

IN PERSON  
REGULAR MEETING

Salute to Flag: 8:05pm

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 Suburban Trends on March 13, 2022 respectively, and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque, on the Borough's website and a copy thereof has been on file in the Borough

ROLL CALL: Chairman Jack Dunning, Members Frank Covelli, Eric Willse, Donald Ludwig, Helena Aumenta, Michael Sbarra and Dana Lynch and Attorney Ronald Mondello and Engineer Christopher Nash

ABSENT: Vice Chairman Bruce Grygus

Application ZBA2022-10 – 1323-1327 Realty Inc.

1323-1327 Ringwood Ave. (Block 464/Lots 35 & 36 – Use Variance

Chairman Dunning: This Application is for a Use Variance and we had a meeting last month. The Applicant has requested an adjournment to the January 4, 2023 Meeting.

All Members are in favor of granting this adjournment and carrying the Application to the January 4, 2023 Meeting. No Members opposed.

Application ZBA2022-11 – Lebiedzinski, Liliana & Arkadiusz

85 Snake Den Road, Wanaque (Block 102/Lot 8) – Use Variance

Attorney Mondello: Mr. Chairman, if I might brief the Board. Unfortunately, and I am sure it is not at that the fault or mistake of the Applicants but, unfortunately, they did not make publishing in the newspaper ten days or more out. By my calculation it is eight, by the Chairman's it is nine but, either way, it is less than ten. We don't have jurisdiction to hear this Application. You are always free to ignore my advice, but we simply don't. It is statutory. I know there is no one else here that is either for or against the Application but, none the less, we don't have jurisdiction to hear this Application.

Chairman Dunning: We are sorry for the mix up and I know you had a problem with the newspaper, but there is nothing we can do.

**Board Secretary:** Do they have to re-notice?

**Attorney Mondello:** No they don't.

**Chairman Dunning:** No, they put a notice in and we'll carry it forward. We just need a motion to carry this.

**Member Covelli:** Before we make that motion, I think they are entitled to a little bit further explanation that the law requires a ten day notice.

**Attorney Mondello:** I already spoke to them, Frank, privately. I'd be happy to do it again. As I explained previously, you have to publish the notice of this hearing ten days or further out. The time frame can't be shorter than ten days and that is in the New Jersey Statute. The Board didn't make up that rule or regulation. It is the law and we don't have jurisdiction. We can't have the authority to hear it because you are at eight days or nine days.

**Member Covelli:** Everyone that is not here, we don't if someone might have wanted to be here and the law says we have to give them ten days' notice, so that is what the attorney is explaining to you. By law, people have ten days' notice that there is a meeting where your application is being heard and they can listen to the application, they can comment on the application, they can support the application, they could speak against the application, etc.

**Attorney Mondello:** I understand that the newspaper had indicated to the Applicants that they would published on Thanksgiving, but there was no newspaper on Thanksgiving. I think that is what the Chairman had indicated. To no fault of the Applicant, but it is what it is.

**Chairman Dunning:** That's a problem with the newspaper lately and publishing only certain days.

**Member Willse:** As a concern for their time, I am going to ask this question, we have the previous applicant that we postponed until next month, that is probably going to eat up all of the January meeting.

**Chairman Dunning:** Residents come first. That application that was carried could list for a few months. They will be number one next month.

**Applicants:** We will be leaving for Europe next and we are coming back on January 12, 2023.

**Attorney Mondello:** We will see you in February.

**Chairman Dunning:** In February, you will be first on the Agenda.

**Member Covelli:** It is not necessary for them to re-notice even though they won't be back until February 1<sup>st</sup>.

**Attorney Mondello:** Nope.

**Chairman Dunning:** We'll just carry it like we just did for the other.

**Engineer Nash:** I have a question. When does the clock start ticking and how long do we have?

**Attorney Mondello:** We have 120 days to decide this application, otherwise they have to run into court and some judge would say it is automatically approved, but I think that is highly unlikely. 120 days. They can always extend the time to decide. If this would for some reason get carried to March, you have no objections of giving the Board more time to decide it, correct?

**Applicants:** Yes. For the February 1<sup>st</sup> meeting, do we need to publish in the newspaper again?

**Attorney Mondello:** No.

**Chairman Dunning:** No, you gave your notice that'll carry.

**Member Covelli:** You gave your notice and you noticed all your neighbors within 200'. It is worth noting to the public that our good newspaper couldn't handle it. You submitted it on the 17<sup>th</sup> of November and they couldn't do what they needed to do. By the way, they are very aware of the statute.

**Chairman Dunning:** Every town in New Jersey has to follow that statute, so they print these notices all the time. Sorry about that.

**Attorney Mondello:** All in favor of carrying this last application to the February. All Members are in favor of granting this adjournment and carrying this Application to the February 1, 2023 Meeting. No Members opposed.

**Member Lynch:** So we really couldn't have like seen them at all?

**Attorney Mondello:** You are always free to ignore my advice, but it is statutory. You don't have jurisdiction to hear it.

