

**WYCKOFF ZONING BOARD OF ADJUSTMENT  
APRIL 21, 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 April 21, 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, Ed Kalpagian, Ian Christ and Nekije Rizvani.  
Absent: Brian Tanis.

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

**OLD BUSINESS**

Approval of the March 17, 2022 work session and public business meeting minutes.

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

Abstained: Mr. Kalpagian and Ms. Rizvani.

**RESOLUTION FOR PAYMENTS #22-04**

Mr. Hubert made a motion to approve the Resolution for Payments #22-04. Second, Mr. Ruebenacker. Voting in favor: Mr. Hubert, Ms. Riotto, Mr. Ruebenacker, Mr. Christ, Ms. Rizvani, Mr. Borst and Chairman Fry.

Chairman Fry announced that the applications for 90 Wood Street and 431 Lafayette Avenue will not be heard this evening due to the number of applications on the agenda and time constraints. The applications will however be reviewed during the work session.

**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)

Board Attorney Becker stated that the applicant is requesting an interpretation of the Township Code section 186-8. The Board is not looking to approve or disapprove the structure; you are interpreting whether or not what is proposed is permitted under the Code. The applicant has constructed a tree supported structure and wants a determination as to whether this is permitted as an accessory structure in the RA-25 zone. Mr. Becker went on to say that the applicant is referring to the tree structure as a playset however, at this time it is not up to the Board to determine if the structure can be considered a playset as the Ordinance does not even define a playset. At this time, the Board is being asked to solely look at whether or not a tree supported structure is a permitted accessory in the RA-25 zone.

Mr. Ruebenacker stated that there are many types of structures that we consider customarily incidental however none of them are listed in the Ordinance.

**APPEAL OF CONSTRUCTION OFFICIALS ENFORCEMENT OF THE ZONING CODE 186-36**

**Killby 28 Van Schaik Lane Blk 265 lot 33**

(The applicant installed solar panels on a front facing roof)

Mr. DiGennaro stated the applicant installed solar panels on the front facing roof without obtaining the required permits from the Building Department or a variance from the Board of Adjustment for solar panels on a front facing roof. The Construction Official performed an inspection in the neighborhood and saw that the panels had been installed without permits or Board approvals.

Chairman Fry said the Township Code, pertaining to solar panels, outlines the requirements and criteria that must be met in order to place solar panels on a front facing roof and it appears that the criteria has not been adhered to which is extremely problematic.

**NEW APPLICATIONS**

**Mock 288 Morse Ave. Blk 255 Lot 12**

(The applicant proposes to construct a second story addition over existing first floor and also two covered porch additions requiring variance relief for front yard setback, and both side yard setbacks)

Mr. DiGennaro provided the following technical summary of the application.  
The applicant submitted a Plot plan by William Petrone Architect dated 2/16/22, sheet Z-1, architectural drawings by William Petrone Architect dated 12/11/21, sheets Z-2 thru Z-4,



survey prepared by Bernard Criscenzo, LS dated 10/19/20, landscape plan prepared by Mufson Landscape date 9/24/21, photos and application.

The existing single family dwelling is situated in the RA-25 zone and is non-conforming due to lot area deficiency, frontage, depth, front yard setback, side yard setbacks, accessory coverage, accessory structure setbacks. The applicant is proposing to add to the principal building footprint and add a second story to portions of the home. A stormwater management plan is not applicable, and the property is served by sanitary sewer. The existing front yard setback is 15' to the first step where 40' is the requirement and this will remain unchanged. The existing and proposed side yard setback #1 is 15.9', side yard setback #2 is 17.95' where 20' is the requirement for each side. The accessory structure garage has a side yard setback of 7' and a rear yard setback of 8' where 15' and 20' are required respectively. The existing accessory lot coverage is 8% and 5.83% is proposed where 5% is the maximum permitted. Proposed combined lot coverage is 17.7% where 20% is the maximum allowed.

Mr. Becker pointed out that variances were granted for the existing nonconformities and no new variances are being requested.

**Carini 347 Voorhis Ave. Blk 316 Lot 3**

(The applicant proposes to construct a one-story addition to the rear of the home requiring variance relief for side yard setback of 12.2', principal building lot coverage of 20.8% and combined lot coverage of 21.5%)

Mr. DiGennaro provided the following technical summary of the application:

The applicant submitted a plot plan and architectural drawings by JCA Architects last revised 2/3/22, sheets V1-V2, survey prepared by Surtech Surveying dated 3/20/20, photos, and application. The existing single family dwelling is situated in the RA-25 zone and is non-conforming due to lot area deficiency, frontage, depth, front yard setback, side yard setback, principal building lot coverage. The applicant is proposing to add a single story addition to the rear of the structure requiring variance relief for principal building lot coverage and combined lot coverage for purpose of expanding the kitchen and family room. A stormwater management plan is not applicable, and the property is served by a 3 bedroom septic. Existing front yard setback is 22.8' to the front step and will remain unchanged. Existing side yard setback #1 is conforming at 29.3', side yard setback #2 is 12.2' and both will remain unchanged. The existing principal building lot coverage is 19.3% where 15% is the maximum allowed and 20.8% is proposed. Existing combined lot coverage is 19.9% and 21.4% is proposed where 20% is the maximum allowed.

