the structure will not be a three story house. Permits and inspection will not allow for a three story house. Three story homes are not permitted in Wyckoff. There is no staircase listed on the plans to imply future third floor use. It is a 2-story home not a 3-story home. Mr. Booth asked if they put a dormer in would it be denied. Chairman Fry confirmed yes it would be denied.

Chairman Fry stated the Board has had ample time to review this application and have expressed all concerns. The house is conforming and the lot is undersized but the Board is bound and makes their determination under the Land Use law. This is a unique application because the hardship is the lot which is just a couple thousand feet undersized and the Board has to make that determination.

Mr. Giaimo would like it to be known that the Board was provided a certified copy of the original development plans, photos of all houses on Caldwell Drive. Mr. Becker stated he will allow the tax maps dated from 1950's into record but the photos are not permissible as do not provide any

further information. The Board is very familiar with the neighborhood. Mr. Becker stated that this is the second public meeting for this application and there was sufficient time to present certified copies of maps and photos. Mr. Stiles would like to note for the record the only property that has anything to do with him is 550 Taunton Rd. and it is fully compliant with the zoning requirements of Wyckoff. Mrs. Booth reiterated that they are just requesting that Mr. Stiles consider reducing the 34 foot height to be in compliance with the other homes on the street. She does not understand how this would be considered a hardship when zoning ordinance in Wyckoff applies a 35 ft. maximum height in specific zones and only time height is elevated beyond 35 ft. is for commercial shopping center. Mr. Becker confirmed that the hardship has to do with the size of the lot and not the structure. The structure complies. There was testimony as to both non-conforming conditions which cannot be changed. Mr. Booth inquired why the Board did not ask the applicant to reduce the height further. Chairman Fry stated the Board heard testimony last month and their concern at a 35 ft. structure was questioned the applicant was addressed the previous meeting about going above it. The Board asked the applicant in good conscience to reduce the height and they did but the Board is bound by the zoning code which allows the applicant to build up to 35 feet. Mr. Becker said this is not a height variance. This is a hardship variance based on non-conforming lot size. Mr. Stiles said he is in compliance with the zoning ordinance and confirmed his structure will remain at 34 feet. At this point he would like to move forward with construction. The house is not livable in its current state. Through the permitting process he said he can accommodate a lower ridge height but he would like approval now based on the plans submitted.

Chairman Fry confirmed with Mr. Stiles if he would consider lowering the height and he said no, he would like to move forward; however, during the application process if they can reduce the height they will consider it. Mr. Stiles agreed and said his home will only enhance the appeal of the neighborhood. Mrs. Booth responded and concluded by saying they will collectively file a temporary restraining order.

CLOSED FOR PUBLIC COMMENT

Chairman Fry confirmed applicant will add screening around 3 AC units, underground utilities, the generator will be removed and a revised Schedule J to show height of 34 feet.

Board Member De Leo made a motion to approve application as amended. Second, Board Member Ebel. Voting in favor: Mr. Ebel, Mr. De Leo, Mr. Tanis, Mr. Kalpagian, and Chairman Fry.

CLEAVER, MARC & TINA BLK 454 LOT 4 (RA-25); 221 Wyckoff Avenue. (The applicant proposes to enlarge the existing family room and add a new mud room addition which will encroach into the rear yard setback and exceed impervious coverage).

This application will be carried to the October 18, 2018 meeting at the request of the applicant.

APPLICATION(S) – NEW

MUSTO, ROBERT & MARY ANN BLK 498 LOT 91 (R-15); 390 Hil-Ray Avenue. (*The applicant proposes to rebuild the existing deck and add a covering over the deck which will exceed total accessory structure coverage*).

Board Member Tanis recused himself from discussion and removed himself from the dais.

The applicant is proposing a covered open porch off the rear of the home requiring variances. The property is non-conforming due to lot area, frontage, front yard and side yard setbacks and accessory structure setbacks. The deck is the principal building structure.

Mr. Musto confirmed that they will increase the size of the elevated deck with an open covered portico a couple of feet longer and it will go from an accessory to principle structure. The cover will be lower than the 2nd floor story height.

The proposed covered porch height needs to be addressed. A Resolution in 1996 approved the lot size and set back but applicant requires current approval to account for reduction in accessory structure. Existing rear yard setup for the existing garage overlaps neighbor's property line. The owner will need easements or agreements which may exist to address the existing encroachments before they can get approval to cover the deck.

Chairman Fry stated that the Musto's will need to come back after they resolve the previous variance and encroachment. They will need to add the right side dimension of the elevation marks on the plan. Mr. Becker stated they will also need to update their survey to determine any encroachment on the neighbor's property.

