

**REORGANIZATION MEETING
&
REGULAR MEETING**

Salute to Flag: 7:40p.m. – Meeting opened by Attorney Ronald Mondello

OPENING STATEMENT:

This is the Reorganization and Regular Meetings 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 January 15, 2023 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 and has been posted on the front doors of Borough Hall on the day of the meeting.

Attorney Mondello swore in Re-Appointed Members Jack Dunning, Don Ludwig and Dana Lynch

REORGANIZATION MEETING

ROLL CALL: Members Jack Dunning, Bruce Grygus, Frank Covelli, Eric Willse, Don Ludwig, Helena Aumenta, Michael Sbarra and Dana Lynch

NOMINATION FOR CHAIRMAN: Member Grygus nominated Jack Dunning, seconded by Member Willse. No other nominations heard. Nominations closed.

ROLL CALL ON NOMINATION FOR CHAIRMAN: Voting yes were Members Dunning, Grygus, Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

NOMINATION FOR VICE CHAIRMAN: Member Dunning nominated Bruce Grygus, seconded by Member Ludwig. No other nominations heard. Nominations closed.

ROLL CALL ON NOMINATION FOR VICE CHAIRMAN: Voting yes were Members Dunning, Grygus, Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

NOMINATION FOR ZONING BOARD ENGINEER: Member Grygus nominated Boswell Engineering (Christopher Nash) for Board Engineer, seconded by Member Ludwig. No other nominations were heard. Nominations closed.

ROLL CALL ON NOMINATION FOR ZONING BOARD ENGINEER: Voting yes were Members Dunning, Grygus, Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

NOMINATION FOR BOARD ATTORNEY: Member Covelli nominated Ronald P. Mondello, Esq. for Board Attorney, seconded by Member Lynch. No other nominations were heard. Nominations closed.

ROLL CALL ON NOMINATION FOR BOARD ATTORNEY: Voting yes were Members Dunning, Grygus, Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

ADOPTION OF OFFICIAL NEWSPAPERS: Continue with the Newspapers approved by the Mayor & Council which are (1) Suburban Trends and (2) Herald News/The Record.

MOTION TO ACCEPT AND ADOPT OFFICIAL NEWSPAPERS: made by Member Grygus, seconded by Member Aumenta. Voting yes were Members Dunning, Grygus, Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

(Questions on the Newspapers were brought up by Members Grygus and Covelli. Board Secretary advised that she only publishes notices in one of the adopted newspapers depending on time frame and/or deadlines. Suburban Trends is published only on Wednesdays & Sundays and Herald News/The Record is published every day.

MOTION TO MAINTAIN THE FIRST WEDNESDAY OF THE MONTH FOR THE REGULAR MEETING TO START AT A NEW TIME OF 7:00 P.M.; AND THE SATURDAY PRIOR TO THAT MEETING FOR SITE VISITS AT 10:00 A.M.; AND DIRECT THE BOARD SECRETARY TO ADVERTISE IN ACCORDANCE WITH THE OPEN PUBLIC MEETINGS ACT TO GIVE NOTICE OF THE MEETING DATES FOR 2023: made by Member Ludwig, seconded by Member Dunning. Voting yes were Members Dunning, Grygus, Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

(Discussions were held that the Planning Board has changed their starting time for meetings to 7:00p.m. and this Board should think about doing that also. Board Members agreed to the 7:00pm start time and the cut off time will be 10:00p.m. Board Secretary will highlight the time change on the 2023 Meeting Date Notice that will be published and on the website)

MOTION ON ADOPTION OF EXISTING PROCEDURES AND BY-LAWS: made by Member Grygus, seconded by Member Willse. Voting yes were Members Dunning, Grygus, Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

(Board Secretary will revise the By-Laws to accurately reflect the new start time of 7:00p.m. and cut off time of 10:00pm and will forward revised document to all Board Members)

Chairman Dunning: We have one other item that is not on the Agenda. Attorney Mondello, who we just hired, needs a price increase from \$400 per meeting to \$500, which is no big deal and he has done a hell of a lot for us, and this is the rate for all his towns.

MOTION TO APPROVE BOARD ATTORNEY FEE OF \$500: made by Member Willse, seconded by Member Ludwig. Voting yes were Members Dunning, Grygus, Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

Re-Organization Meeting ended at 8:00p.m.

REGULAR MEETING

Regular Meeting called into order 8:01p.m.

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

Application ZBA2022-11 - Lebiedzinski, Liliana & Arkadiusz
85 Snake Den Road (Block 102/Lot 8)

Attorney Mondello sworn in both Arkadiusz & Liliana Lebiedzinski (referred to in the Minutes as either "Applicant" for Mr. Arkadiusz Lebiedzinski and "Ms. Liliana" for Liliana Lebiedzinski.

Attorney Mondello: Whoever is going to testify first, please state your name and address.

Applicant: Arkadiusz Lebiedzinski, 85 Snake Den Road.

Attorney Mondello: This application was carried because there was an issue with respect to timing and publications so jurisdiction is now vested in the Zoning Board to hear this application. Why don't you briefly tell the Board what you want to do and why you want to do it?

Applicant: We brought a house a while ago and basically the front of the house, and we have pictures, was already there and I removed it, just because of the condition of it was pretty shaky, so I removed it and tried to put up the existing condition in the front of it but we got a work stop order. We stopped doing everything and that is why we are here. We just want to get the extension of the house because right now it is too small.

Attorney Mondello: It's too small. You need more room?

Applicant: Yes.

Attorney Mondello: Why do you need more room?

Applicant: Because there are three of us, a dog and a cat, plus our kids sometimes come and visit us. Right now, the condition is just not enough.

Attorney Mondello: Questions from Board Members?

Chairman: You brought this property a couple of years ago. When you brought it was there any issues with the real estate when you brought it as far as what you brought? Was it ever inspected by the Borough, the Zoning Officer or anybody? Did you buy it "as is" or brought it with conditions?

Applicant: I believe we brought it "as is". Again, it was our first house so we also didn't know what questions to ask. We did like fire inspection, I believe, to get the certificate of occupancy so that was done with the city. Again, we didn't know what to ask; it was our first place.

Chairman: You brought it "as is" and moved into it.

Applicant: Yes, basically.

Chairman: Now you presented us with a series of drawings showing the existing property and what you want to do to the house that is there now. On the house, facing the road, somebody started to put an addition on or something, but it was never finished. It is a couple of walls, no roof, partially got some flakeboard or something on it. That is all it is. In this zone, there is nothing to establish the side yards, rear yards or front yards. You are in a WRC Zone this this Zone doesn't require anything. I don't know why it is that way. That's a question I am going to ask our Zoning Officer someday. It is an odd zone and there are a lot of houses and some are gigantic, some are small and some sit on the wrong way on the property. It is crazy. You have a garage that is maybe 15' from the road. If you took a basic R-10 Zone, it is supposed to be 70' from the road. You have five (5) sheds on your property and, technically, you are only allowed one (1). It is a matter of what you intend to do with the sheds, the garage and there are certain things we have to work with to make it approve.

Chairman: As far as the existing house and existing deck, you want to change the rear deck and put a new deck on it looks like, right?

Applicant: Yes.