Chairman Fry said the lot area is 50% less than is required in the zone which is why they are going over the allowable principal building and combined lot coverage.

**Donaghy 350 Voorhis Ave. Blk 316 Lot 15.01 – Corner Lot**

(The applicant proposes to expand the existing structure requiring variance relief for front and rear yard setbacks)

Mr. DiGennaro provided the following technical summary of the application:

The applicant submitted a Septic and Building Addition Plan prepared by Weissman Engineering revised thru 2/16/22, architectural drawings by PMC Architects – Engineers dated 10/20/21 by Perry M. Chevestick, PE, AIA, Landscape Plan prepared by Meumann Associates dated 2/25/22,

photographs and application revised 3/21/22. The existing single family dwelling is situated in the RA-25 zone on a corner lot and is non-conforming due to front yard and rear yard setbacks. The applicant is proposing to expand the existing structure requiring variance relief for a front yard setback of 30.1' on Voorhis Avenue where 40' is the requirement. The existing rear yard setback is 8.5' and proposed is 29' where 40 is required. The stormwater management plan satisfies the Township requirements, and a new 4 bedroom septic plan has been approved for the site.

Mr. Hubert pointed out that the applicant is proposing to remove a lot of trees and he would like to hear testimony about that.

**Roufanis 371 Circle Dr. Blk 462 Lot 52.01**

(The applicant proposes to construct a one-story addition and a second floor addition requiring variance relief for front and rear yard setbacks and other pre-existing nonconformities)

Chairman Fry announced that this application will not be heard this evening due to an issue with notices.

**Stephen, Scott 57 Saxonia Ave. Blk 265 Lot 49**

(The applicant proposes to expand the first and second floors of the house requiring variance relief for front yard setback, rear yard setback, side yard setback, accessory structure setback and other pre-existing nonconformities)

Chairman Fry recused himself and stepped down from the dais. Mr. DiGennaro provided the following technical summary of the application:

The applicant submitted a plot plan and architectural drawings by Fred Klenk, Architects last revised 10/22/21, survey prepared by Anthony Manno, PLS dated 12/31/09, landscape plan prepared by Sietsma Landscaping, dated 2/1/22, photos and application. The existing single family dwelling is situated in the RA-25 zone and is non-conforming due to lot area deficiency, frontage, depth, and front yard setback. The applicant is proposing to expand the structure requiring variance relief. The existing front yard setback is 24.65', proposed is 18.65' and 40' is the requirement. The existing principal building side yard setback #1 is 26.45' and will remain unchanged. Existing side yard #2 is 25.13' and proposed is 10.13' where 20' is the requirement. The accessory structures on the property include 3 sheds, 1 pergola and a deck which are all proposed to remain. The existing principal building lot coverage is 10% with 15.9% proposed where 15% is the maximum permitted. Accessory lot coverage existing and proposed is 6.6% where 5% is the maximum allowed. Proposed combined lot coverage is 22.5% where 20% is the maximum allowed. The submitted stormwater management plan satisfies the Township requirements, and the property is served by sanitary sewer.

Mr. Ruebenacker said he has concerns about the proposed 10.13' side yard setback.

Vice Chairman Borst said the site plan is vague about what is existing and proposed so he would like to hear testimony clarifying that.

**Powers, 90 Wood St. Blk 264 Lot 11 - Corner Lot**

(The applicant proposes to expand the first and second stories of the home requiring variance relief for both front yard setbacks and other pre-existing nonconformities)

Mr. DiGennaro provided the following technical summary of the application:



The applicant submitted a plot plan and architectural prepared by Evans Architects revised thru 1/24/22 consisting of 7 sheets, survey prepared by Ryan Harris, PLS dated 3/20/13, landscape plan prepared by Larchstudio dated 1/28/22, application, and photos. The existing single family dwelling is situated on a corner lot in the R-15 zone and is non-conforming due to lot area, depth, front yard setbacks. The applicant is proposing an addition to the first floor and to add a second story to the dwelling requiring relief from the code setbacks. The lot is undersized with 9,981 sf where 15,000 sf is required, and lot depth is 100' where 125' is the requirement. The existing front yard setback on Wood Street is 30.2' and proposed is 25.20'. Existing front yard setback on Crescent is 26.9' and 26' to cantilever is proposed where 40' is required for both front yards. The application does not require a stormwater management plan. The property is served by municipal sewer. Impervious coverage proposed is 32.25 % where a maximum of 45% is permitted.

Chairman Fry said he would like to hear testimony about how much of the existing structure will remain. He also questioned the choice of the proposed gable end on the side of the house closest to Crescent Avenue.

Ms. Riotto Pointed out that there are no A/C units shown on the plans so the Board should hear testimony about the location of A/C units if any are proposed.

The application will be heard at the May 19, 2022 meeting and the applicant will not have to re-notice.

