

REGULAR MEETING

Salute to Flag: 8:00 P.M.

OPENING STATEMENT:

This is the Regular Meeting of the Wanaque Board of Adjustment and adequate notice has been given and it has been duly advertised by the placement of a notice in the Herald News and the Suburban Trends on February 10, 2013 and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque and a copy thereof has been on file with the Borough Clerk

ROLL CALL: Chairman Jack Dunning, Vice Chairman Bruce Grygus, Members Joseph D'Alessio, Peter Hoffman, Donald Ludwig, Michael Levine, Suzanne Henderson and Engineer Christopher Nash.

Attorney Lou Flora attended on behalf of Attorney Ronald Mondello

MEMBERS ABSENT: Members Frank Covelli and James Minogue

Application #ZBA-2013-01 – Joyce Thompson, Applicant, 13 Toquet Street, Haskell, NJ, Block 403 Lots 112 (Bulk Area Variances)

Attorney Flora sworn in the following persons:

- Vincent Lanza, 40 Forest Lake Drive, Hewitt, NJ**
- Scott Thompson, 13 Toquet Street, Haskell, NJ**
- Joyce Thompson, 13 Toquet Street, Haskell, NJ**
- Scott Thompson, 22 Toquet Street, Haskell, NJ (Across the Street)**

Mr. Lanza stated he is the builder and is present to assist the Thompsons with this application. We are applying for a variance to rebuild the house that was damaged during Hurricane Sandy when a tree fell on it and the house was deemed uninhabitable and condemned by the Building Inspector. We have plans to build a new house, which is slightly larger than the existing house, and there are a number of variances that are required.

Chairman Dunning questioned if the Proof of Service Affidavit is acceptable, since the contractor signed it. Attorney Flora stated that if he was authorized as their agent, he can do it, but technically it should have been signed by the applicant since the contractor is not an attorney and usually would not be representing an applicant in that role, but you can let it go. Chairman Dunning had the applicant, Joyce Thompson, sign the Affidavit also.

Chairman Dunning questioned if anyone from Houser Engineering was going to testify on this application? Mr. Lanza stated that Mr. Houser had another appointment, but will come here if the Board needs him. Chairman Dunning stated that there may be some engineering questions that our Board Engineer has and since Houser drew the plan and you can't testify to what he drew.

Chairman Dunning also questioned if anyone has the survey of this property that is mentioned on this plan? In the lower left-hand corner, it says "References". You had a survey that was prepared on January 21, 2013 and we need to see that document. Engineer Nash also stated that it was Item No. 1 in his review letter; however, Houser's response thereto does not address Item No. 1 about the survey. Mr. Lanza is going to text him because the survey was done by a surveyor that Mr. Houser has on staff. Chairman Dunning stated we need this survey. There are too many lines on the plan to really see what the outline of the property is. The survey would clarify that and give us a hard-fast document that we could work from also. Mr. Lanza questioned if it was absolutely necessary for that survey to be produced since it was referenced to and drawn on the plan. Chairman Dunning advised that, before we can conclude this matter, we have got to see a survey. We can do some things tonight and we will carry you to another night. Mr. Lanza did question if the plan does not actually count as being a survey because it's sealed by a licensed engineer. Engineer Nash stated that this correct; it has to be signed and sealed by a surveyor since the engineer is technically not allowed to deal with the metes and bounds and offsets. Mr. Lanza doesn't know why he wasn't given the survey.

Chairman Dunning stated that the survey was requested in our engineer's letter dated March 12, 2013 and your engineer had no response to that item in his letter. So I assume he has a survey because he references the survey to make this drawing from.

Chairman Dunning also brought up the subject of the two lots. The way this application is proceeding we are talking about one lot. The Borough Ordinance requires two off street parking spaces for any building on a building lot. You cannot provide that on this plan, can you? Mr. Lanza stated that, your engineer did comment about combining these two properties, and we are going to combine the two properties. The problem was that when they purchased Lot 114 from the Borough of Wanaque, they couldn't get clear title so, at that time, they didn't want to combine that property with their house. We have since got the title company to clear the title and I had the surveyor to do both descriptions and we are in the process of combining the lots. If and when the Board votes, we can make that a contingency of the approval, that the lots will be combined.

