

**WYCKOFF ZONING BOARD OF ADJUSTMENT  
MARCH 17, 2022  
PUBLIC WORK SESSION 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 March 17, 2022, 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."

*"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, Rosa Riotto, Brian Hubert, Brian Tanis, and Ian Christ.  
Absent: Mr. Kalpagian and Ms. Rizvani.  
Staff in attendance: David Becker, Board Attorney; and Maureen Mitchell, Board Secretary.

**OLD BUSINESS**

Approval of the February 17, 2022 work session and public business meeting minutes.  
Mr. Borst made a motion to approve the February 17, 2022 work session and public meeting minutes. Second, Mr. Ruebenacker. Voting in favor: Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Ruebenacker, Mr. Christ, Mr. Borst and Chairman Fry.

**RESOLUTION FOR PAYMENTS #22-03**

Mr. Hubert made a motion to approve the Resolution for Payments #22-03. Second, Mr. Ruebenacker. Voting in favor: Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Ruebenacker, Mr. Christ, Mr. Borst and Chairman Fry.

**MEMORIALIZING RESOLUTIONS**

**Grano, Anthony 178 Cottage Rd. Blk 456 Lot 24**

(The applicant proposes to construct 2 covered patios, a storage room, powder room and a pool requiring variance relief for accessory lot coverage and total combined lot coverage)

Mr. Tanis made a motion to approve the Resolution. Second, Mr. Borst. Voting in favor: Mr. Tanis, Mr. Hubert, Mr. Ruebenacker, Mr. Christ, Mr. Borst, and Chairman Fry. Ms. Riotto abstained.

**Mendez, Angel 343 Meadowbrook Road Blk. 206 Lot 4**

(The applicant proposes to construct an inground swimming pool, patio and pavilion requiring variance relief for accessory lot coverage)

**Shelmac, LLC 47 Wyckoff Avenue Blk. 486 Lot 2**

(The applicant constructed a dormer on the front of the house requiring variance relief for the front yard setback)

Mr. Ruebenacker made a motion to approve the Mendez and Shelmac LLC Resolutions. Second, Ms. Riotto. Voting in favor: Mr. Tanis, Mr. Hubert, Ms. Riotto, Mr. Ruebenacker, Mr. Christ, Mr. Borst and Chairman Fry.

**APPEAL OF BUILDING OFFICIAL'S ENFORCEMENT OF THE ZONING ORDINANCE/REQUEST FOR INTERPRETATION OF THE MUNICIPAL CODE****Spinato, Lauren 616 Woodfield Rd. Block 232 Lot 19**

(The applicant constructed an elevated wooden deck connected to trees in the rear yard, without a construction permit, and is requesting an interpretation of the Ordinance due to the Construction Official's denial to allow the structure to remain based on the Township Code of permitted uses in the RA-25 zone)

Chairman Fry announced that this application will not be heard this evening due to a failure to notice the public. He then provided the following background information of the application: The structure is being called a playset however it is essentially a tree house. It goes back to 2019 when the structure was constructed. It came to the Building Department Official's attention and some correspondence went back and forth. There was a time constraint of 20 days to take the structure down or submit an appeal. A violation was issued for an unsafe structure and the homeowner should have appealed that decision to the County Construction Board of Appeals however I don't believe that happened. The applicant has now submitted a request to the Zoning Board for an interpretation of the Township Code, not for a determination of the denial. Our function will be to interpret if this is a permitted use for an accessory structure.

Board Attorney Becker stated that if the applicant comes before the Board next month, the Board's job will be to interpret our Ordinance and decide if this structure is a permitted accessory structure in the RA-25 zone. Mr. Becker pointed out that under the statute, if the Building Official denied the permit for this as being an unsafe structure and a nonpermitted use, the applicant could have appealed that decision however they ran out of time to do that. They are not asking for a variance at this time because they believe the structure is a permitted use. They are asking for an interpretation of the Ordinance regarding permitted accessory structures. Mr. Becker went on to say that with the Township Ordinance, if a specific use is not stated as permitted, then it is by default a nonpermitted use. Accessory uses are not well defined, so it is up to the Board to define what you believe is a permitted accessory use.

Mr. Borst asked for clarification as to whether the Board is going to comment on the submitted plans and associated documents.

Mr. Becker said that the Board members will only comment on the interpretation of the Ordinance. He went on to say that this is unique because the structure is already built. Typically an applicant would request the interpretation prior to going through the time and expense of hiring an architect, buying building supplies and building the structure. In this case it is already constructed.

Mr. Becker stated that they were given notices to take it down and then filed this application to the Board to make a determination. He added that even if the Board determines that it is permitted as an accessory structure, the applicant still has to go back to the Building Department for permits and the Building Department could still deny it is an unsafe structure. In that case the applicant will have to appeal to the Bergen County Construction Board of Appeals.

Mr. Ruebenacker stated that if the Board agrees it can be considered a permitted accessory structure, then all of the rules of an accessory structure would come in to play as far as setbacks, height and size.

Mr. Tanis asked if the Board could request Tom Gensheimer, the Construction Official, to provide testimony about the origin of the structure at the next meeting.

Chairman Fry said it is his opinion that the Boards job at this point is to make an interpretation of the Ordinance and whether or not we consider this structure a permitted use. He added that he does not believe that testimony from the Construction Official would be appropriate at this time. Mr. Becker agreed.

There being no further business, a motion was made to adjourn the Work Session, was seconded, and passed unanimously. The meeting concluded at 8:10 pm.

Respectfully Submitted,  
Maureen Mitchell, Secretary  
Wyckoff Board of Adjustment