Chairman: You presented plans showing the building and what you are doing to it, adding to it and the floor layout. You have all the details here. The problem that we have, as a Board, to look into this thing, and it is on Page A-001, is the Zoning Schedule. You see that on the top of the drawing. As you see all of the lot area, lot width, lot depth, front yard, side yard, any side, side yard total, rear yard says None. There are no requirements, which puts the Board in a funny position because we are normally working with a side yard, a rear yard and you might need relief from those things. According to the zoning, the only that is required is the height, which is 35'. There is no building coverage, no lot coverage and accessory buildings in here is written no change, but we have to deal with the fact that you have five (5) sheds where basically in that normal zone one (1) would be allowed and it has to be at least 5' off any property line except for the front actually. Somehow you are going to have to explain to us what your intent is with the sheds to start with. I guess the sheds are used for something.

Applicant: Not all of them.

Chairman: You have one (1) really large shed that faces the side of the house on the road side. It's a very large shed. Did you put that shed up?

Ms. Liliana: No, and I have pictures.

Attorney Mondello: You are going to have to state your name, spell your last and give us your address. You were sworn in already, but please state your name, spell your last name and give us your address.

Ms. Liliana: Liliana Lebedzinski, 85 Snake Den Road, Wanaque.

Attorney Mondello: What do you want tell the Board?

Ms. Liliana: We brought the house "as is". It was advertised as this. All of the sheds were already there. I actually was able to find the original listing when we brought the house on the website, and then I have all original pictures as proof that all the sheds were there. When we brought this, the agent didn't tell us anything. She said, whatever you see here, it is yours. She even expanded the area a little bit higher than we find out it is. A lot of things we're finding right now that weren't supposed to be there, but it was already there. We didn't build anything except we want to do the addition because the house is too small for all of us, especially since it is on the

slope so part of the house is actually taken by the slope. I can send the pictures around if anyone is interested.

Chairman: Yes, send the pictures around and let everybody look at it. I've been there (to the property) twice, but I don't know if any others were.

Attorney Mondello: Why don't you hand them (the pictures) to me? I want to number them. So I am in receipt of several photographs and am going to mark them:

Exhibit A-1	Application
Exhibit A-2	Shed (applicant took picture)
Exhibit A-3	Sheds (applicant took picture)
Exhibit A-4	Sheds (applicant took picture)
Exhibit A-5	House (pictured obtained website)
Exhibit A-6	Real Estate Listing (obtained website)

Attorney Mondello: Did you take these pictures?

Ms. Liliana: Yes, I did some of them and some of them were taken from the website with a little research.

Attorney Mondello: Which pictures did you take yourself? Was it the sheds?

Ms. Liliana: Yes, the sheds.

Attorney Mondello: Okay, A-2, A-3, A-4 and A-5. This is your house, right?

Ms. Liliana: Yes.

Attorney Mondello: Were taken by you?

Ms. Liliana: I think house picture was taken from the website when the house was listed because it is pretty original from the beginning.

Attorney Mondello: Let me take a step back, you didn't take any of these pictures? You got them from website?

Ms. Liliana: Those I took.

Attorney Mondello: The pictures of the sheds you took. When did you take them?

Ms. Liliana: Yes, at the very beginning when we were buying the house.

Attorney Mondello: Is that 2 years ago, 5 years ago?

Ms. Liliana: When we brought it in 2019.

Attorney Mondello: Do these pictures accurately depict the conditions today? If I were to go up there, it would like look this, correct?

Applicant: No.

Ms. Liliana: Yes.

Attorney Mondello: Well your husband is saying no, so hold on.

Applicant: The thing is, again, we cannot do any work on the house. We don't know where we stand. I painted the garage. I changed some rotten wood on the bottom.

Chairman: Some basic maintenance.

Attorney Mondello: Other than some maintenance, these accurately depict the conditions today, correct?

Applicant: Yes, the size and nothing was changed.

Vice Chairman: If I could just ask the Applicant, and I am not putting it out there to say that it's something that we want, but are there any of those sheds now that you absolutely could live without?

Applicant: Live without? So I can explain it, so basically because we brought a house and we didn't know.

Attorney Mondello: What he is asking, will you knock some down?

Vice Chairman: Are there any that you can live without, that you would be willing to remove.

Ms. Liliana: One is plastic. We can remove some of them.

Member Willse: When you are all said and done.

Applicant: Let's say the one behind the garage. That small one.

Ms. Liliana: There is a tiny one addition to the garage that we don't need it, but everything else is quite necessary over there because of the area is huge.

Vice Chairman: The one behind the garage you said that you can get rid of. Anything else?

Applicant: Maybe the one by 14.7.

Vice Chairman: That's the one that is in the front yard.

Applicant: Yes.

Ms. Liliana: Let's say across from the garage.

Vice Chairman: Let's say this, and we don't have to go through everyone, is there any other one on the plan that you think you could do away with?

Member Ludwig: Or live without.

Ms. Liliana: No

Applicant: The back one has all the electrical for the pool, so it's doable, but again.

Vice Chairman: That's fine, I'm not saying it is a requirement. I am just asking.

Applicant: Yes, so just those two.

Vice Chairman: So just the one?

Applicant & Ms. Liliana: Yes.

Vice Chairman: Because there are a couple of issues in that they would require for the number of sheds, number one. Number two they may require for the size of the sheds because they are not scaled, but maybe Chris could scale them. I know a couple of them definitely are oversized.

Chairman: And the measurement to the property line. That's a big one.

Vice Chairman: Yes, that's number three. And the other thing, if I didn't say it, but the one is in the front yard, so is the garage for that matter, which is also an accessory structure. By ordinance they cannot be in the front yard.

Attorney Mondello: I think the record should be a bit more clear. What I'm struggling with, because I've never seen a piece of property that had five (5) sheds on it, what are all these sheds for? I understand one has some pool equipment and electrical, okay. But are the other four (4) for storage?

Applicant: Basically, the big one. The back one is just the pool shed, electric. Again, everything is all over the place, so we have the pump, electric stuff in the back. Over here is just garden shed so again we can move it and even with the house, we don't have a basement or stuff like that.

Attorney Mondello: I think what the testimony is, other than the shed that contains the pool equipment, is you need the other four (4) sheds for storage. Would that be accurate?

Ms. Liliana: Yes.

Chairman: And you are in the contracting business?

Applicant: Yes.

Member Covelli: I guess the problem that the Board is struggling with and I'm struggling with the ones that are directly in front of the house and how we would be able, as a Board, to justify giving you permission to do that when no one else in the Borough of Wanaque would even dare come here and ask to approve a shed by the front door of their house.

Ms. Liliana: Because it was already there and someone, who lived here, just put it there.

Member Covelli: No, because now you are here to clean-up this application. We can't answer for what has happened in the past, but for us to now know that there are two (2) sheds in the front yard by the front door and that you are testifying to us that you want them to remain, that is the struggle at least for me. If you are looking an approval of this application, I'm struggling with that. I am just staying. You take that information for what it is worth. I am struggling with that.

Applicant: We are talking about the shed behind the garage?

Member Covelli: Nope

Vice Chairman: We are talking about the one as you face the property that is by the 14.7 offset on the front.

Member Covelli: You have a large piece of property. It is 3/4 of an acre, but to have sheds in the front yard is a major problem because no one in the Borough of Wanaque would ever be permitted. If one exists, they haven't come before this Board.

Ms. Liliana: Could you please tell me what is the risk of having the small shed in front of the house? That's what I'm having a problem because I understand it is bigger than the house and there is no access and you cannot really have the access and that is dangerous but on a property that is huge, I'm wondering how small shed can actually be such an issue because I'm new here.

