

WYCKOFF BOARD OF ADJUSTMENT

JULY 15, 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 July 15, 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"*

"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, Ed Kalpagian, and Nekije Rizvani.

Absent: Brian Hubert, Brian Tanis, and Ian Christ.

Staff in attendance: Kevin Hanly, Substitute Board Attorney; Mark DiGennaro, Township Engineer; and Maureen Mitchell, Board Secretary.

PLEDGE OF ALLEGIANCE

OLD BUSINESS

Approval of the June 17, 2021 Work Session and Public Business meeting minutes. The minutes were approved during the Work Session.

RESOLUTION FOR PAYMENTS #21-07

Payment Resolution #21-07 was approved during the Work Session.

MEMORIALIZING RESOLUTIONS

Walsh, Samantha 101 Colona St. Blk 268 Lot 11

(Applicant proposes to expand the footprint of the existing home and add a second story requiring variance relief for enhanced side yard setback, front yard setback, nonconforming lot area, frontage and depth, principal building lot coverage and combined lot coverage)

Carollo, Anthony 425 Red Rock Rd. Blk 497 Lot 85 MF/AH-5

(The applicant proposes to install an inground pool requiring variance relief for accessory structure side and rear yard setbacks)

Muldoon, Robert & Christina 727 Charnwood Dr. Blk 421 Lot 61 RA-25

(The applicant proposes to construct a second story addition to the existing home with enhanced side yard setback variance required)

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

Paragon Auto 290 Franklin Ave. Blk 260 Lot 2 B-1

(The applicant proposes to construct an addition to the existing building requiring variance relief for front yard setback, side yard setback, accessory structure side yard setback and impervious coverage allowance)

The Resolution was not memorialized during the work session.

NEW APPLICATIONS**Victoria Silva and Joseph Pisa 431 Lafayette Ave. Blk 438 Lot 30.01**

(The applicant is requesting relief from 173-2 of the Township Code to place an RV on the property to reside in during renovations to the principal dwelling due to a fire in the home)

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

The applicants, Victoria Silva and Joseph Pisa, were sworn in. Ms. Silva stated that she is an insurance defense attorney in Hackensack New Jersey and represents Allstate which also happens to be the company that provides her homeowners insurance. Ms. Silva stated that Allstate paid for her family to live in an extended stay hotel for one (1) month and will not pay for them to stay there any longer due to the cost. She went on to say that the insurer is not willing to pay for housing passed what they deem is an appropriate period of time to complete the construction to repair the fire damage, and should the construction be delayed beyond what Allstate deems appropriate, the housing costs will have to come out of her pocket adding it is not financially possible. According to Ms. Silva, Allstate estimates the repairs to the home from the fire should take six (6) to seven (7) months. Ms. Silva stated that she estimates it will take 1 ½ years. Ms. Silva stated that her insurer attempted to find housing for her family however there is no housing available, and they are currently renting her parents beach house down the shore which is 2 ½ hours away. She went on to say that she has two (2) young children that go to school, and she wants to be in Wyckoff so they can remain in their current school. The children go to pre-k. Ms. Silva said there is a back house on the property however there is a written agreement with the Town that the house cannot have a kitchen and it cannot be lived in. The secondary building has plumbing, electric, heat, and air conditioning however it does not have a formal kitchen. There is currently no power to the principal structure or the back house because the utility company cut the lines. Finally, Ms. Silva stated that she has an agreement with the Town, which was in place with the previous owner, that she must build a garage on the

property which the insurance company will not pay for because the construction of a new garage is unrelated to the fire.

Chairman Fry asked about the extent of the fire damage to the home and if it could be lived in it during construction. Ms. Silva stated that the second and third floors were destroyed by the fire which is where the bedrooms are located.

Mr. Pisa stated that he spoke with the Building Inspector after the fire to ask if the family could live in the secondary structure or back house during construction however he was told it is not allowed. He added that they would also have to install a kitchen in the secondary structure and then remove it after construction which is not cost effective. Mr. Pisa said he would much rather stay in the RV because it is a state of the art vehicle. Ms. Silva stated it is a \$100,000 RV with a full kitchen and she will be financing the RV which will cost \$400 a month.