**Silva & Pisa 431 Lafayette Ave. Blk 483 Lot 30.01**

(The applicant proposes to renovate the home, construct a second floor addition, front porch and covered stairway to the accessory building requiring a variance for a side yard setback of 20.5' where the enhanced 25' is required)

Vice Chairman Borst recused himself and stepped down from the dais.

Mr. DiGennaro provided the following technical summary of the application:

The applicant submitted architectural drawings by Plan Architecture last revised 4/6/22 consisting of 6 sheets, site plan and survey prepared by Omland & Osterkorn revised thru 4/6/22 consisting of 3 sheets, photos, and application. Also provided are historical property record information including letter by Township Attorney Landel dated 10/1/20, Developers Agreement dated June 19, 1990 – recorded, ZBA Resolution dated Feb. 15, 1990 – recorded, previous ZBA approval of July 2021 for temporary RV to be placed on the property from Sept 1, 2021 thru June 30, 2022 coinciding with the active school year.

The existing single family dwelling is situated in the RA-25 zone and is nonconforming due to principal building side yard setback, accessory structure setbacks and lack of a 1 car garage. The applicant is proposing to expand and renovate the principal building and accessory building on the property, construct a new driveway requiring site regrading with the addition of retaining walls. The regrading triggers a soil moving permit which must be granted by the Zoning Board. The variance requested is for the enhanced side yard setback of 25' where 20.5' is proposed. The applicant is proposing to connect the existing principal building to the detached structure creating one large principal structure. It should be noted that there have been recorded agreements entered into by property owners that specify that the detached barn shall not be used as separate dwelling unit. A stormwater management plan has been submitted and satisfies the Township requirements.

Chairman Fry stated that the applicant came before the Board last July to request permission to place an RV on the property for the family to live in during repairs to the home which were caused by a house fire. At that time the Board members suggested renovating the secondary structure on the property to live in during construction however the applicant stated that it would be a financial hardship to put money into the secondary structure and they would prefer the RV. Due to the unique circumstances of the fire, the Board voted to allow the placement of the RV on the property from September 1, 2021 to June 30, 2022 because the applicant stated that she wanted her children to attend their Wyckoff pre-school, and that no other rental properties were available in the area. Mr. Fry went on to say that at the time, the Board did not have the entire history of the previous agreements that were linked to the property which included a 1988 Developers Agreement that the kitchen and appliances were to be removed within 30 days of signing. There was a second agreement signed in October 2020 between the Township and the applicant that the kitchen and kitchen appliances, which still existed, would be removed within 60 days. This was agreed upon with the condition that the homeowner would be given a conditional certificate of occupancy in order to close on the purchase of the subject property. Mr. Fry stated that unfortunately this agreement has been in place for decades without being adhered too and I believe we need to find out why before we proceed with the new application. The fact that the Developer's Agreement has not been adhered to is a critical component of this application in my opinion. Finally, Chairman Fry said that when the applicants came before the Board last July, they stated that they wished to make part of the house habitable after the fire and move back in as quickly as possible however this application is very different from what we were led to believe about getting back into the house quickly. The applicants also testified that they did not want to renovate the second structure to live in during construction because it would have been a financial hardship however what is being proposed with this new application is going to cost a lot of money so the financial hardship testimony is a tough pill to swallow.

Mr. Kalpagian said it is unfortunate that we did not have the prior history regarding the Developers' Agreement when the applicant came before the Board in July of 2021 when they requested the RV. We were told the story of the house fire and the insurance claim that transpired. Against my better judgement, I voted to approve the RV for the sake of the applicant's children so they could attend school in Wyckoff. Mr. Kalpagian lamented that as of today not a drop of work has been done on the property, and there is a boat in the front yard in addition to the RV on the property. Finally, Mr. Kalpagian stated that he is upset about how this has played out.

Mr. Ruebenacker said he agrees with Mr. Kalpagian adding that it will take a lot to want to extend the RV beyond June 30<sup>th</sup>. Mr. Ruebenacker stated that this is basically all brand new construction so finances are obviously not a concern here and I will find it difficult to grant the side yard setback variance when this is basically all new construction.

Mr. Hubert pointed out that a variance for height was granted in 1988 however the application states that the existing height is 35' which is conforming. We do not know what the height restrictions were in 1988 but existing is 35' and they are now proposing 38'.

Mr. DiGennaro said the application is also for soil movement which would typically go before the Planning Board however it is now part of this application because of the enhanced side yard setback. variance that is being requested.



There being no further business, a motion was made to adjourn the Work Session, was seconded, and passed unanimously. The meeting concluded at 8:15 pm.

Respectfully Submitted,  
Maureen Mitchell, Secretary  
Wyckoff Board of Adjustment

## WYCKOFF BOARD OF ADJUSTMENT

### APRIL 21, 2022 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 April 21, 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."

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."*

#### **PLEDGE OF ALLEGIANCE**

#### **ROLL CALL**

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

Absent: Brian Tanis.

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

#### **OLD BUSINESS**

Approval of the March 17, 2022 work session and public business meeting minutes. The meeting minutes were approved during the work session.

#### **RESOLUTION FOR PAYMENTS #22-04**

Payment Resolution #22-04 was approved during the work session.