Vice Chairman: Zoning Ordinances get put into place to protect the aesthetics of the area and also for the surrounding neighbors so that, as people drive up and down the road, they say this is a very nice neighborhood. It has curb appeal, whatever. When you start allowing things like sheds, pools, stuff like that, in the front yards, that's a slippery slope. It becomes a little bit intrusive to neighbors or other people that live in the area. I'm just saying that's why rules are put into place. It has nothing to do with safety or anything like that, just has to do with aesthetics and things that make the property more attractive, make them valuable.

Member Covelli: And structures in the front yard, remember that a variance is you are coming before us and Wanaque has an ordinance, a local law, that says there will be no structures in the front yard, there'll be no properties closer than a certain amount of feet. And you are saying to us, based on my situation, I should be granted a permanent exemption, variance, from that law.

Ms. Liliana: Just out of curiosity when there is a huge space and a tiny shed, I see bigger picture of the big space than just shed. If the shed was bigger and it was taking part of the view, I would agree completely. I'm just asking and this is my first time.

Member Covelli: I understand that is why we want to explain it to that we are not trying to be obstinate. What we are trying to explain to you is there are things that we make a lot of accommodations for. We might even, given the neighborhood you are in, I'm saying this as an example, not to say what we are doing, but we might say you have four (4) sheds and you have a legitimate need for four (4) sheds, and it is a big piece of property and they were existing, we might say, for example, okay, that one we will give you, but there are venial sins and there are mortal sins; front yard, in front of your front house, like it is. So front yard can include any part of the property in front of the structure. In this case, it is not only in the front yard, it is in front of the building, the house. It is all about the house, right? That's the main structure we are talking about.

Attorney Mondello: Could they move them to the back?

Member Covelli: I am trying to say, can we work with, and I've already laid out some thoughts. Perhaps they can be moved, not just removed, but moved.

Member Ludwig: The shed by the concrete, does that have a cement floor or it is just a wooden shed?

Applicant: There is a cement floor. The thing is also because during construction, I have a construction business, and right now I am renting two storage units and I would like to put my stuff in there.

Member Ludwig: Is there a chance that you can take that shed, jack it up and take it to the back right where it says Lot 7.

Chairman: He can't get it in between the house and the pool.

Attorney Mondello: Can I just clarify the record. I do believe that the Applicant just testified that you want to put your construction business stuff in those sheds. That is something completely different.

Vice Chairman: No, but you were saying during construction, right?

Attorney Mondello: Forever.

Applicant: For construction business.

Chairman: He is a contractor.

Vice Chairman: No, no, they could not go in the front yard.

Applicant: Like my equipment, saw, chainsaw.

Vice Chairman: So you are saying that you want to put a storage unit in the front of your yard to keep your tools.

Applicant: No, I want to use one of the sheds that is there. Again, if we are talking about the front, that is our garden stuff and our stuff, but we could move it.

Member Ludwig: Move it to the back of the house then.

Applicant: Like the shed behind the garage, I can take it out. It is just a metal structure and I can move it. Over here, the thing that we trying to do the house, so even to remove it, it is going to cost a lot of money as of right now.

Member Ludwig: If you are putting concrete down for your addition, it wouldn't be that much to pour a slab to move the one that is by the street to the back of the house.

Vice Chairman: Could it go by the play structure?

Ms. Liliana: We cannot put it in the back of the house.

Applicant: You see between the house and the pool, we have an existing pool to remain and other than the steps, everything is so steep.

Vice Chairman: What about next to the play structure?

Applicant: It's a little space.

Chairman: And, even there, the property is going up.

Member Covelli: How about on the other side of the garage?

Applicant: You have trees over there.

Ms. Liliana: There are trees and the septic.

Member Sbarra: Just for point of clarity and to make sure we are all on the same page about which shed is which. Not putting words into your mouth, your testimony is basically that you can remove the shed behind the garage. Am I clear on this?

Applicants: Yes.

Member Sbarra: How about the shed, I'm talking about you got Snake Den Road and also the right of way, basically on the corner of Snake Den Road and the right of way?

Applicant: 14.7

Member Sbarra: Yes, the one that is 14.7. Can someone clarify for me what we are trying to do with that shed in particular.

Vice Chairman: We are talking about if it is possible to move that shed.

Member Sbarra: That's the one we are talking about moving, right? I also heard fellow colleagues on the Board as well speak about the one that is next to the right of way next to the concrete pad. So now we are talking about three (3) sheds?

Vice Chairman: It is too close to the property line and we can grant a relief for that.

Member Willse: Can I suggest something? Could we put a number on each one of these sheds? So let's do this, the shed behind the garage is #1. The shed also in the front yard on the right-hand side from the street looking in near 14.7 is #2. Continue up that property line, the shed on the right-hand side of the house in front of the concrete slab is #3. Following the property line up and around the back, the small shed in the back behind the pool is #4. Let's call the last one, the big one in the back behind the pool is #5. So now we all know what one we are talking about it.

Member Covelli: Shed #3 seems to be the problem.

Vice Chairman: No, #2 is the problem.

Member Willse: #2 is in front of the house.

Member Covelli: That is way off the way the property is situated.

Member Sbarra: To me we have some clarity on shed #1, right?

Member Willse: You already said that one is coming down.

Applicant: Yes.

Member Sbarra: Shed #5 you said you had your pool equipment in and you are asking to keep that, correct?

Applicant: Yes.

Member Sbarra: Shed #4, pool stuff. You are proposing to keep that as well.

Applicant: Yes.

Member Sbarra: I think the problem that we have going forward on right now is we are trying to figure out what we are doing with shed #2 and shed #3.

Applicant: Okay.

Member Sbarra: Shed #2, being in the front yard, I think other colleagues of mine have expressed their views that this is something typically in the Borough that we do not like to see and typically no one in the Borough has a shed in the front yard. Is shed #2 something that you guys feel that you could do without?

Applicant: If that is necessary.

Member Sbarra: I'm sorry, or move it.

Ms. Liliana: Where do we move it? The property is so tricky because it goes up to the hill. But if you guys want it, we agree to remove it; the #2. If this is something that in line with the law and it looks wrong.

Member Ludwig: It will also make your house way more attractive.

Member Covelli: Is #2 the one with the slab or #3?

Applicant: #3.

Member Covelli: #3 has the concrete slab under it and #2 has a wooden floor?

Applicant: Yes.

Member Covelli: And it is movable?

Applicant: Yes.

Vice Chairman: Why don't we leave it at this, and I don't want to put words in your mouth, but if I'm hearing what I'm hearing, it seems as if you are amendable to either move it or remove it. Is that correct?

Applicant: #2?

Vice Chairman: Yes.

Applicant: Yes.

Vice Chairman: So you are amendable to either move it to a location not in the front yard or remove it completely?

Applicant: Yes.

Vice Chairman: Okay, we settled that.

Chairman: What is sitting on that concrete pad next to shed #3?

Applicant: It was like metal construction with some tarp on it. We removed it and now it is just an open slab.

Member Ludwig: That was another shed?

Applicant: Yes, we removed it.

Member Covelli: No, it was a temporary structure on a slab.

Chairman: Why can't you put shed #2 on that concrete slab?

Applicant: I was trying to reserve the spot for a pool table.

Chairman: If you move shed #2 onto that concrete slab, it could become the right distance from fence. The only problem with that cement slab is that it runs off your property. Take one of your good saws, cut the corner back onto your property and everybody is happy.

Applicant: No problem.

Member Willse: How far back from the property line does he need to cut that?

Chairman: It goes into where it says "overhead wires".

Member Aumenta: But wouldn't you want it 5' off the property.

Vice Chairman: You can pave right up to the property line so cut it to there.