Mr. DiGennaro asked how they will power the RV. Ms. Silva stated that when the temporary electrical power is installed by PSEG for construction, they will run a power cord to the RV. Mr. DiGennaro then asked about sewage disposal. Mr. Pisa stated that there will be a holding tank, similar to a porta potty, which will be emptied by a professional service once a week or they can tie into the sewer line if possible.

Mr. Kalpagian asked about the size of the RV. Mr. Pisa said it is 42' long and approximately 8' wide with a couple of pop-outs to widen it further. Mr. Kalpagian asked if the insurance company will pay for them to live in the RV. Ms. Silva initially stated that Allstate will not pay for them to live in the RV adding that the insurer is currently paying for her family to live in her parent's beach house for six (6) months. Mr. Kalpagian expressed disbelief that the insurer will not cover the additional living expenses after a house fire. Ms. Silva then stated that Allstate will pay for the family to live in the RV once they are out of the beach house and present the costs that are going to be incurred to the insurance company.

Mr. Kalpagian asked if only the fire damage will be repaired or if the whole house is being renovated. Ms. Silva stated they are doing additional renovations to make the home more suitable for their family. Mr. Kalpagian stated that the applicant is requesting to reside in the RV for the extended period of 18 months which is a self-imposed hardship because they are doing additional work and expansion of the home aside from repairing the fire damage. He went on to say that he is challenged by this request because the applicant is not just repairing the fire damage. He reiterated that the extended period of time to complete the renovation is self-imposed.

Chairman Fry stated that further expansion and renovation of the home is not what was presented to the Board with this application. He asserted that the Board was told this was an extenuating circumstance due to a fire in the home and believed the applicant wished to reside in the RV while repairing the fire damage to the home. Mr. Fry opined that the applicant is taking advantage of this to further expand and renovate the home which he sees as a problem. He went on to say that allowing the applicant to reside in an RV on the property is designed to be short term and the Board would be making an exception by granting a short term approval for this request due to the fire.

Ms. Silva stated that the insurance company estimates that it will take six (6) to seven (7) months to repair the fire damage and make the home habitable. Mr. Pisa requested that the Board grant the allowance from September to June so his children can attend to pre-k in

Wyckoff.

Mr. Kalpagian stated that there was a fire in the home, and it is not habitable. He said he understands what A.L.E is (additional living expenses) and does not understand what insurer would not pay A.L.E. to a family under these circumstances however he believes it is because the applicant is planning to renovate beyond the damage caused by the fire. He added that the applicants are now requesting approval from this Board to reside in an RV on their property for an extended period of time to perform a major renovation of the home instead of just repairing the fire damage.

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John Paulyson, who resides at 97 Princeton Avenue, was sworn in. Mr. Paulyson said that it appears that more than fire damage repair is proposed and asked if any plans have been submitted by Ms. Silva and Mr. Pisa to show exactly what they are planning to do in light of the fact that they are requesting approval to live in the RV for 1 ½ years. Mr. Paulyson stated that he believes the proposed plans for the total home renovation are an integral part of this application because the Board should be able to see exactly what they are planning to do with the home and if the expansion will violate any other zoning requirements. He added that the application states they are requesting a period of time of 1 ½ years or until a certificate of occupancy is issued which are two different things. Mr. Paulyson also expressed concerns about the waste from the RV and runoff from the construction on the property. Chairman Fry assured Mr. Paulyson that there are rules and guidelines, pertaining to construction runoff, which must be followed on all work sites and are enforced by the Township Engineer.

Chairman Fry stated that Mr. Paulyson made a very good point about needing to see the plans for the proposed construction. He added that the Board is being asked to approve this application on the blind without knowing the exact extent of the renovation construction. Mr. Fry suggested it might be best for the applicant to submit the new plans so the Board can better determine an appropriate time line to allow the RV on the property as a second residence.