Chairman Dunning stated that the simple way to deal with this is combining the lots because that is going to change all the variances and without that, you can't provide the two off street parking spaces. Mr. Lanza stated that, if you made the approval contingent upon that, than it wouldn't be approval without that. Chairman Dunning asked, "How do we grant the variances?" We wouldn't know what we were granting. We have to look at it as you are going to join it into one lot, then we can deal with the variances required for one larger lot, you'll have your two off street parking spaces, including the garage, you'll have bigger square footage and it will reduce your lot coverage. It just makes sense. Also, we can have one survey of the combined lots in order to grant the proper variances. Vice

Chairman Grygus mentioned that without knowing the size of Lot 114, you may be getting very close to conforming to the 10,000 square feet.

Chairman Dunning stated you have the bulk of the work done, we just need a couple pieces of paper. A survey of one lot, not two separate parcels; the engineer can change his charts; we will have the total square footage on the two combined lots. If you had everything you needed tonight, we would vote on the application tonight. We just need certain documents to work with that are not here, and specifically, the survey will clarify some of the cloudiness on the plan, which shows both the dimensions of the existing house and proposed house.

Mr. Lanza asked if the Board can expedite things, since the Thompsons presently don't have a house to live in? Chairman Dunning stated this works two ways; we are trying to protect the Board and the Borough and we are also trying to protect the applicant. We need proper documentation to proceed. We need a survey. Vice Chairman Grygus stated that, without the survey, how do we know that the 8.5 feet for the front yard which, if you combine the lots, is going to go away, is the real number without a survey.

Mr. Lanza asked if we can consider this a conceptual meeting and do you have any suggestions other than what you just gave me?

Chairman Dunning questioned the paved area, is that part of the street? What is it that comes around a little dirt mound in the middle? Mr. Thompson stated it is part of the street. Chairman Dunning stated you have fencing and curbing on the Borough right-of-way. As far as I am concerned since that is the right-of-way, you would have to remove that curbing out of your plan. Mr. Thompson of 22 Toquet Street commented that the whole street is really wide. The front part of the road is actually only two feet off my doorstep. Chairman Dunning stated he understood that, but if this is Borough property, and it is a right-of-way, we would propose that you remove the curbing and fence. That should be cleared out so the Borough has the right-of-way. It is evidenced by his marker from your proposed new house to that right-of-way of ten feet. So you are encroaching into the roadway *per se* at this point.

Chairman Dunning also referenced the other question, which the Board Engineer raises in his letter, about the sanitary sewer. You have a dotted line that goes nowhere. Does it tie-in under the roadway? Mr. Lanza stated that the sewer line was connected, but has since been disconnected for the demolition of the house. Chairman Dunning asked again where that sewer line is; is it in that right-of-way somewhere? Mr. Thompson stated that the sewer main cuts across the other two lots and the house is tied into that and the neighbor's house is tied into there. Chairman Dunning stated maybe you can give us an idea where that goes. Mr. Thompson said it goes from Toquet to St. George. Engineer Nash, referencing a sanitary manhole on the plan, questioned where the other manhole is? Mr. Thompson said over on St. George. My house is tied onto our property but what happened is the 12" sewer main goes through our property. Chairman Dunning said that must be shown because the Borough has an easement through your property. Mr. Lanza said they don't currently have an easement. Chairman Dunning stated that if the sewer line goes through it, we have to be careful you don't build on it and we are going to ask for an

easement across that property to maintain the sewer line. This all has to be identified on the plan. Right now we are in the process of trying to get rid of this problem on the other side of Ringwood Avenue in lower Haskell where sewer mains run through about 14 backyards. This doesn't work for the Borough for sewer maintenance or for you as a property owner. If it is on your property, let's identify it. We need some clarification what is on the properties. Easements should be shown. Vice Chairman Grygus stated that, if nothing else, you need to show where that line is because, whether you grant an easement or not is one issue, but we want to make sure you know where it is so we don't approve building on top of it.

Chairman Dunning asked if this was one of the issues that you had problems getting clear title to Lot 114? Mr. Thompson stated "No". It was a Borough issue where the Borough took the lot in a tax sale and when they took it, they didn't get clear title and we purchased it from the Borough without clear title, but it has been straightened out.