Applicant: It'll be done.

Chairman: The right of way is actually a street that services houses down the road.

Vice Chairman: Just a thought, if you didn't want to remove it, maybe you can drag #2 into the right of way and bring it up and put it on that concrete slab. That is your choice; either remove it or move it.

Attorney Mondello: What are you going to do with shed #2?

Applicant: #2, because of its condition, as of right now we are going to remove it.

Applicant: Sheds #1 and #2 we remove.

Chairman: What is the feeling Board Members on shed #3?

Vice Chairman: Shed #3, I think we need to give them two (2) variances. One is going to be for, maybe Chris can scale it, for the size because it is over 10x10, maybe the height, and it is closer to 5' to the property line. The same for #4. I'm not sure that is over 10x10.

Chairman: I think that's probably 10x10. It is really close to the property line, maybe it is 5' but maybe it isn't.

Vice Chairman: #5 is definitely over 10x10. If Chris could scale those real quick. While you are at it Chris, if you could scale how close the garage is to the front yard.

Member Willse: I'm going to guess shed #3, looking at the picture, if it's not 20' tall at the peak, it's 19'.

Engineer Nash: Shed #3 is 12x24. Shed #5 is 16x15.

Vice Chairman: Could you give us the distance from the property line on #5, #4 and #3.

Engineer Nash: Shed #5 is about 3'.

Vice Chairman: That's going to require a 2' variance. How about #4?

Engineer Nash: Shed #4 is scaling about 2', maybe a little less.

Vice Chairman: That's going to require 3'. How about #3?

Engineer Nash: Shed #3 is about 2'.

Vice Chairman: That's going to require 3'. How about the garage from the front property?

Engineer Nash: From the front property line it's 17'.

Vice Chairman: What is the front yard setback?

Attorney Mondello: There is none in this zone.

Chairman: There no requirements as zoned.

Vice Chairman: You've got the size of the shed and the offset on #3. You've got the offset on #4. You've got the size and the offset on #5. What did we come up with the height on #3?

Member Willse: Looking at the picture it's going to be at least 16' tall.

Chairman: At least; it has a good peak to it.

Vice Chairman: What is permitted for the shed on height, Jack?

Chairman: A normal shed is 10'. There are two descriptions in our Ordinance Book. One is 10x10x10 and there is another one that is 12x10x10 in different zones.

Member Willse: 10' to the ridge or 10' to the mean?

Chairman: Flat roof 10' high period. Most of your sheds at 8' to 10'.

Engineer Nash: It does say, "shall be permitted only in the rear yard".

Vice Chairman: So #3 would be a variance to be allowed in the side yard then too, Chris, you're saying?

Engineer Nash: Yes. It also has to be 10' from the house.

Attorney Mondello: Not in excess of 100 square feet and 10' or less in height. Only permitted in the rear and not closer than 10' to any principal building.

Chairman: What's that distance Chris?

Engineer Nash: 12'

Attorney Mondello: And no closer than 5' to any side or rear yard.

Vice Chairman: So we have addressed the sheds.

Member Covelli: We've addressed that we need an awful lot of variances to approve three (3) sheds. That is what is on the table. So when you say we've addressed it, that's what we've identified. I guess I could live with all that. I have a problem with that slab.

Chairman: You mean the concrete slab.

Member Covelli: And it's a lot more than just cutting it off because that slab is going to become a building.

Engineer Nash: This slab is a definition of a patio, which is permitted.

Member Covelli: Is that what it is?

Chairman: In this zone we've got no definitions of anything.

Engineer Nash: In the code, it meets the definition of a patio. If they wrote the word patio on there, we wouldn't even be talking about it.

Member Covelli: Except it was used as a structure.

Vice Chairman: A temporary structure on it.

Member Covelli: Is it your testimony that the concrete slab is going to remain a slab and there will be no structure?

Ms. Liliana: 100%

Applicant: I promise. I was looking to put a pool table over there, but again, no structure will be built over there. That's my testimony.

Member Covelli: If it stays a patio?

Applicant: It will, yes.

Engineer Nash: When you say pool table, do you mean a swimming pool?

Applicant: No, a billiard table.

Member Covelli: I didn't know you could put it outside. Don't they get water logged?

Applicant: You have like covers for the tables.

Member Willse: Gas grill with billiards.

Member Ludwig: No structures?

Applicant: No structure.

Chairman: Are we done with the outside property?

Member Willse: The septic system, and you gave us a report this evening on the septic system, but it is still rated as 3 bedroom which you want to do is go to a 4 bedroom.

Applicant: No.

Ms. Liliana: No, 3 bedrooms.

Member Willse: The IRC, the Residential Code, any room with a closet in it is classified as a bedroom. You can call it a study, but it has a closet in it.

Ms. Liliana: The Architect did it wrong and I brought additional document with the new change that Jennifer just gave everyone.

Board Secretary: It is the little ones.

Ms. Liliana: So the change is that there is no closet. The new paper says it.

Member Willse: Okay, you took the closet out of the downstairs left room.

Chairman: Do you have city water or well water?

Applicant: Well.

Chairman: Where is the well?

Vice Chairman: It's on the plans.

Member Willse: Immediately to the left of the house about 1/2 down. Look on the site plan near the play structure.

Chairman: The well is against the house basically.

Applicant: Yes.

Chairman: There is some footage requirements from your septic to the well. I don't know if that was covered in this.

Vice Chairman: That would be part of the approval of the Board of Health.

Member Willse: But they will be using the existing septic system.

Applicant: That was then and it was over 50'.

Member Willse: Where is the leach field compared to the septic cover? I'm looking at the site plan and it shows septic cover and that's great, but where is the pipe field to the leach out?

Ms. Liliana: There is a picture attached to that.

Member Aumenta: It's got a picture of the septic tank location.

Member Willse: Everybody keeps noting the septic cover, but not where the pipes are.

Member Covelli: Folks, how old is this house? Does anyone know how old this house is?

Chairman: Here is an interesting thing. The tank is plastic, so it is not that old.

Vice Chairman: Probably when they went to sell it, they probably had to put a new septic in.

Member Covelli: Do you happen to know if they put a new septic in when you brought the house?

Applicant: No

Member Covelli: No, because you brought it "as is".

Ms. Liliana: We brought "as is" and we did have a physical person. We brought this from the bank and dealt with on-line people.

Member Covelli: By the way Jack, you can buy them plastic tanks and dig a hole in your yard and dump it in and call it what you will.

Chairman: I know. I'm just saying it's plastic it's not something we've seen over the years.

Member Covelli: No, but I think Eric's question is not the tank, it's what happens to it after the tank.

Member Willse: The problem is you got the tank, which holds, and then it goes out to the leach field which is the pvc pipes which then the liquid then goes into the ground. There's a specific minimum distances between the closest point of those pipes to the well point, and that is 50'.

Applicant: Yes.

Member Willse: You can be closer but then you've got to sleeve it. Looking at the tree coverage on there, I wonder how efficient the leach field really is compared all the trees.

Attorney Mondello: Before we go any further, so it is an interesting discussion, it is not within the jurisdiction of this Board. There is a Department of Health, there is a Building Department that will make sure that septic systems are working and that there aren't an improper number of bedrooms, etc. I just simply lay that out to the Board.

Chairman: It's more to say is that system affecting your well.

Applicant: No, because some of the things had to be checked when we were buying the house and the septic was checked and I know about the 50' distance so that was covered.

Chairman: So somebody inspected it.

Applicant: Yes and we got the paper for the inspection.