**REQUEST FOR INTERPRETATION OF THE MUNICIPAL CODE 186-8****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)

James Stevens, the applicant's Attorney, came forward. Mr. Stevens stated that we are referring to Sections 186-6 and 186-8 as guidelines. In our notice we also referenced approval of a playset and I would like to distribute commercial photos of some playsets. Grounded playsets are common in the zone and do not require a Use variance.

Mr. Kalpagian said that as he understands it, the Board has been asked to determine if a tree supported structure is a permitted use. If you are going to provide us with pictures of playsets and none of those playsets are constructed in trees, the pictures are going to be meaningless to me.

Mr. Becker stated that playsets are not defined in the Ordinance so the Board would be going beyond the interpretation of the Ordinance if they tried to determine if what has been constructed is a playset. Nowhere in the Ordinance does it mention playsets. In addition, the structure that has been constructed is supported by trees, it is not a standalone grounded playset. Mr. Becker pointed out the applicant's notice refers to a structure supported by trees which is what has been presented and that is what the Board is going to address.

Mr. Borst stated that even if this Board decides that the tree structure is a permitted use, the Building Department would not allow it because there is no Wyckoff Code in existence that pertains to building a structure in a tree. Mr. Borst went on to say that the biggest thing working against the tree structure is the Ash tree the structure is attached to because that tree is not going to live much longer. Ash trees are a declining species in our state, and in most towns, they are actually taking ash trees down because they are declining so quickly. He said that the use of the ash tree is a nonstarter in his opinion because the tree will be dead in 5 years.

Chairman Fry stated that we see what is existing and all this Board can do at this time is decide, based on the ordinance if what you constructed can be considered an accessory structure that is clearly and customarily incidental to a permitted use being conducted on the same premises. Mr. Fry stated that it is not the Board's position to consider the type of trees or whether it is a playset. This is a platform secured to a tree. What we have to do is decide if this is customarily permitted use type accessory structure and determine that based on the language in the Ordinance. That is all we have to decide.

Mr. Stevens stated that he provided the Board with documents regarding the NJ Construction Code and the International Business Code pertaining to tree structures.

Mr. Becker stated that it is not the role of this Board to determine International Construction Code or the NJ Construction Code, their job is only to interpret the Township of Wyckoff Ordinance. He added that the fact that the Codes you presented support tree structures does not mean that the tree structure is a permitted accessory structure in the RA-25 Zone.

Lauren Spinato, the applicant was sworn in. Ms. Spinato read a statement about how the tree structure came about, and the entire timeline of events including permit application filing, the violations that were issued by the Wyckoff Construction Official, application to the Zoning Board and why she believes the tree structure is a permitted use in the zone and should not require a permit or a variance based on wording in the Township Code.

Mr. Stevens asked if this can be considered an ancillary use based on the evidence of underlying support with regard to the integrity of the structure.

Chairman Fry stated that the Board cannot consider the case for the integrity of the structure as we are not construction experts. We can address whether or not we believe that this is a permitted accessory use structure. That is what the Board will have to vote on.

Mr. Ruebenacker said he has questions about the language in Section 186-8 regarding what is considered clearly and customarily incidental. He went on to say that his interpretation of the Ordinance is that if an item is not specifically excluded, a person should have the right to do what he or she wants on his or her property. Other items such as dog houses and playsets are not listed in the Ordinance and yet we consider those to be permitted accessory uses so why not a treehouse if it complies with the zoning requirements.

Chairman Fry said that his interpretation is that customary is something that has typically been presented to this Board and approved by this Board.

Mr. Becker stated that if it is some type of structure that has been accepted by the Board in the past, it is considered customary. He said that section 186-6 mentions pools and tennis courts however it is a bigger burden for the Board if a type of structure is not explicitly stated in the Ordinance because if it is not explicitly stated, it means it is excluded.

Mr. Hubert stated that the challenge we have before us is that when we deal with accessory structures we are talking about a pool, a pool house, a shed, a garage. What is being proposed here does not have a foundation, it's up in tree.

Mr. Borst pointed out that the plans that were provided to the Board are for a deck with bench seating attached to two trees. It is not a playset or a swing set.

Mr. Becker advised the Board members to stay focused on what is before them which is whether or not a tree supported structure is a permitted use.

#### OPEN TO THE PUBLIC

Jed Paterson, who resides at 429 Hartung Drive, was sworn in. Mr. Paterson stated that he built the subject tree structure. He said the structure does not appear to be a playset because they stopped working on it when the Building Official issued the violation. Mr. Paterson said he disagrees with the comments made by Mr. Borst about the Ash tree and he believes the tree structure is a permitted use.

Sally Calandra, who resides at 612 Woodfield Road, was sworn in. Ms. Calandra stated that she objects to the tree structure due to safety issues. She added that many trees in the neighborhood have come down during recent storms and she believes the structure could be harmful to children.



Mike Calabrese, who resides at 615 Woodfield Rd. was sworn in. Mr. Calabrese said he does not see any issues with allowing the tree structure as it appears to be well constructed.

#### CLOSED TO THE PUBLIC

In closing, Mr. Stevens said we believe the structure is customarily incidental and we believe it is an appropriate use as long it is constructed properly.