Mr. Lanza stated that I have the deed to combine the properties, but also need to: (a) show the curb and the fence is in the right-of-way (show the right-of-way the correct way); (b) need the survey of the combined lots and the survey must show the garage, the pool, the shed and whatever else is on that property today with measurements and the setbacks. Chairman Dunning, referencing the garage, stated that a variance might be required as an existing condition. If we are going to clean the whole thing up, let's address every issue, deal with it and be done with it. This way everything is legal.

Engineer Nash, referencing his letter and Item 2.d., the existing front yard setback is 9.97 and then you had it proposed as 10, but you actually have to measure it from the front porch, not from the corner of the house. So it is going to be a shorter distance. If you look at the plan, the setback is measured to the structure and the porch is considered structure. It is going to be less than 10 feet and that is going to be the minimum front yard setback so that is the variance the Board is going to grant, so they need to know what that number is. Vice Chairman Grygus questioned the Engineer as to what that 8.5' figure is? Chairman Dunning answered that this is the existing property line for Lot 112; the house is facing the wrong way and we consider that the side yard. Engineer Nash stated when the lots are combined, that 8.5 disappears and becomes more conforming side yard. I didn't really call attention to it specifically, I just have it shown as proposed as less than 8 feet in my letter, but a specific number needs to be calculated.

Engineer Nash also stated your engineer took care of all the other comments, with the exception of the seepage pit, item No. 5. I am requesting that you should have a test pit and soils information because the seepage pit is going to fill up with water and then water is going to escape. We want to dig a test pit, get some information, so you know that this will work. The Board is going to approve a site plan that we hope works and now you have time to do the test pit. Mr. Lanza stated we were going to bring in a machine at one time to demo the house and dig the test pit. Engineer Nash questioned what happens if you go out there, demo the house, dig the test pit and you hit rock at 3', then what do you do? That is the reason why. Mr. Lanza stated he purposely left the house up so the Board could see the house on the property before we had our meeting. We have the demolition permit already so we will arrange to do that as soon as possible and when we do the demolition, we will do

the test pit. Did you want someone from your office to witness that? Engineer Nash stated he doesn't have to, but if you would like to advise me when it is scheduled, and if I am in the area, there is a possibility I'll come out. Your engineer should be present so if he is there and he is going to sign off on what the soil log is, that is good enough for me. You don't need two engineers there.

Vice Chairman Grygus understands it is a modular and getting in on that site is not going to be an issue? Mr. Lanza said no problem. I have already checked it out.

Vice Chairman Grygus questioned no rear decks are proposed? Mr. Lanza answered, "no".

Engineer Nash questioned if the fireplace option is going in? Mr. Lanza answered, "no". When they clean up the drawing I will get rid of that bump out.

Chairman Dunning asked if any other Board Members had comments?

Member D'Alessio questioned if the house isn't drawn on the plan, how do we know the floor area ration? Chairman Dunning stated he has the old house and new house on the same plan and we don't need the old house there. We need the square footage of the new structure, including the covered porch. Member D'Alessio questioned what is the floor area ratio of the new house to the property? Chairman Dunning stated, based on what is shown, 1441 square feet, which equals 33.5% of the lot where 25% is permitted. Engineer Nash stated that was not a variance before because the smaller house complied; however, if the lots are combined then that goes away. Vice Chairman Grygus stated now you will have to include the garage and the shed, but it is going to be well under.

Chairman Dunning questioned if both sheds are being left? Mr. Thompson answered, "no". One of them is actually a chicken coop, which is the one being removed. Chairman Dunning stated just identify what is staying because that has to be calculated on the lot coverage. Vice Chairman Grygus also stated that if there is more than one accessory structure, we would have to grant a variance.

Chairman Dunning advised that we are going to schedule you for the next meeting, May 1, 2013. If there is any problem that you can't get all this paperwork together for the next meeting, just give us a little notice so we can carry you to the following meeting.

Discussions were held about re-noticing the homeowners, re-publication and amending the application.

Attorney Flora stated that it is technically not an amended application, it is a new application because you are combining the second lot. The second lot was not part of the consideration before. The people that received the notice the first time have no idea what you are doing with the second lot. You have actually now doubled the size of the area that is going to be subject to variances because the variances are going to apply now to a larger lot so you really need to notify everybody.