Member Ludwig: It says, "The three lateral trenches were probed from the surface and found to be clean and dry with no signs of bio-mat build up or sludge."

Vice Chairman: We've had this whole discussion once before up in the bird sanctuary and, again, it is not issue, it's the Board of Health.

Attorney Mondello: You guys are here to determine do the positives outweigh the negatives of this variance.

Chairman: Let's move on to the main house. You have supplied us with architectural drawings of what you intend to do to this structure is the front and back. A new deck and new addition. What questions Members do we have on that? We've got drawings on what they propose to do as they rebuild this house.

Attorney Mondello: And just to put on the record, Mr. Nash and I cannot find a requirement, or a restriction, that you only have one (1) shed. We cannot find that and I'm not sure where that came about.

Vice Chairman: I know. That has been debated on this Board.

Attorney Mondello: It is not in the Code.

Vice Chairman: Jack said he thought he found it in the high density.

Chairman: These things are terrible; our ordinances are awful.

Attorney Mondello: Chris and I have it electronically and I went through the book.

Vice Chairman: So we are not going to address the number. We are just going to address the size and the offset.

Chairman: It doesn't say one, two or ten. It says permitted code 10x10 and 10' height. That's all it says; it doesn't say a number. This Board and Planning Board, everything that has been approved over the years, and I would say half the sheds in town were never approved. Half of them are in the wrong place, too close to the property lines, too close to the house. A common problem in the Borough of Wanaque.

Member Willse: We've had one where it was half on the neighbor's property.

Chairman: Oh yeah, that's happened.

Engineer Nash: Most of the time it would be mentioned in the ordinance.

Chairman: Our ordinances, and we have a gentlemen here that is stuck dealing with them, are very inadequate and I'm after a Councilman to straighten out the ordinances. They leave a lot of blank spaces so the Boards get stuck in positions where we have to pick which road to go down. You have a larger piece of property so we can say okay you can keep a couple of sheds, we'll give you variance for the footage requirements, but when we get into some of the smaller pieces of property, one shed is about all it can handle. That's why we deal basically with one shed. If you want to spend hours going through that ordinance book, which is pathetic, and the Mayor & Council refuses to fix it and Ed, I don't care, you know my feelings. In fact you can help us, we need help with the Mayor & Council to straighten it out. You are a prime example of what happens with some of these properties that are off the beaten path, nobody ever gets to see them, but when they see them it's how did they get away with that. We have no power to stop you at a point, except it can't be in the front yard. In your situation, there is no other guidelines to follow. Your house could be on the property line and, according to the code, there is nothing to stop you from doing it. That's what is very interesting with this zone. What we are trying to do is make your, we'll say, safe. It's not to punish you, not to drive you crazy, but just to clean it up a little bit. I'm sure some day you want to fix that front yard, put some grass in, put some other parking spaces in and it takes time and money. You just brought it, you are here a couple of years, you are trying to grow into it, and fix it up so it suits your lifestyle. We are trying to work with you and I think we've got the sheds straighten out; now let's take the drawings of your house, construction and demolition, additions and explain to us what that is.

Attorney Mondello: So to the Chairman's question.

Applicant: So, for the main house, basically we would like to do the addition/extension in the front.

Chairman: Basically from where it was started or are you going to enlarge that? You are going to make it bigger?

Applicant: Yes.

Member Willse: The footprint is bigger.

Chairman: What we see now is that somebody started but never finished, you are going to move forward from there a little bit.

Applicant: Where the old framing is, that is the line of the house. We not going further.

Member Aumenta: Are you making the basement bigger?

Applicant: We don't have a basement. The basement is like the first floor making bigger.

Member Aumenta: Are you going to have to dig any further down underneath at all? Or are you going to put it on the slab?

Applicant: No, we are just extending the front. Nothing on the side; nothing in the back. We are leaving the foundation and framing as is.

Chairman: Drawing #DM-100 that's the ground floor, but you are calling it the basement, demolition plan and the first floor demolition plan.

Applicant: Yes.

Chairman: That explains that. You are showing to remove the existing deck. So that shows what you are removing from what is there now.

Applicant: Yes.

Member Willse: You're talking about the rear of the structure.

Chairman: The deck in the rear.

Chairman: The next drawing which is A-100. Number 1 is the ground floor (basement) construction plan. Is there actually a basement in that house?

Applicant: No. It is just named basement. So its 1st Floor, 2nd Floor.

Chairman: It shouldn't say basement, it should 1st Floor and the 1st Floor construction should say 2nd Floor.

Applicant: Yes.

Chairman: The architect screwed up.

Member Aumenta: I think it might be because of the slope. That might be why he did it that way because it is kind of below grade.

Chairman: Okay, so this is what you proposed to do. You have a media room. What is a media room?

Applicant: Room with a couch, tv.

Chairman: It is a basic tv, living room where you are all going to hang out there.

Applicant: Yes, family room.

Chairman: Then you have a bathroom in there and you've got a bedroom and office.

Applicant: Yes.

Chairman: Both of them have closets.

Member Willse: No, the revision shows no closet in office.

Applicant: The new/revised set of drawings. Again, the architect didn't know that putting the closet in the office that can make it bedroom.

Vice Chairman: Are you keeping this two bedrooms?

Applicant: The house? Three (3) bedrooms.

Vice Chairman: Where is the third bedroom?

Applicant: Upstairs.

Member Willse: Upstairs, unfortunately it is called a study.

Vice Chairman: I see a dining room, a living room, a kitchen, a study and a master bedroom. The study is going to be the third bedroom.

Applicant: The study is a bedroom.

Vice Chairman: That's where I was confused.

Chairman: The study also has a closet so that's going to be the other bedroom. So you have three (3) bedrooms and an office. The office is for your business?

Applicant: For my wife's business.

Chairman: Okay. You have a powder room, walk-in closet then a master bath. Is any of this handicapped accessible? Instead of a bathroom door that is 20/24" should be at least 30".

Applicant: Is that a requirement?

Chairman: No, I'm just asking you.

Applicant: No.

Chairman: In other words, if I came and I'm in wheelchair, I'm locked out of everything.

Member Willse: There is no elevator to the second floor.

Member Aumenta: We would have to carry you.

Chairman: That's true. Good point. Then you have a kitchen, dining room, living room and I guess where the powder room is that is part of the kitchen area or whatever.

Applicant: Yes.

Chairman: That dotted line dividing the dining room and the kitchen, that's not a wall, is it?

Applicant: Dining room and kitchen, no. It's sliding doors and two glass panels on the side.

Member Willse: The dotted line that goes from the front of the house to the back of the house that's the ridge. It is a cathedral ceiling. It is going to be an exposed ridge.

Member Covelli: You are going to say something in about a minute that we are going too far, right? I'm looking at the attorney.

Attorney Mondello: It's the Chairman and I don't want to ever cut him off.

Chairman: You are putting a wood burning stove in the living room?

Applicant: Yes.

Member Willse: It looks like the fireplace is remaining. He is just putting an insert into it.

Chairman: On Drawing A-200 is the whole exterior.

Member Willse: It is not a purview, but I would like to point out something. You are in the business and you've probably seen it already, but why would you want a 6x6 window in your master shower?

Applicant: I don't, but wife does.

Member Willse: I know you are in the woods, but still.

Ms. Liliana: The older you get, the more light you need.

Vice Chairman: Chris, would you consider the garage an accessory structure?

Engineer Nash: Yes, it is.

Vice Chairman: So technically we would have to give a variance for that being in the front yard?