Board Attorney Becker clarified that the Boards decision is to determine if a tree supported structure is permitted accessory structure in the RA-25 under the Township Ordinance.

Mr. Ruebenacker made a motion to accept a tree supported structure as a permitted accessory structure based on his interpretation of the Ordinance of the Township of Wyckoff. Second, Mr. Christ. Voting in favor Mr. Kalpagian, Mr. Ruebenacker, Mr. Christ. Opposed: Mr. Hubert, Ms. Riotto, Mr. Borst, and Chairman Fry.

#### APPEAL OF CONSTRUCTION OFFICIALS ENFORCEMENT OF THE ZONING CODE 186-36

##### **Killby 28 Van Schaik Lane Blk 265 lot 33**

(The applicant installed solar panels on a front facing roof)

Alfred Moran, the Vision Solar representative, was sworn in. Board Attorney Becker asked if the homeowner is present. Mr. Moran said they are not present. Mr. Becker advised Mr. Moran to make a phone call to the applicant and ask him to come to the meeting or the Board may not be able to proceed with the hearing. Mr. Moran stated that Vision Solar was under the impression that the applicant was not required to be present at the meeting. He asked if the Board would hear his testimony on behalf of the applicant. Mr. Becker stated that the Board would hear the testimony.

Mr. Moran stated that he is present on behalf of Vision Solar 501 East Black Horse Pike Blackwood, New Jersey and that he has authorization from the homeowners to represent them on their behalf. Mr. Moran stated that the applicant is requesting variance relief from the Code 186-36.1 to install solar panels on a front facing roof. According to the plans we have provided, the 23 panels on the front of the home are needed for maximum efficiency and to achieve a full utility bill offset. Mr. Moran stated that if the panels were not proposed on the front facing roof the offset would be 84% instead of 99%.

Chairman Fry asked what the threshold is for determining efficiency. Mr. Moran stated that it should not be less than 80% or it would be a waste of time to install the system.

The Chairman said that the challenge you have is the fact that no permit was filed for this project. Once a permit was submitted to the Building Department, the Construction Official denied the front facing panels and advised Vision Solar to appeal to the Zoning Board and request a variance for the front facing panels based on the criteria in the Ordinance. Mr. Fry said although a variance application was submitted, no one followed through with it and suddenly the Construction Official, while out in the field performing inspections, discovered that the panels had been installed in the front and back of the home without Board approval or a construction permit. In addition, Mr. Fry stated that according to the Township Ordinance, certain criteria is required

to be met such as proving that the front facing roof is the only viable location to achieve efficiency, and installing the panels with a 3' clearance to the roof edge for Fire Department access to the roof. It appears these criteria have not been met.

Mr. Borst suggested adjourning the application hearing until the May meeting to provide an opportunity for the applicant to testify on his own behalf.

Mr. Fry stated that we gave the Vision Solar representative an opportunity at the start of the meeting to call the homeowners to ask them to attend this meeting this evening and they obviously declined because they are not present.

Board Attorney Becker asked Mr. Moran if he was part of the installation team to which he replied no. Mr. Becker then asked Mr. Moran what role he played in this application. Mr. Moran stated that he was not involved with this application in any way except for his attendance at the meeting this evening. Mr. Moran then stated that there was a lack of communication between the inside operations team and the installation team and the installation team was under the impression the permits had been obtained.

Mr. Ruebenacker pointed out that the number of panels mentioned in the Vision Solar Engineer's letter does not appear to be consistent with the number of panels shown on the plans.

Upon reviewing the plans, Mr. Moran said there are 16 panels on the rear facing roof and 24 panels on the front, not 23 as stated in the Engineer's letter.

Ms. Riotto asked if the Board could even vote on this application in light of the fact that the representative providing testimony was in no way involved in the application.

Mr. Becker said the Board can vote on the application for the reason it was submitted as an appeal of the Construction Official's denial to allow solar panels on the front facing roof because he felt the criteria for installing on a front roof had not been met. At the same time, if the Board upholds the Construction Officials denial, the applicant is requesting a variance to allow the panels on the front facing roof.

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

Mr. Ruebenacker made a motion to deny the application in support of the Construction Officials decision to deny panels on a front facing roof as the applicant did not prove that the front facing roof is the only effective means for utilizing solar energy on the property. Second, Mr. Borst. Voting in agreement with the motion: Mr. Kalpagian, Mr. Hubert, Ms. Riotto, Mr. Ruebenacker, Mr. Christ, Mr. Borst, and Chairman Fry.

#### **NEW APPLICATIONS**

##### **Mock 288 Morse Ave. Blk 255 Lot 12**

(The applicant proposes to construct a second story addition over existing first floor and also two covered porch additions requiring variance relief for front yard setback, and both side yard setbacks)



The following exhibits were submitted:

A-1 Application, A-2 Property Survey by Bernard Crescenzo dated 10/19/2020, A-3 Site Plan prepared by William Petrone AIA dated 2/16/2022, A-4 Landscape Plan prepared by Mufson Landscape Pools & Design dated 9/24/2021.