**Board Secretary:** It says ten days prior, so I never count the day of the meeting.

**Chairman Dunning:** I did. We are after the work day.

**Attorney Mondello:** So it is eight or nine. We think it is eight; he thinks it is nine.

**Member Lynch:** But it is still less than ten.

**Member Willse:** It is still less than what the law permits.

**Member Aumenta:** God forbid we heard it and then somebody came back and fought it.

**Member Covelli:** We put them in harms way because if we decide it and somebody came out and said, hey tear it down. I know they are not thinking that as they drive home, but we protected them.

**Attorney Mondello:** I told them that when they were sitting in the audience. I said, if somebody were to come in and run into court, everything that the Board may have done will be eviscerated.

**PUBLIC DISCUSSION:** Audience Member: Neighbors all within 200' get notice, people further than that, are they able to object?

**Member Willse:** Yes.

**Member Aumenta:** The law just requires that people within 200' get notified, but anybody can come.

**Audience Member:** I just thought that only those people could object, so if they had all the receipts from the sent letters.

**Member Willse:** Somebody could fly in from Arkansas and say I was looking at that property and, no, I don't think they should do that because I am going to buy the one next door.

**Chairman Dunning:** It is another state law. It is good to ask.

**Member Willse:** If they are over 18 and still have a pulse, they can argue about it.

**Chairman Dunning:** And you can prove you are from the United States. We don't take foreign correspondence on that.

**RESOLUTION:** None

**DISCUSSION:**

**Chairman Dunning:** Planning Services for the Ringwood Avenue Project.

**Attorney Mondello:** That is a D-1 Use Variance so it is not unusual that the Board would hire a Planner at the Applicant's expense to provide a report, provide testimony, review the Applicant's Planner's Report, listen to the Applicant's Planner's testimony and perhaps even ask questions of the Planner. It is up to the Board, but I see that the Chairman has something in his hands there.

**Chairman Dunning:** Everybody should have got this. Jenn sent this out. It is dated November 18<sup>th</sup>.

**Attorney Mondello:** If the Board is inclined, it simply would be a Motion to hire whomever, followed by a Second, and then a Roll Call.

**Engineer Nash:** The recommendation came from me. This is a Planner that appears before the Hoboken Planning & Zoning Boards. I represent those two Boards, Planning and Zoning Boards in Hoboken. This gentlemen appears often to those two Boards.

**Chairman Dunning:** That's a tough town.

**Engineer Nash:** For every application they have, at a bare minimum, an Architect and the Planner give testimony all the time. Sometimes they'll have an Engineer, lighting person, sound person, etc. The hearings are unlike what goes on here. This guy, from my observation, thinks on his feet, he has a good grasp of the Municipal Land Use Law and he also have to dive into Wanaque's Code. Something that I brought up was, the Applicant identified a D-1 Variance, which is a Use Variance, but I think potentially there is a D-6 as well, which is a height variance. You are allowed to exceed it by 10% and keep it a C Variance but it exceeds 10% of the allowable height then it kicks it into a D-6 Variance. Anything D, you are jacking up ante; it's like sitting at the \$100 card table.

**Member Willse:** The height variance is not the sky end load, but it goes to the mean of the height of the roof.

**Engineer Nash:** It depends.

**Chairman Dunning:** Let's not get into that application.

**Engineer Nash:** Height is measured, in this case, because of the type of roof it is. It is measured to the means of the eave to the top as a gable roof. If it is a flat roof, obviously, you measure it to the top.

**Chairman Dunning:** Plus they are redrawing the whole plan. We don't know what they are coming back with.

**Member Willse:** I was going to ask why they skipped December.

**Chairman Dunning:** Let's face it, we destroyed their plan.

**Attorney Mondello:** Is there any way we can perhaps not have any conversations about this application while the applicant is not here?

**Member Aumenta:** I'll just say personally, based on the concerns that we have and the complexity of that application, I think having a Planner is a good move.

**Member Willse:** I concur.

**Chairman Dunning:** Anybody want to look at this on the Planner? Members stated they got it and read it.

**Member Covelli:** Chris, the individual that we are talking about is Keenan Hughes of Phillips Preiss?

**Attorney Mondello:** Is there a Motion to have the Board engage Keenan Hughes as the Planner for that application that we have just been discussing?

**MOTION TO APPROVE:** made by Member Willse, seconded by Member Ludwig.  
Voting yes were Chairman Dunning, Members Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

**Attorney Mondello:** Motion Carries. Do you want to reach out to this fellow?

**Chairman Dunning:** Jenn will send him a letter.

**Member Willse:** And we have to notice the applicant?

**Attorney Mondello:** Not really, but I did tell Mr. Barbarula that the Board was more likely than not planning on engaging experts.