Chairman Dunning stated that the applicant re-notice basically as a new application and really word it that you're combining the two lots into one, variances for a new house and put a little more wording into it than the first notice in the paper, which was very vague. Also, all your new plans must be in Borough Hall 10 days before our meeting date. That is critical because if they are not, we can't hear the application next month. Vice Chairman Grygus stated that if you can a copy to the Board Engineer before April 19th, so if something is still missing, you can get fix it before the ten days.

Public Discussion On Application: Let the record show that there is no one present in the audience.

MOTION TO CARRY APPLICATION TO MAY 1, 2013: made by Member Ludwig, seconded by Member D'Alessio. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members D'Alessio, Hoffman, Ludwig, Levine and Henderson. Motion Carried.

PUBLIC DISCUSSION: None/Closed

RESOLUTIONS: None

CORRESPONDENCE: None

VOUCHERS: submitted by Boswell Engineering on the Thompson Application in the amount of \$704.

MOTION TO APPROVE: made by Member Ludwig, seconded by Member D'Alessio. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members D'Alessio, Hoffman, Ludwig, Levine and Henderson.

MOTION TO APPROVE FEBRUARY 6, 2013 MINUTES: made by Member Levine, seconded by Member D'Alessio. Voting yes were Chairman Dunning, Members D'Alessio, Hoffman, Levine and Henderson. Vice Chairman Grygus and Member Ludwig abstained-not qualified.

ENGINEER'S REPORT: Nothing to report.

DISCUSSION: Vice Chairman Grygus questioned if the permit extension act applies to the Exxon? Chairman Dunning stated yes it does and I checked that with Ron way back. Engineer Nash stated the applicant did send him a set of plans per my request from a year

ago. Chairman Dunning stated that we did get correspondence from the County on the Exxon application. The County wants a revised set of plans because a certain time has expired. Basically, we approved it and they were suppose to send an updated plan and this is what you and the County got. We are going to take the County's approach and review our escrow account and charge any additional time Chris needs to review the updated plans.

Chairman Dunning, referring to the permit extension act, stated our variances run for nine months. In month eight, I asked Ron to look this up and I believe his comment was it runs to the end of 2014. It was extended to December of 2012, then to June of 2013 and now to December 31, 2015.

Member D'Alessio, referring to the Thompson Application, questioned that if they had the survey and all, we were going to approve a plan without the house on it? Chairman Dunning stated it is on there. The existing house and the proposed house are drawn on the plan. That is why I said the plan is too busy with the different boundary lines, fence lines, etc. Member D'Alessio stated that it why it is confusing me. How could they put the house up before they have the division? Chairman Dunning stated the problem with the application is that they applied for Lot 112 only. In order to build the house, they have to provide two off-street parking spaces and with that little 4,000 square foot lot there is no way they can do that, unless they push the house to the rear of the property or dig under it and put a drive through garage, elevate the house, something. Engineer Nash stated they park on the right-of-way with private property/do not enter signs. They are using the road as their driveway. Chairman Dunning, to clarify the other problem, which we didn't address and it is their problem, is the names on the deed. It appears that Mr. Roy, who is on the deed with the house, has passed away. So they have to clarify their titles. I thought the son, Scott, owned the second lot, but which Scott is it – the son or the husband. Also, was Roy Joyce's father or husband?

Member D'Alessio asked what happens if they hit rock at 3' for the seepage pit? Will they have to backfill or bring dirt in? Vice Chairman Grygus advised they will have to relocate the seepage pits and with joining the two lots, he has all kinds of options then. Engineer Nash advised that their engineer would have to prepare a workable design.

Chairman Dunning is questioning the garage; the house is old but the garage is new. Since we are going to clean this up, check out what the distance from the front line to the garage is. I think it is 70 feet on a freestanding garage.

Vice Chairman Grygus commented that the banners and signs in town are getting a little out of control.

MOTION TO ADJOURN: at 8:50 P.M. made by Member Ludwig, and seconded by Member D'Alessio. Motion carried by a voice vote.

Jennifer A. Fiorito
Board of Adjustment Secretary