Bruce Whitaker, the applicant's Attorney, provided the following details of the application: The lot is deficient in area with 10,000 sf where 25,000 sf is required in the zone. It is also deficient in width being 80' where 125' is the requirement. Interestingly, the lot was created by a minor subdivision in 1968. The property also came before the Board in 2016 with an application to demolish an existing dilapidated garage on the lot and construct a new garage. Variances were granted for the accessory structure garage side yard setback of 7' where 15' is required and a rear yard setback of 8' where 20' is required. The applicant is proposing to build up over the existing footprint and to maintain the existing setbacks. The existing deck will be removed thereby reducing the accessory lot coverage. The existing lot area and width are the hardship.

William Petrone, the applicant's Architect, was sworn in. His office is located at 45 North Broad Street in Ridgewood New Jersey, is licensed in the State of New Jersey, and has appeared before this Board numerous times. The Chairman Acknowledged Mr. Petrone as an expert in the field of architecture. Mr. Petrone stated that they are proposing to construct an addition to the existing 1½ story home to create a 2 story home. The existing side yard setback of 17.95' on the south side of the structure will remain. We are also adding a porch structure on the north side where the deck, which will be removed, currently exists. The porch setback will be conforming at 20'. The structure is currently a 3 bedroom, 1 bathroom home. We are proposing to add a second bathroom, laundry room, and master bedroom walk-in closet on the second floor.

Chairman Fry expressed concern with the fact that the new second story addition is encroaching into the side yard setback which abuts the rear yard of the neighbor to the right. Mr. Petrone said they are only proposing to raise the ridge by 4½'.

Mr. Kalpagian asked about the siding for the new addition. Mr. Petrone said it will match the existing stucco finish.

Mr. Borst pointed out that the landscape plan shows that the existing front foundation plantings will remain however there is a good chance they may be damaged during construction. Mr. Whitaker stated that they will stipulate that any plants damaged during construction will be replaced with like and kind plantings.

OPEN TO THE PUBLIC  
NO ONE APPEARED  
CLOSED TO THE PUBLIC

Mr. Hubert made a motion to approve the application as submitted. Second, Mr. Kalpagian. Voting in favor: Mr. Kalpagian, Mr. Hubert, Ms. Riotto, Mr. Ruebenacker, Mr. Christ, Mr. Borst, and Chairman Fry.

**Carini 347 Voorhis Ave. Blk 316 Lot 3**

(The applicant proposes to construct a one-story addition to the rear of the home requiring variance relief for side yard setback of 12.2', principal building lot coverage of 20.8% and combined lot coverage of 21.5%)

Joseph Cestaro, the applicant's Architect was sworn in. Mr. Cestaro stated that he is licensed in the State of New Jersey, his license is in good standing, and he has previously appeared before this Board. The Chairman recognized Mr. Cestaro as an expert in Architecture.

Mr. Cestaro stated that the applicant proposes a modest, single story addition of approximately 179 sf to the rear of the home and a minor alteration to the roof over the existing portico to cover the front landing. The lot is undersized. We are seeking variance relief for pre-existing nonconforming lot area of 12,036 sf, lot width of 100', lot depth of 120.34', front yard setback of 22.8' to the front step, side yard setback of 12.2', and principal building lot coverage of 20.8%. In addition we are seeking a variance for one new nonconformity in combined lot coverage of 21.4% where 20% is the maximum allowed. The addition to the rear will add square footage to the family room and the kitchen. The siding materials will match what is existing. Finally, Mr. Cestaro said that this is a modest addition to a modest house, and we believe there will be no detriment to the surrounding properties.

Chairman Fry stated that the Board typically looks for the portion of a new addition to be conforming and asked if this had been considered. Mr. Cestaro said it had been considered however it would be inefficient in this case to try to add the needed living space to the kitchen and family room while making the addition conform.

Mr. DiGennaro asked about the location of the septic tank and it's proximity to the new addition. Mr. Cestaro stated that the cap of the tank is at approximately 11' from the proposed addition so he assumes that the tank will have to be moved to meet the required 10' setback from the addition. Mr. DiGennaro said he would like to be kept informed on the matter of the potential relocation or replacement of the septic tank.

#### OPEN TO THE PUBLIC

Greg Menken, who resides at 360 Voorhis Avenue, was sworn in. Mr. Menken stated that he would like to see the application approved.

#### CLOSED TO THE PUBLIC

Mr. Kalpagian made a motion to approve the application as submitted. Second, Ms. Riotto. Voting in favor: Mr. Kalpagian, Mr. Hubert, Ms. Riotto, Mr. Ruebenacker, Mr. Christ, Mr. Borst, and Chairman Fry.

#### **Donaghy 350 Voorhis Ave. Blk 316 Lot 15.01 – Corner Lot**

(The applicant proposes to expand the existing structure requiring variance relief for front and rear yard setbacks)

Ben Cascio, the applicant's Attorney, stated that this is an application to add additional living space, a garage, a deck, and a front porch. The existing garage on the right side of the home will be removed and a new two car garage will be constructed on the left side of the home. We are seeking variances for a front yard setback of 30.1' where 40' is the requirement and a rear yard setback of 29' where 40' is the requirement.