Chairman: Yes, instead of it being 70' back, it's 17'.

Vice Chairman: No, it could be in the side yard and still not meet the 70' requirement, but this is in the front yard.

Member Willse: But that is where you expect to have a garage.

Vice Chairman: Typically, the garage is located either attached to the structure or next to the structure. I am just asking a question. Is that considered along the lines of a shed and accessory structure that it cannot be in the front yard?

Chairman: That brings up an interesting point also.

Member Ludwig: That is an existing building.

Vice Chairman: It doesn't matter.

Chairman: Parking spaces.

Vice Chairman: I don't see where that is an issue.

Attorney Mondello: The only thing it says Mr. Chairman is garages as an accessory uses in a private garage accessory to a dwelling in any district, the number of car spaces, which may be provided, shall not exceed 3 except for that for each 1/5 of an acre that the lot exceeds one acre, etc. you are allowed another motor vehicle. It doesn't talk about distances.

Chairman: In an R-10 it does. I know it does because we've been down that road numerous times. All I am saying is we didn't talk about two (2) car parking spaces, which are required in a one-family dwelling. Because there are no requirements in this zone, I don't know how we apply that, but we should really talk about that.

Member Willse: 17' - So you have one in front and you have one in; the same as Carter Road, that never worked out. When you are looking at the site it is showing a macadam pad that goes in front of the garage and to the right of the garage up to the stone walkway, so you got the off street parking there. The parking area is already there as macadam, so it is existing.

Chairman: That's the drive coming into the garage.

Member Willse: And to the side of the garage and it goes past the front edge of the garage.

Chairman: To the right of the garage, there is a tree. So you can't do too much next to the macadam is a tree. The only thing that is paved is the front of the garage.

Member Willse: Chris, can you scale what the macadam to the street.

Chairman: 17' is what he said before.

Member Willse: No, that's from the corner of the structure to the curb line. What's the curb cut dimension?

Engineer Nash: At what point?

Member Willse: See where it is showing the macadam.

Engineer Nash: 16'

Member Willse: It is 16' wide.

Chairman: All right, it is good then.

Member Willse: That takes care of the parking issue.

Vice Chairman: We've come to the conclusion that the garage apparently is permitted in the front yard.

Attorney Mondello: Yes, there is nothing that indicates that it is not permitted in an R-10 District or zone, as the Chairman mentioned. There are no requirements in this particular zone.

Chairman: Somewhere, we've done this a few times, 70' off the roadway.

Board Secretary: That is on the bottom of the Zoning Table/Bulk Schedule.

Attorney Mondello: Accessory buildings in all R Districts shall not be closer than 10' to any principal building, 70' to any front line, (But that is in all R Districts), 15' to any side and in the case of a corner lot, and 5' to any side.

Vice Chairman: So that doesn't apply.

Attorney Mondello: No, but it does say a building height of a private garage shall not exceed 15'.

Chairman: The house itself, are there any other questions about this dwelling? Nothing? Okay, what's the Board's pleasure on this?

Attorney Mondello: I just note that there isn't anyone in the public to either ask questions or comment.

Member Covelli: Actually there is. We have two people.

Chairman: Yes we do. The Zoning Officer & Councilman Leonard are here.

Attorney Mondello: Well Folks that have an interest in this application I would say. Although I am not the Borough Attorney, I would advise Mr. Leonard never to speak on an application as he is a Council Member.

Chairman: Okay, do we have a Motion on this Application?

Vice Chairman: I'll make a Motion to Approve an expansion of an existing non-conforming use in the WRC Zone with the following bulk variances: (1) Shed #3 on the side yard (identified for the purposes of this Motion) is 12x24, which is 288 square feet, where 100 square feet is allowed for a variance of 188 square feet; 18' height where 10' is allowed for a height variance of 8'; and a 3' variance offset is required where 2' is existing and 5' is required. (2) Shed #4 (identified for purposes of this Motion) is going to be an offset variance only where 2' exists and 5' is required for a 3' variance. (3) Shed #5 (identified for the purposes of this Motion) where 100 square feet is required and 240 square feet is existing for a 140 square foot variance; and 3' exists off the property now, where 5' is required and a 2' variance is proposed.

Member Covelli: Before we second that, would you also include in that the concrete slab that exists on the plan will remain a patio and will serve as a patio as per testimony.

Vice Chairman: And as per testimony Shed #1 and Shed #2 will be removed.

Member Covelli: And by the way I would second that Motion.

Member Aumenta: What about the concrete slab that is over the property line?

Applicant: I'm going to cut it.

Member Covelli: It is amended to include that as well.

Ed Leonard: 21 Morningside Place, Wanaque

Councilman Leonard: My understanding is you are allowed 200 square feet.

Vice Chairman: 10x10

Councilman Leonard: 10x20

Attorney Mondello: It's not what the ordinance says.

Board Secretary: It's the state ordinance, which supersedes ours, but ours weren't changed.

Councilman Leonard: Okay, because I got a permit for a 10x20 shed.

Chairman: That is somewhere in the code. Thank You

Engineer Nash: Do you want to sneak in a condition to have one of these applications to be a board member?

Member Covelli: I don't believe we could do that.

Vice Chairman: We haven't had a board member from out that area.

Member Aumenta: We will wrangle you in.

Attorney Mondello: You have the background.

Engineer Nash: The Motion, because of the areas that were given, if it is 10x20

Vice Chairman: She actually said our ordinance has not been changed yet, so we can only go by our ordinance.

Chairman: Somewhere in our ordinance, it talks about a 10x20, but it doesn't identify where it should be.

Attorney Mondello: I didn't see a 10x20, only a 10x10. I'm perplexed as to how does the State tell a town what size their sheds should be. I understand that, but there are many things I don't understand.

Member Covelli: But if we made the variance such the way we've done it, we have covered them, because we used the lower standard and gave them right up to what is there.

Chairman: We made it safe.

MOTION TO APPROVE APPLICATION ZBA2022-11: made by Vice Chairman Grygus, seconded by Member Covelli. Voting yes were Members Dunning, Vice Chairman Grygus, Members Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch Motion Carried

Vice Chairman: So sheds that are storage structures not in excess of 100 square feet, and then the 10' and 10'.

Member Covelli: As opposed to whether shed?

Vice Chairman: Garden type utility sheds, which are greater than 100 square feet, but not more than 200 square feet, shall be permitted only in the rear yard and no closer 10'.

Member Covelli: So is it your testimony before this Board Mr. Leonard that your shed is for garden purposes?

Councilman Leonard: The only reason why I brought it up was maybe the variance should be 88' and not 188'.

Vice Chairman: There is proof of another ordinance that needs to be addressed. What is the difference between a storage structure and a garden type utility shed? Is a storage structure?

Attorney Mondello: We have to assume they are not all garden type shed so give them the variances.

Vice Chairman: You have been approved.

Board recessed at 9:22pm and reconvened at 9:32pm with all Members present.

PUBLIC DISCUSSION: Let the record show there was no one to come forward.

RESOLUTION: None

CORRESPONDENCE: Attorney Barbarula has requested that this matter be carried to the March 1, 2023 meeting with re-noticing the property owners. He also extended the time within the Board may rule on Application ZBA2022-10 until April 30, 2023. Attorney Mondello stated we will obviously revisit it in March and see where they are going. If we don't hear anything, I'll ask the Board to make a motion to dismiss without prejudice, but we'll play that by ear.

VOUCHERS: submitted by Ronald Mondello, Esq. for attendance at the February 1, 2023 Meeting in the amount of \$500.

