

## **WYCKOFF BOARD OF ADJUSTMENT**

### **SEPTEMBER 16, 2021 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 Meetings Statement by Chairman Fry:

"The September 16, 2021, 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."

Mr. Fry read the following 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."*

#### **ROLL CALL:**

Board Members in attendance: Carl Fry, Chairman; Mark Borst, Vice Chairman; Erik Ruebenacker, Ed Kalpagian, Brian Hubert, Brian Tanis, Rosa Riotto, and Ian Christ.

Absent: Nekije Rizvani.

Staff in attendance: Dave Becker, Board Attorney; Mark DiGennaro, Township Engineer; and Maureen Mitchell, Board Secretary.

#### **PLEDGE OF ALLEGIANCE**

#### **OLD BUSINESS**

Approval of the August 19, 2021 Work Session and Public Business meeting minutes. The minutes were approved during the Work Session.

#### **RESOLUTION FOR PAYMENTS #21-09**

Payment Resolution #21-09 was approved during the Work Session.

**MEMORIALIZING RESOLUTIONS****Jones, Robert & Ellen 385 Frances Place Blk 286 Lot 7 RA-25**

(The applicant proposes to construct an addition of second story over the existing attached garage requiring variance relief for enhanced side yard setbacks)

**Tusk, Marla 104 Willow Pond Ct. Block 421 Lot 81 RA-25**

(The applicant proposes to enlarge the existing rear covered porch requiring variance relief for the enhanced side yard setback and exceeding allowable principal building lot coverage)

**Denise, John & Jenna 533 Helena Ave. Block 336 Lot 6 RA-25**

(The applicant proposes to renovate the home which was damaged by a fire and construct an addition requiring variance relief for pre-existing nonconforming side yard setbacks, lot area and frontage)

The three (3) Resolutions were memorialized during the work session.

**REQUEST FOR EXTENSION OF TIME****Christian Healthcare Center 301 Sicomac Rd. Block 443 Lots 49.03, 52.01, 51**

(The applicant is requesting an extension for partial approvals in Resolution for amending site plan and variances dated September 20, 2018)

The extension of time was approved during the work session.

**NEW APPLICATIONS****Wilson, Brian 382 Lehigh St. Block 482 Lot 1.01 R-15 Corner lot**

(The applicant is proposing to install and A/C condenser unit in the second front yard of this corner lot requiring variance relief)

Brian Wilson, the applicant, was sworn in. Anthony Gallerano, the applicant's Engineer, was also sworn in. Mr. Gallerano stated that he is a licensed Civil Engineer and Planner with a degree from NJIT and his license is in good standing. The Board accepted him as an expert in his field. Mr. Gallerano provided the following details of the application:

The A/C condenser unit is in fact existing. The permit was obtained by the Contractor, and it is believed there was a miscommunication between the Contractor and the Building Inspector that resulted in the unit being installed in the second front yard without submitting a variance application. It wasn't until Mr. Wilson attempted to close out the permit, and obtain a CO, that he was informed a variance was required due to the location of the unit. Mr. Wilson is here before you to request variance relief for the A/C condenser unit.

Chairman Fry asked if permits were obtained from the Building Department prior to installing the A/C unit on the property and if so, was a drawing submitted showing the proposed location.

Mr. Wilson stated that his Contractor did obtain a permit and submitted a drawing. He went on to say that he believes his Contractor was told to submit a revised drawing showing the unit in a different location, other than the front yard. Mr. Wilson stated that he was not aware that his Contractor was told to move the unit until the Wyckoff Official came out to his home to perform the final inspection. It was at that time that he was told move the unit or submit a variance

application for an A/C condenser unit in the front yard to the Zoning Board secretary or he would be fined.

Mr. Becker stated that the Board has to view this application as if the work has not been completed and whether or not they should grant the variance.

Mr. Gallerano stated that the mitigating factors are that on the right side of the home there is a driveway. In the rear of the home there is a porch, a doorway, stairs, and an elevated landscape bed with essentially no good location for the unit. He added that the property on the left side of the house facing Harvard is a flat area and it is heavily screened. The A/C unit cannot be seen from the street. Mr. Gallerano then presented the Board members with eight (8) photos of other properties in the neighborhood with similar setups. The photos were marked as exhibit A-2.

Ms. Riotto said this is not the best scenario since the applicant should have come before the Board before the A/C unit was installed however she would not like to see him having to uninstall it.

Mr. Ruebenacker agreed stating that this is not an ideal situation however there does not appear to be a good alternate location for the A/C unit considering the driveway is on the right and the doorway, stairs and raised planter bed in the rear. He added that the unit is substantially screened.