Mr. Pisa said the Architect is working on the plans however they are not yet completed.

Mr. Kalpagian said he was struggling with the idea of approving the RV for a period of time that extends beyond repairing the fire damage to the home. In addition, he pointed out that the applicant has not yet submitted construction plans or obtained variances or permits which could realistically take a few months.

Mr. Pisa stated that his new plan will not require any variances.

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Mr. DiGennaro informed the applicants that based on the existing square footage of the home and accessory buildings, any addition to the house will most certainly require a variance application for side yard setback due to the gross building area. He suggested delaying the start date for the approval of the RV until building permits have been issued.

Mr. Ruebenacker said the applicants had a fire in their home which is a hardship and he recommended approving the RV from September to June, assuming all other zoning requirements are met.

Ms. Rizvani asked if the applicants will need to obtain a C.O for the RV to be hooked up to utilities and sewer. Mr. DiGennaro stated that if they are going to connect to the sewer line, they will need a plumbing permit and inspection to make sure it's done properly. He added that connecting to the sanitary sewer line would make more sense than having a waste tank that needs to be drained on a regular basis.

Chairman Fry stated that if the applicants wanted to repair the fire damage to the home this would not be an issue and the approval could be granted for a limited period of time to repair the damage and make the house habitable. The fact that it sounds like a major renovation and expansion is in the works changes the dynamics of this application. He added that it will be up to the discretion of this Board to remove any approval for the RV or shorten the permitted length of time once the new plans come back before the Board.

Mr. Kalpagian agreed, stating that the applicants are blending the repair of the fire damage with a total house renovation and recommended that the Board allow only temporary approval until we see what is going to be proposed on the plans.

Ms. Silva requested that the Board grant approval for at least six (6) months which is the length of time Allstate is making allowances for to repair the fire damage.

Chairman Fry avowed that it is at the applicants risk to purchase the RV. He said it is his opinion that the applicants are taking advantage of the fire to now renovate the entire house and expand it in many different directions. Mr. Fry also said he does not understand what type of agreement the applicant has with the town about having to construct a garage. Finally, he said we will modify the time line request to propose a six (6) month period beginning September 1, 2021 and then we will reassess when you submit the plans. This is an incentive for the applicant to get the plans submitted.

Board Attorney Hanly advised the applicants that there is a certain amount of risk that they will be assuming. There will be strict guidelines in place, and they must move quickly with getting the variance application and permits in order and submitted. Mr. Hanly informed the applicants that they may have to come back before the Board in six (6) months to request an extension, which may be denied, and they will have to accept that risk.

Ms. Silva said she understands.

Ms. Riotto recommended approving the RV from September to June which would allow the family to stay in Wyckoff and send the children to pre-k in Wyckoff. She opined that six (6) months is not enough time due to the application and permit process.

Ms. Rizvani concurred with approving the time period of September to June.

Chairman Fry addressed the applicants stating that the Board is challenged because we do not know what you are planning to do with this renovation. He added that the applicants pitched something to this Board that is not simple because they are planning more than repairing the fire damage to the home. He advised that they get their variance application submitted as quickly as possible. Mr. Fry then summarized as follows: the Board will vote on approving the RV from September to June. The applicants have testified they will power the RV off temporary utilities for construction of the house so the RV will not be running. The waste line from the RV

will be connected to the existing sewer line on the property. If the applicants decide to sell the fire damaged house or the plan changes in any way, the Resolution of approval will be deemed null and void. The applicants will advance with the variance application process to come back before the Board at which time the Board will review this matter again.

Mr. Hanly stated that if the approval to permit the use of the RV as a residence ends in June, the applicants will have to vacate the RV under 173-3 of the Township Code or penalties will be imposed.

Mr. Ruebenacker asked for clarification on how many occupants will be living in the RV. Mr. Pisa stated five occupants which includes two adults and three children.