Perry Chevestick, the applicant's Architect, was sworn in. His business address is 132 Delaware Lane in Franklin Lakes, he has been licensed in the State of New Jersey since 1983 and has



Testified before many Boards in New Jersey. The Chairman acknowledged Mr. Chevestick as an expert in the field of architecture.

Mr. Chevestick said the existing home is a Cape Cod style, 1½ story home built around 1950. Almost the entire home will be demolished with the exception of the masonry foundation and the first floor deck which are in good condition. The existing two car garage on the right side of the home will be demolished, and a new two car garage will be constructed attached to the left side of the home. The new home will have a full second story with a proposed height of 34' however the attached garage will be one story with a proposed height of 26'. We are also proposing a 16' by 20' deck attached to the rear of the home.

The Chairman said that this is essentially a knock down and asked if any consideration had been given to construct a home that would not require variances for the front and rear yards.

Mr. Chevestick stated that the existing foundation is in good condition and the object is to keep it in tact and build upon it as it exists.

Mr. Hubert pointed out that there are no A/C condenser units or generator shown on the plan. Mr. Chevestick said they will probably be placed on the right side of the home or in the rear of the home.

Robert Weissman, the applicant's Engineer was sworn in. His business office is located at 686 Godwin Avenue in Midland Park. He has appeared before this Board many times and was recognized as an expert in the field of Engineering. Mr. Weissman stated that we chose to keep the existing foundation because it is in good condition. We are requesting variances for the front and rear yard setbacks however all other zoning requirements will be met. We are proposing a new four bedroom septic system on the Pathway Manor side of the home. We are also proposing a 1000 gallon seepage pit to connect to roof and driveway drains. Approximately 19 trees on the property will need to be removed to create a lawn area in the rear of the home, a new driveway, and to install the new septic system however a good amount of trees on the Pathway Manor side will remain.

Chairman Fry asked if any other location had been considered for the septic system.

Mr. Weissman stated that there will not be enough room in the front yard to meet the setback requirements to the structure, and the applicant does not want to place it in the rear of the home in anticipation of possibly installing a swimming pool at some point.

Bradley Meumann, the Landscape Architect, was sworn in. His business address is 7 Ledgerock Court in Morris Plains New Jersey, he has been licensed in the State of New Jersey since 1986 and he has appeared several times before this Board. The Chairman acknowledged Mr. Meumann as an expert in his field.

Mr. Meumann stated that there is a nice swath of trees on the left side of the property which we wish to maintain. There are number of downed trees which will be cleared from the lot, and the area will be cleaned up. Approximately 19 trees will have to be removed for the septic, the driveway, and the rear yard recreation area. Those trees are identified on Mr. Weissman's Engineering Plan. We are proposing 15 new trees which are shown on the landscape plan. Foundation plants will be maintained or replaced with like and kind if they are compromised.

## OPEN TO THE PUBLIC

Eileen Avia, who resides at 353 Voorhis Avenue, was sworn in. Ms. Avia voiced concerns about the number of trees to be removed and the potential for a 6' white vinyl privacy fence on the property. Mr. Weissman stated that although 19 trees will be removed, 15 new trees are proposed and there are no plans for any fencing at this time.

Connie Stewart, who resides at 356 Pathway Manor was sworn in. She asked about the location of the proposed new septic system and the trees that will be removed. Mr. Weissman pointed out the location of the proposed new septic system which will be on the Pathway Manor side of the home and Mr. Meumann pointed out the location of the trees to be removed which are shown on the submitted Engineering Plan.

Greg Menken, who resides at 360 Voorhis Avenue, was sworn in. He said he lives to the right of the subject property and is concerned with noise from the A/C units if they are placed on the right side of the applicant's home. Mr. Chevestick stated that the optimum location for the A/C units is on the right side due to where the pipes and lines have to be placed. He added that the compressors that are made today are very quiet and should not cause concern. Mr. Chevestick said the generator can be placed in the rear of the home.

## CLOSED TO THE PUBLIC

Chairman Fry summarized by stating that the A/C units will be located on the right side of the home, the generator will be located in the rear of the home, and the utilities will be placed underground if feasible.

Mr. Borst made a motion to approve the application with conditions that A/C units will be placed on the right side and not visible from the street, the generator will be placed in the rear of the home, utilities will be placed underground if feasible, and any foundation plantings damaged or removed during construction will be replaced with like and kind plantings. Second, Mr. Ruebenacker. Voting in favor: Mr. Kalpagian, Mr. Hubert, Ms. Riotto, Mr. Ruebenacker, Mr. Christ, Mr. Borst, and Chairman Fry.

**Roufanis 371 Circle Dr. Blk 462 Lot 52.01**

(The applicant proposes to construct a one-story addition and a second floor addition requiring variance relief for front and rear yard setbacks and other pre-existing nonconformities)

Chairman Fry announced that this application will not be heard this evening due to a deficiency in noticing.