Mr. Borst recommended that if the application is approved, the Resolution should state that the screening around the A/C condenser will be maintained forever.

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

Mr. Hubert made a motion to approve the application with the condition that the screening around the condenser unit will be maintained forever. Second, Mr. Ruebenacker. Voting in favor: Mr. Tanis, Mr. Kalpagian, Mr. Hubert, Ms. Riotto, Mr. Christ, Mr. Ruebenacker, Mr. Borst, and Chairman Fry.

**DeVincentis, Mark 470 Fairfield Rd. Block 313 Lot 3 RA-25**

(The applicant proposes to construct a raised covered patio in the rear of the home requiring variance relief for principal building lot coverage)

Bruce Whitaker, the applicant's Attorney provided the following details of the application: This property is located in the RA-25 zone. It is a single-family home with a pool in the rear yard. The lot and the setbacks are all conforming except for the enhanced side yard setback which is due to the Ordinance that came into effect after this home was built. The addition of the covered patio will not further exacerbate the side yard setback. In the rear of the property there is an existing ground level patio which is exposed to the sun. The applicant is proposing to raise the patio to the level of the ground floor of the home and to add a roof over it to provide shade to make it more livable. The covered patio will be attached to the principal building resulting in a principal building lot coverage of 16.21% where 15% is the maximum allowed. The applicant will stipulate that the patio will never be enclosed, and no further accessory structures will be added and there can be a deed restriction stating so.

Mark Braithwaite, the applicant's Architect, was sworn in. He has appeared before this Board many times and was accepted as an expert in Architecture. Mr. Braithwaite stated that he prepared the Architectural plans. He said he heard the comment during the work session about the size of the proposed covered porch which results in the need for principal building lot coverage variance. Mr. Braithwaite stated that in order to achieve the 15% maximum allowed, we would have to design a 10'x13' structure. We are proposing a 22'x20' structure which is nice size for an outdoor family room with a seating area and a dining area. He added that if they were to propose a detached covered patio as an accessory structure, it could be made much larger than what is currently being proposed.

Mr. Ruebenacker inquired as to why the kitchen door to the left is proposed to remain uncovered. Mr. Braithwaite said it is to allow sun light into the kitchen.

Mr. Borst stated that it is a beautiful design adding that if the applicant were to construct a detached covered patio they could make it much larger.

Chairman Fry pointed out that the proposed covered patio is centered in the back of the house outside of the enhanced side yard setbacks and the height is less than 15' to the ridge.

Mr. Hubert asked about the finishing materials. Mr. Braithwaite said the covered porch will match the house and stone will be used on the fireplace and chimney.

Mr. Tanis asked about the gable. Mr. Braithwaite stated it will be open beams.

#### OPEN TO THE PUBLIC

Dr. Dennis Loh, who resides at 469 Weymouth Drive, came forward and was sworn in. Dr. Loh stated that his property is located immediately behind the applicant's property. He said he is concerned with the size of the structure and how it will impact his privacy. He likened the raised patio to a sound stage. Dr. Loh also commented on screening in the rear yard stating that there is very little screening, and he feels his quality of life will be diminished by the addition of the raised patio due to the noise level of loud music playing.

Chairman Fry pointed out that there will be a large fireplace and chimney in the center of the raised patio which will act as a barrier to sound. He advised the applicant that if any music speakers are installed they should be pointed down.

Mr. Whitaker stated that all noise complaints should be addressed by the Township decibel requirements.

Mr. Borst said they could add privacy screening for line of sight in the rear however plant materials will not absorb sound.

Mr. Ruebenacker stated that according to the plans, the edge of the patio will be 76' from the rear property line and then there is probably approximately another 40' to the Loh's house.

Mark DeVincentis, the applicant, was sworn in. He stated that he would be happy to add additional screening along the rear property line.

#### CLOSED TO THE PUBLIC

Mr. Tanis suggested using a sound absorbing interior finishing product to help minimize noise.

Mr. Whitaker stated that the applicant will comply with all Ordinances pertaining to noise.

Mr. Kalpagian made a motion to approve the application with the stipulations of a deed restriction that the porch will remain open, and no additional accessory structures will be added to the property. Second, Mr. Borst. Voting in favor: Mr. Tanis, Mr. Kalpagian, Mr. Hubert, Ms. Riotto, Mr. Christ, Mr. Ruebenacker, Mr. Borst, and Chairman Fry.

There being no further business, a motion was made to adjourn the Public Session, seconded and passed unanimously. The Public Business Meeting was adjourned at 9:20 p.m.

Respectfully Submitted,  
Maureen Mitchell, Secretary  
Wyckoff Board of Adjustment