Mr. Ruebenacker made a motion to approve the application to permit the use of an RV as a secondary residence on the subject property for ten (10) months beginning September 1, 2021 and ending on June 30, 2022, electric service from the house will be utilized to power the RV, the RV waste line will be connected to existing sanitary sewer line on the property, and the Resolution of approval will be void if the applicants change their plans for renovating the home. Second, Ms. Riotto. Voting in favor: Mr. Kalpagian, Ms. Riotto, Ms. Rizvani, Mr. Ruebenacker, and Chairman Fry.

Vice Chairman Borst returned to the dais.

A&J Acquisitions 540 Helena Ave Blk 314 Lot 72 RA-25

(The applicant proposes to demolish the existing home and construct new home on the lot with deficient Frontage of 120' where 125' is the requirement)

Board member Rizvani recused herself and stepped down from the dais.

Harold Cook, the applicant's Attorney, stated that this is a tear down of the existing structure on the lot and construction of a new home. The lot frontage is deficient by 5'. The applicant cannot acquire land from either of the neighboring properties as that would render those lots nonconforming. The lot area significantly exceeds the zoning requirement consisting of 40,308 sf where 25,000 sf is required. The applicant is also seeking approval to import soil in excess of 100 cubic yards.

Daniel Lamothe, the applicant's Engineer, was sworn in. Mr. Lamothe's professional affiliation is with Lapatka Associates. He stated that he is a licensed Engineer in the State of New Jersey and his license is in good standing. The Board accepted his credentials as a Licensed Professional Engineer. Mr. Lamothe provided the following details of the application: The existing lot is on the north side of Helena Avenue and consists of 40,308 sf in area. The frontage is 120' where 125' is the requirement in the zone. The lot frontage is the only nonconformity existing and proposed. The property is served by septic and a new five (5) bedroom septic system has been submitted and approved as has a drainage system. We are proposing a side loading two (2) car garage. The topography of the lot has a 12'-15' change in grade which triggered the need for the soil movement. We are proposing to cut 657 cubic yards of soil and fill approximately 1136 cubic yards of fill for a net import 479 cubic yards. A landscape plan has been submitted based on guidance provided by the Township Engineer. Twenty six (26) trees are proposed to be removed from the property. The large trees closest to the existing home will be removed to facilitate the construction of the new home. Eighteen (18) arborvitaes and eight (8) deciduous trees are proposed to be planted. The row of new

arborvitaes will be planted along the right or east side of the property and the A/C units will be screened by an evergreen hedge. There are foundation plantings proposed in the front of the house.

Chairman Fry asked about the retaining walls. Mr. Lamothe stated that there will be a 2'-3' retaining wall along the driveway on the left side of the house and a small section of tiered retaining walls on the right side. Each tier will be 2'-3' in height and the arborvitaes will be planted on top of the tier closest to the property line which will create a very nice buffer for the neighbor.

Mr. Kalpagian pointed out that the plot plan shows twenty six (26) trees will be removed however the landscape plan shows twenty one (21) trees being removed. He advised that the landscape plan and the plot plan must be consistent. Mr. Lamothe said it will be corrected and confirmed that twenty six (26) trees will be removed and eighteen (18) new arborvitaes and eight (8) new shade trees will be planted.

Matthew Evans of Evans Architects was sworn in. Mr. Evans stated that he is a licensed registered Architect in the State of New Jersey. His credentials as a licensed Architect were accepted by the Board. Mr. Evans said that he prepared the architectural plan for the applicant. He stated that the first and second floors will each contain 1,800 sf, there will be three (3) bedrooms and a two (2) car attached garage. The design is a Tudor style, and the siding will be stone and Hardie plank.

Chairman Fry asked if the utilities will be placed underground to which Mr. Evans replied yes.

OPEN TO THE PUBLIC
NO ONE COMMENTED
CLOSED TO THE PUBLIC

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

Ms. Rizvani returned to the dais.