**Member Aumenta:** I think we mentioned it though along with a traffic study too.

**Engineer Nash:** Boswell has a Traffic Expert in house. I'm actually a Professional Planner as well.

**Attorney Mondello:** There is some discussion to the left of me that the Board could also use a Traffic Expert from Boswell Engineering. Again, that individual should show up at the meeting, should listen to testimony, review the application, and then provide testimony and perhaps provide questions for the Traffic Expert that may or may not be presented. The Applicant does have a Traffic Expert. What's the Board's pleasure with respect to that? Do we have a name?

**Engineer Nash:** Frank Dobiszewski

**Attorney Mondello:** He is the Rochelle Park Engineer.

**Engineer Nash:** Yes.

**Attorney Mondello:** I do know Frank. So is there a Motion followed by a Second to engage Frank Dobiszewski to do the Traffic Engineering on behalf of the Board?

**MOTION TO APPROVE:** made by Member Aumenta, seconded by Member Covelli.  
Voting yes were Chairman Dunning, Members Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

**Attorney Mondello:** You'll speak to him and share the plans with him?

**Engineer Nash:** He already reviewed the report. It is just a matter of coming to the meeting and listen to the testimony.

**Chairman Dunning:** He has seen everything about it so far.

**Engineer Nash:** Yes, he was going to come tonight but this application was adjourned.

**Chairman Dunning:** Whenever we get the new plans and whatever from them, if they don't have their Planner that evening, we'll just tell him to come the next meeting.

**Member Willse:** Out of curiosity, since they are revising the plan and changing what they are going to present, do they have to re-notice.

**Board Secretary:** No, but I have to have the plans ten days before the meeting, which is Christmas. Borough Hall is closed the 23<sup>rd</sup> and the 26<sup>th</sup>. I'm also off the 22<sup>nd</sup>.

**Member Willse:** Just let them know the deadline.

**Chairman Dunning:** I talked to the Fire Chief about the big ladder truck. Do you think it would pay to get him here, or we have to see what the plan is first?

**Member Willse:** Let's look at the plan.

**Attorney Mondello:** And the Chief can look at it and say this is a wonderful idea, it's not a wonderful idea.

**Member Willse:** He's still going to see it. I mean they all review it; the Police Department and Fire Department.

**Chairman Dunning:** We'll have the new Police Chief coming in January 1<sup>st</sup> so I talked to him already about it. I told him we may ask you to come to the meeting and give testimony about Ringwood Avenue.

**Member Aumenta:** I'd rather do our due diligence than have a problem later. If we got the resources, bring them in.

**Member Covelli:** Mr. Mondello, with respect to the cost of the Planner, is there is a pre-approved fee schedule.

**Chairman Dunning:** It's in there.

**Member Covelli:** I understand he gave us a fee schedule, is this something they have to pay for?

**Chairman Dunning:** Right.

**Attorney Mondello:** They do.

**Member Covelli:** So should we be sharing that fee schedule with them so they know. I don't want anyone to say that the norm is this, and this guy charged that.

**Attorney Mondello:** It is just out of courtesy to do that, but regardless of what the rate is, that is what they have to pay. If they don't want to pay it, then there is a vehicle to appear before the Governing Body and file some type of complaint that this is too much money, I've been overcharged by this particular professional and the Governing Body will do as they will. They can cut it in half, they could take it by 1/3. I've seen it a million times but, yeah, why not. Out of courtesy say here is what you can expect.

**Engineer Nash:** Or go to the Passaic County Construction Board of Appeals.

**Chairman Dunning:** Which you don't want to do.

**Engineer Nash:** And guess who the Special Member is?

**Member Covelli:** I also think we should get the Traffic Expert's fee schedule and the Planner Expert's fee schedule to them ahead of time.

**Member Aumenta:** The Planner's is in here.

**Engineer Nash:** The Traffic Engineer's is the same as me.

**Attorney Mondello:** Not everyone is familiar with that. What is Boswell's rate per hour?

**Engineer Nash:** Jenn can tell us because it is on the invoice/voucher I just gave her.

**Board Secretary:** \$212.

**Attorney Mondello:** The Traffic Expert will be billing at the rate of \$212.

**VOUCHERS:** submitted by Ronald Mondello, Esq. for attendance at the December 7, 2022 Meeting in the amount of \$400.

**MOTION TO APPROVE:** made by Member Ludwig, seconded by Member Willse.

Voting yes were Chairman Dunning, Members Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

**VOUCHERS:** submitted by Boswell Engineering for the 1323-1327 Ringwood Avenue Application in the amount of \$4,783.75

**MOTION TO APPROVE:** made by Member Willse, seconded by Member Ludwig.

**Voting yes were Chairman Dunning, Members Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch**

**MOTION TO APPROVE NOVEMBER 2, 2022 MINUTES AS AMENDED: made by Member Covelli, seconded by Member Willse. Voting yes were Chairman Dunning, Members Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch**

**ENGINEER'S REPORT: Nothing**

**DISCUSSION: None**

**MOTION TO ADJOURN AT 8:35PM: Motion made by Chairman Dunning Member Ludwig and carried by a voice vote.**

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**Jennifer A. Fiorito  
Board of Adjustment Secretary**