OPEN TO THE PUBLIC

No one appeared

CLOSED TO THE PUBLIC

This application will be carried to the October 18, 2018 meeting with revisions: a new or updated survey, the original easement or title work to establish encroachment and front yard setback, and the height of the new roof line.

Board Member Tanis rejoined the Board.

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).*

This application will not be heard this evening due to a deficiency in notice. The applicant will need to renote the newspaper and the neighboring property owners.

KAVANAGH, MARK & LAUREN BLK 510 LOT 8 (R-15); 501 Spencer Drive. *(The applicant proposes to construct a portico over the front door where the roof overhang will encroach into the front yard setback).*

Township Engineer reported that the existing single family dwelling is situated in the R-15 zone and is non-conforming due to front yard setback. The applicant has been issued a construction permit to expand the dwelling as shown on the plans with the exception of the front porch. The applicant is therefore applying to obtain a variance to allow the construction of the front porch with a front yard setback of 36' where 40' is required. The applicant proposes to construct a porch from 39.5 to 36' feet which will require a variance due to a front yard setback. No landscape plan is needed as there is no storm water management plan required.

Mark & Lauren Kavanagh, 501 Spencer Dr. were both sworn. Mr. Kavanagh wants to extend the open portico over the existing steps for more coverage and safety. Applicant received a permit to start construction on the house, the portico was removed and pitch of roof was changed.

Chris Canzani, Canzani Associates Architects for the Kavanaghs, was sworn in. He noted the portico was encroaching into the front yard setback. In order to proceed with construction it was required to be removed. They are planning to increase the pitch on the existing roof which is 2 ft. overhang encroaching 1 ft. into setback. Front piece gutter line is the same and raised up. A note on the instruction drawing states they cannot touch the front overhang.

Township Engineer stated that he was not aware of a skirt issue with the roof as this was a variance for a portico and not a roof variance. The roof would encroach on volume due to the proposed increase in pitch. The house will now require a variance for the front yard setback but technically this process and application is for the portico. Chairman Fry confirmed the canopy adjustment is good and there are no further encroachments. The Kavanaghs will request a waiver to hold harmless the Township of Wyckoff to start siding on the house at their own risk. Applicant can ask for a waiver for a landscape plan.

OPEN TO THE PUBLIC

No one appeared

CLOSED TO THE PUBLIC

Board Member Borst made a motion to approve this application. Second, Board Member Kalpagian. Voting in favor: Mr. Ebel, Mr. DeLeo, Mr. Tanis, Mr. Kalpagian, Mr. Hubert, Mr. Borst and Chairman Fry.

BARRETT, NICHOLAS & LINDSAY BLK 269 LOT 8 (R-15) 107 Edison Street. *(The applicant proposed to construct a portico over the front door where the roof overhang will encroach into the front yard setback).*

Nicholas and Lindsay Barrett, 107 Edison Avenue, were both sworn. Township Engineer DiGennaro reported that the existing single family dwelling is located in the R-15 zone and is non-conforming due to deficiencies in lot size, frontage, depth, front and side yard setbacks and lot coverage. The applicant is proposing to construct an enclosed front entrance portico requiring variances. This application does not qualify for a Stormwater Management Plan review or an impervious coverage review. The site is served by municipal sewer.

Mr. Barrett explained they the purpose of creating an enclosed front door portico is due to the safety issue created by inclement weather. Chairman Fry confirmed the present layout of the house at 30.2 feet and the owner is proposing to go to 25.8 feet. The enclosed portico now becomes a structure and the board needs to review pre-existing conditions. Mr. Barrett explained it will not extend beyond the current stoop. Mrs. Barrett presented photos of houses with the same enclosed portico. She provided examples of 15 homes with porticos: enclosed and not enclosed. Mr. Barrett stated it is 25 ft. from the property line. There's another 10 ft. of grass before you get to the street which gives the appearance of 35 ft. from the house. Chairman Fry confirmed this is only 8 ft. wide and a minor site review. Safety overcomes the hardship. Township Engineer DiGennaro requested Section J on the application to be revised.

OPEN TO THE PUBLIC

No one appeared

CLOSED TO THE PUBLIC

Board Member Tanis made a motion to approve this application. Second, Board Member DeLeo. Voting in favor: Mr. Ebel, Mr. DeLeo, Mr. Tanis, Mr. Kalpagian, Mr. Hubert, Mr. Borst and Chairman Fry.

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

Respectfully Submitted,

Denise Capparelli
Administrative Support Assistant
Wyckoff Board of Adjustment