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

VOUCHERS: submitted by Boswell Engineering for the Lebiedzinski Application in the amount of \$424.

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

MOTION TO APPROVE DECEMBER 7, 2022 MINUTES: made by Member Ludwig, seconded by Member Willse. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Willse, Ludwig, Aumenta, Sbarra and Lynch

ENGINEER'S REPORT: Scenic Landscaping Updated

(Board Secretary passed out Engineer Nash's letter dated January 31, 2023)

Engineer Nash: I got a call last week from a property owner adjacent to Scenic Landscaping. In their application, Scenic brought the vacant and they were going to cut some gravel roads in, take

some trees down and use for plants storage. Looking at the approved plan, based on what I heard in the meeting, it looks like they have done more than what was approved. The gravel roads were maybe 12' wide on the plan just enough for a one way truck. Now they are like 18' wide maybe, which is a lot bigger. They also cut things down so it is not as undulating.

Member Covelli: Chris, who is monitoring this?

Engineer Nash: No one. They didn't need to take out a building permit. I talked to Mike Hafner and he said we don't have anything so there's no building department. Did they need a permit from the town?

Member Covelli: Mr. Mondello, this is an interesting question. So someone comes to use for a variance and, in this case, there is no structure, there is a well but they had to go to the State for that, wouldn't there be some kind of oversight on the Borough's part to make sure someone is in compliance or is the final say when either a complaint is made or when he has to sign off on the as built.

Attorney Mondello: What really should happen and it is difficult and not every town can keep up with it but there is reason that we put in the Resolutions that it should go to the Tax Assessor, the Construction Code Official so that these people are on alert to go to check it out and see that they are doing exactly what it is in the Resolution. My advice would be either Jenn or myself speak to Mike, go out there and start saying you have to do this, this and this otherwise I am going to start charging you \$2,000 a day if you don't.

Member Covelli: I guess the frustrating part that we sit here as a Board, spend hours going through. I know we are not an investigative or an enforcery regulatory board. However, the municipality has a mechanism and it seems to be common, and not just in this municipality, is that the town has to wake up. The Construction Department knows the Board sat here for hours and hours and approved and someone has to ask, what is the oversight authority of the municipality when a land use board takes action. It is frustrating that we hear these things. We can all talk about we have vivid memory of someone else that came before this Board after a 15 year hiatus when we laid everything out in the Resolution and that applicant said who cares what that says, I'll do what I want. We got a little frustrated because why do we sit here; it isn't for the money or the glory. If we are doing this work and nobody in the municipality is going to pay attention to what we are doing. By the way I can think of another one down the street on Ringwood Avenue that we had a Construction Official that gave the store away, including a c.o. He is not here anymore let's be clear so that we're not indicting anyone that works for the town as we speak. But what does the Board do if the staff is not going to pay any attention to us.

Vice Chairman: We've had this as simple as, I can think of one now that is behind D'Agostino's where part of the application they were supposed to pave the driveway and they didn't and it is still gravel. Again, to Frank's point, and I know my brother-in-law is Chairman of the Joint Board in Butler, and their Construction Code Official whatever is in that final document you are going to comply or you are going to get fined. They don't mess around.

Member Aumenta: It puts us in a precarious position, right. We're here trying to say we are going to do the best for community and you heard them all here and how very upset they were. They knew what this person had done on the other street. Under due diligence we thought we took control of that and everything was going to be fine and it's not. I happen to know some of them and they constantly, and I just keep sending them back to the town.

Member Lynch: We look like jerks.

Chairman: You know what the word is: We live in Wanaque.

Member Covelli: I think it's unfortunate but Ron would tell you there is a disconnect. I don't know what it is and I don't want to conjecture what it is. I think it is sometimes a lack of knowledge, understanding or even respect for the land use boards that we are volunteers and not paid staff. Not a board, that quite frankly, the only one that can invalidate what we do is a court.

Attorney Mondello: One of the problems might be, and I'm just guessing, perhaps understaffing. So when we have big applications like that we could require a bigger escrow and put (Engineer Nash) and make sure he goes out there.

Vice Chairman: But that's the problem because he still can't issue the fines. The reluctance is, in my opinion, Mayor & Council don't want the Building Department to issue fines. In a nut shell, I think that's what it is.

Member Covelli: I think there might be people that disagree with that. But with the said, maybe the lesson learned here is this one is a little bit of an oddball in that there was no structure, there was no trigger for there to be a formal involvement of the Construction Department, the Health Department and maybe we have to be a little bit more savvy and what Ron, maybe what we have to say progress reports have to be given to the Engineer or the Engineer has to have a periodic review. This is an oddball so we're not thinking that way.

Engineer Nash: I'm not crazy when I say that they were supposed to basically maintain the existing grounds.

Member Aumenta: No you are not. That's right.

Engineer Nash: Actually the roads were supposed to move

Vice Chairman: They were going around trees.

Member Aumenta: Go around the land as it stood. Minimal disturbance.

Engineer Nash: And take vegetation out so they could put theirs in.

Vice Chairman: Right.

Engineer Nash: They brought in truckloads of broken stone, 6" to 12" angular pieces of stone that are underneath the gravel road.

Chairman: They leveled it out.

Engineer Nash: So when you on the site now, it's not that it's level, but the trucks aren't going up and down anymore. They are going over a rise and then smooth.

Chairman: If they made it wider, they can bring in bigger trucks.

Engineer Nash: I thought they were bringing in mostly forklifts. They're driving the tandems in there.

Member Ludwig: They were supposed to unload in the main area.

Member Lynch: Two people have reached out to me about that.

Member Covelli: They do not have authority for an 18' path. I think we were clear.

Vice Chairman: He testified that.

Member Covelli: I guess somebody has to remove 6' of roadway.

Chairman: Small trucks.

Vice Chairman: Forklifts and maybe a small truck.

Member Lynch: Pick-up trucks.

Vice Chairman: But mainly the loading and unloading was going to take place on Argyle.

Engineer Nash: I invite anyone to go out there and look at and see if you agree with me.

Chairman: They agreed to the approval; that's it.

Engineer Nash: I don't know how you undo what they did.

Member Ludwig: What recourse do we have?

Member Lynch: What do we do now?

Attorney Mondello: The Construction Code Official can cease and desist and tell them to fix things. If they don't fine them up to \$2,000 a day.

Vice Chairman: And they would have to remove any that substructure that they put in.

Member Covelli: I don't know how they can't fix it.

Member Sbarra: Did they do what they were supposed to do on, how the one side butts up to the back end of the bunch of properties, they were supposed to put up some fencing and some plantings in.

Member Aumenta: They did.

Member Sbarra: Did they do that?

Engineer Nash: There is a fence around the whole thing.

Member Aumenta: The homeowners had to go and push them because they weren't and then went to them said, you said you were going to do this. They were asking me and I said call Jenn she'll give you a copy of whatever that is on record because they were pushing for it.

Engineer Nash: They put the fence in because that secures their property.

Member Aumenta: The guys that were working there like what do you mean we're supposed to plant, what do you mean and how do we do that with the fence here and they were like you better put a gate in because that's what you are supposed to be doing. They made a big enough stink that they tracked down the owner and said you said you were going to do this so then they finally did that but they are not holding.

Engineer Nash: They haven't planted anything yet and they haven't built the berm yet. That's one of the problems. They sent a picture that they started putting in berms on that north end, where it butts up against those couple of homes, because they disturbed the site now there is more water coming.