**Stephen, Scott 57 Saxonia Ave. Blk 265 Lot 49**

(The applicant proposes to expand the first and second floors of the house requiring variance relief for front yard setback, rear yard setback, side yard setback, accessory structure setback and other pre-existing nonconformities)

Chairman Fry recused himself and stepped down from the dais. Vice Chairman Borst presided for the hearing.

Fred Klenk, the applicant's Architect, was sworn in. His business address is located at 684 Route



**Adjustment**

208 in Franklin Lakes New Jersey. Mr. Becker stated that Mr. Klenk has appeared before this Board many times. Vice Chairman Borst acknowledged him as an expert in the field of Architecture.

Mr. Klenk said the family has a need for additional space. The lot is substandard with numerous nonconformities including lot area, frontage, depth, and front yard setback. We are proposing an addition of an attached garage on the left side of the house which has an existing side yard setback of 25.13' which is conforming, and we are asking for a variance for a 10.13' setback for the garage addition where 20' is the requirement. A second story will be added over the garage which will be conforming to the 20' side yard setback. We feel that the addition will be in keeping with other homes in the neighborhood and will not set any precedent. There are accessory structures on the lot including a pergola, a deck and a couple of sheds. Because the lot is less than half of the required square footage, the existing accessory lot coverage at 6.6% exceeds the maximum allowed 5%. The existing front yard setback is nonconforming at 24.65' where 40' is the requirement and we are proposing a 4' wide lemonade porch across the front which will result in an 18.65' front yard setback front yard to the first step.

Mr. Kalpagian asked if any consideration had been given to add a detached garage more to the rear of the property like some of the other homes in the neighborhood.

Mr. Klenk said to do something like that you increase the impervious coverage. It's more functional and it makes more sense to have the garage attached to the house during inclement weather conditions. In addition, we have to add more blacktop to the property to bring the driveway into the back yard.

Mr. Borst suggested making the proposed attached garage a one car garage instead of a two car garage.

Mr. Ruebenacker said he thinks the size of the garage should be reduced to get the setback closer to 15' instead of 10' suggesting a 1½ car garage.

Mr. Hubert stated that the interesting thing about the design is that the applicant is not building straight up over the entire proposed attached garage. Instead they are bumping the second story addition in to meet the 20' setback where the house next door, with the same sideline issues, built over the entire garage.

Scott Stephen, the applicant, was sworn in. Mr. Stephen said the house on the left side received variances for something very similar to what we are proposing. We were hoping for a two car garage, but if the Board would prefer that I reduce it to a one car garage, I will agree to that.

Mr. Klenk said the width of the proposed two car garage is 20' and the depth is 26' which is very modest in size.

Mr. Christ mentioned the number of accessory structures on the property and asked if any could be eliminated to reduce the accessory structure lot coverage. Mr. Klenk said his client is willing to do that.

Mr. Borst asked the Board members for their comment on the proposed side yard setback and the accessory lot coverage.

**Adjustment**

Mr. Christ said he is sympathetic to what they are trying to achieve on the undersized lot and the desire for a two car garage adding that he appreciates that they are stepping in the second story addition conform to the setback. Ms. Rizvani and Ms. Riotto agreed.

Mr. Ruebenacker said he would like to see the garage reduced in size to achieve a 15' setback. He added that there is no way the homeowner is going to get two cars in the proposed garage anyway.

Mr. Kalpagian agreed stating that if the Board approves a 10' setback for one applicant the next person will ask for a 10' setback and before you know every house in the neighborhood is 10' apart.

Mr. DiGennaro stated that if you go with form over function, it defeats what the applicant is trying to achieve. He suggested that if the Board wants to shave some numbers, he would recommend getting the lot coverage down to 20% by eliminating one or two of the accessory structures but allow the two car garage.

Mr. Hubert said he is not happy about the 10' setback but he appreciates the second story being stepped in to 20' and he believes some of the accessory structures should be eliminated.

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

Mr. Ruebenacker inquired about the landscape plan. Mr. Borst said he is fine with the landscape plan that was submitted.

Vice Chairman Borst asked for a motion. Mr. Hubert made a motion to approve the application. Second, Ms. Riotto. Voting in favor: Mr. Kalpagian, Mr. Hubert, Ms. Riotto, Mr. Christ, Ms. Rizvani, and Mr. Borst. Opposed, Mr. Ruebenacker.

**Powers, 90 Wood St. Blk 264 Lot 11 - Corner Lot**

(The applicant proposes to expand the first and second stories of the home requiring variance relief for both front yard setbacks and other pre-existing nonconformities)

It was announced during the work session that this application will be heard at the May 19, 2022 meeting.

**Silva & Pisa 431 Lafayette Ave. Blk 483 Lot 30.01**

(The applicant proposes to renovate the home, construct a second floor addition, front porch and covered stairway to the accessory building requiring a variance for a side yard setback of 20.5' where the enhanced 25' is required)

It was announced during the work session that this application will be heard at the May 19, 2022 meeting.

There being no further business, a motion was made to adjourn the Public Session, seconded and



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Board of

**Adjustment**

passed unanimously. The Public Business Meeting was adjourned at 11:45 p.m.

Respectfully Submitted,

Maureen Mitchell, Secretary  
Wyckoff Board of Adjustment