Goodman, Ryan 421 Cornwall Court Blk 314 Lot 47 RA-25

(The applicant proposes to construct a one story addition, and covered and uncovered decks in the rear of the home requiring variances for rear yard setback)

Ryan Goodman, the applicant, was sworn in. Frank Troia, the applicant's architect, was sworn in. Mr. Troia's professional affiliation is with Plan Architecture located at 125 Paterson Avenue in Little Falls. Mr. Troia stated that he is a licensed architect in the State of New Jersey and has testified in numerous towns in the State. The Board accepted his professional credentials.

Mr. Troia provided the following details of the application: the applicant is seeking variance relief for the rear yard setback which is nonconforming as it currently exists at 35.5' where 40' is the requirement. The lot is slightly irregular due to the curvature of the cul-de-sac in the front yard of the lot. The applicant is proposing a single story addition to the rear right hand side of the existing home along with an uncovered and covered deck to the left of the family room addition resulting in a rear yard setback of 33.1'. There are environmental factors that came in to play which limited where the addition could be constructed, and the septic field is in the rear yard. The

house is and will remain a four bedroom house.

Chairman Fry asked for clarity on the depth of the lot from the curve in the front. Mr. Troia stated that approximately 10' of depth is lost due to the curvature of the front. If not for that factor and the septic in the rear yard, the addition could have been constructed without a variance.

Mr. Troia went on to say that the addition will be a great room to provide an area for the family to gather and will provide a nice eat in area as well. If the addition was reduced in size to eliminate going further into the setback, it would result in a 9' addition which would not make sense in striving to obtain a functional floor plan. Mr. Troia stated that the ridge height of the addition will be lower than the ridge on the existing home. The siding will match the existing siding and stone veneer will be added around the foundation.

Ms. Riotto pointed out that one page of the plan shows a small exterior flight of stairs however the rendering on page A-600 does not show the stairs. Mr. Troia stated that there will be a small stair run on the left side of the rear deck. There will also be a flight of stairs on the right side where there is an existing egress.

Mr. Troia referred to the prepared landscape plan stating that no trees are going to be removed. Tree protection will be placed around the existing trees to protect them during construction. Sheet 102 of the plans shows the proposed shrubs and plantings along the foundation and the rear of the property to create screening for the neighbors.

Mr. Borst stated that the planting table on the landscape plan lists ten (10) boxwoods and twelve (12) arborvitae however the drawing shows twelve (12) boxwoods and seventeen (17) arborvitae. Chairman Fry advised that it is important for the plan to be consistent because Mr. DiGennaro has to perform the inspection to make sure the approved plans are followed properly.

OPEN TO THE PUBLIC
NO ONE COMMENTED
CLOSED TO THE PUBLIC

Mr. Ruebenacker stated that he is not happy about the fact that the applicant is exacerbating the nonconforming rear yard setback and he questioned if it is appropriate to further exacerbate the setback with a large great room, and large deck, when there is really no hardship except for the odd shaped lot. He added that the proposed 18' x 20' great room is proposed at 35.55' where the setback requirement is 40'.

Mr. Troia said he believes it is a minimal encroachment and will not cause any detriment to the neighbors.

Mr. Borst said he does not have a problem with the proposal, and he agreed that it will not be a detriment to the neighbor.

Chairman Fry stated that the size of the proposed great room is large however, if the size were to be reduced, the applicant would not be gaining much and that the depth of the lot due to the cul-de-sac is the hardship.

Ms. Riotto said she does not have a problem with the addition and pointed out that the neighbor, who would be most impacted, is not here to object.

Mr. DiGennaro recommended that the Resolution stipulate that the house will remain a four (4) bedroom house due to the fact that the existing septic is only approved for four (4) bedrooms.

Mr. Kalpagian made a motion to approve the application as presented with the stipulation that the home remain a four (4) bedroom home because the septic system on the property is approved for four (4) bedrooms only. Second, Ms. Riotto. Voting in favor: Ms. Riotto, Mr. Kalpagian, Ms. Rizvani, 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 10:30 p.m.

Respectfully Submitted,
Maureen Mitchell, Secretary
Wyckoff Board of Adjustment