Member Aumenta: And they're getting it in their basements.

Attorney Mondello: The neighbors are getting flooding so expect a lawsuit.

Member Sbarra: In saying that, they were supposed to have some greenery kind of planted along that path on both sides to alleviate that.

Engineer Nash: You would do that last. They haven't gotten that far.

Chairman: What we should so is go to the next Mayor & Council meeting and raise hell.

Member Covelli: Was this letter provided to the applicant?

Engineer Nash: Yes. He called me already.

Member Aumenta: I told Ron because I am friends with one of the residents over there. I worked with her for years and so the last day and half she has been texting and I haven't answered because I wanted to talk to Ron because she is stating that they may end up of suing the town and suing Scenic.

Engineer Nash: When I walked in the back of the one property and, if you recall, the property is basically like a rectangular, but at the top of it there was a cut out, so that guy, there was water coming off one of the corners. You could see it wasn't like that before. You can tell that there was a new little meandering swell.

Vice Chairman: It really doesn't indict this Board because once we approve it the way we did with the conditions that we did, it is not this Board's responsibility to oversee compliance.

Member Aumenta: It is just that the community members are looking to someone to hold them accountable. That's where the problem is.

Vice Chairman: It is very simple. There seems to be some discrepancies between what was approved and what they did and that is an enforcement issue with the Borough.

Attorney Mondello: It is unfortunate that the statute doesn't permit us hauling them back in front of us and revoking the relief that you granted.

Member Covelli: They would be a lot of people with problems if we did that.

Vice Chairman: And make them return it to the way it was before.

Member Covelli: What is the remedy in this case?

Attorney Mondello: The Building Department has to issue cease and desist and return it back to the way it was supposed according to the Resolution.

Member Covelli: Is that the Construction Official or Zoning Officer? I don't think it is the Construction Official because there is no construction.

Attorney Mondello: Code Enforcement and they have to give them a period of time.

Member Covelli: So the nice man that just shook my hand is the guy that should be out there saying I got a copy of the Resolution and what I'm reading is not what I am looking at over here and by the way the Engineer for the Board agrees with me.

Vice Chairman: All he has to do is give him a copy of this letter.

Member Lynch: He already has a copy of it.

Member Covelli: We gave a copy of this to the Zoning Officer?

Engineer Nash: I copied him on the letter and sent it to Jennifer. Did you distribute it?

Board Secretary: Yes

Engineer Nash: Because Mike got back to me and said it wasn't him.

Chairman: The site work is somebody.

Member Covelli: I am going to believe it is the Zoning Officer.

Engineer Nash: Is there a soil movement permit?

Board Secretary: It goes through the Clerk's Office, but I do know it has to be a certain amount.

Engineer Nash: Whatever it is, it is more than a certain amount because they brought in truckloads of stone.

Attorney Mondello: So why don't we do this, and I'm sorry I didn't have the pleasure of meeting our Zoning Officer, I know he was talking to everybody, if you get me his name and telephone number I will call him and say the Board will expect to you to start issuing cease and desist letter. He doesn't have to listen to the Board. His boss is the Borough Attorney, not us.

Member Ludwig: I can see a section of gravel if they are running back in there with trucks just to wipe the mud and what not off before they are going out on the road.

Attorney Mondello: I'll bring in the Tony, the Borough Attorney.

Member Covelli: That's blatant. If someone says 18' and we approved 12', that's blatant.

Member Aumenta: I can see it from Theresa's house, but I didn't know if I had the right to go back there.

Attorney Mondello: You have the right to inspect the property certainly before the hearing. It is questionable about after the hearing.

Member Aumenta: That's what I mean, now. Chris, I will tell you that they were very thankful because they felt heard when you came out there so thank you for doing that. It made a big difference for them.

Chairman: These are things that, over the years, have gotten out of hand and we've gone through various Building Inspectors, Zoning Officials and a lot of them were ruined by certain people in

the Borough. Property maintenance, it got to the point that, if it wasn't approved by a certain person high up, the gentleman couldn't go out and do his job. Wanaque is really a mess right now. The powers to be now aren't that bad. It's just that they are afraid to rock the boat. That's what it comes down to. I have been chasing the Mayor and Ed Leonard, who is our Liaison Officer, I'm surprised he is here tonight, but he better start coming to the meetings, I talked to Dominick Cortellessa, who is a voice on the Borough Council, that talks. A lot of them don't say a damn thing any more. I don't care if it is on tape and they get mad. I don't care. It is just that so many things just slide through the cracks here. This Board cares about Wanaque. We always have. We got questioned by other authorities and told you guys ask too many questions, you make it hard on the applicants, and we are just trying to do, technically, what the ordinances say.

Vice Chairman: I think after this last election, they are going to be even more reluctant.

Member Aumenta: Obviously.

Chairman: Some days you just want to say the hell with it and let them do what they want. It is senseless. There is a house on a street, Rhinesmith or one back here, that there must be a hundred five gallon paint buckets in the side yard and front yard of a house. It is crazy what you see.

Member Lynch: Where is that?

Chairman: Back behind the Borough Hall either on this street or by your house.

Vice Chairman: That's not one of our former Board of Education members is it?

Chairman: I don't know.

Member Lynch: I can report it at the health meeting.

Chairman: I have to take a tour with my aide, who just left. We were riding around looking for something else and found this.

DISCUSSION:

Vice Chairman: Where were we on our Agenda? On we on Discussion?

Member Covelli: What's been going on for the last twenty minutes?

Vice Chairman: I just want to verify that in our packet we got that thing from a Planner. Is that who has been retained for the Ringwood Avenue?

Chairman: 21 apartments.

Member Aumenta: Yes.

Vice Chairman: That is who has been retained. Thanks. I missed the last couple of meetings.

Board Secretary: We didn't send it to him yet because they haven't redone the plans yet for them to look at.

Engineer Nash: There's nothing for them to review.

Chairman: I will still send him a commitment letter before we send him the plans.

Board Secretary: That is all taken care of. They know we are hiring them and they also know why they haven't gotten anything yet.

Vice Chairman: Are they going to revise their traffic study?

Chairman: I also talked to the First Aid people and they want a set of plans also. So when we get the plans, Fire Department, Police Department, First Aid want plans for that location on Ringwood Avenue.

Member Aumenta: Chris, weren't you going to do the traffic?

Attorney Mondello: There are only a certain amount of plans that they have to give the Borough and if you just exceed that they can say they are not giving you anymore.

Vice Chairman: Did we hire a Planner or Traffic guy?

Chairman: Chris has a traffic guy in his office so they have the traffic study.

Vice Chairman: Because I don't think they intended to revise that traffic plan.

Chairman: Have you read the traffic report? It is very confusing.

Vice Chairman: Yes. Correct.

Attorney Mondello: Let's not talk about the application. Who knows, it may change drastically.

Board Secretary: I just passed out the application for 921 Ringwood Avenue. Are they good to go for March?

Engineer Nash: I didn't look at it.

Chairman: Since we haven't heard back from the apartment, put it on the agenda.

Vice Chairman: He has to deem it complete.

Member Aumenta: We said residents came first.

Member Willse: This isn't a resident. He lives in Little Ferry.

Board Secretary: It is an LLC, not a resident. All right, I will wait to hear from Engineer Nash.

Chairman: If you look at it, the zone is an R-5

MOTION TO ADJOURN AT 9:57PM: Motion made by Vice Chairman Grygus, seconded by Member Ludwig and carried by a voice vote.

Jennifer A. Fiorito
Board of Adjustment Secretary