

**REORGANIZATION MEETING  
&  
REGULAR MEETING**

**Salute to Flag: 7:10p.m.**

**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 December 3, 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 Member Helena Aumenta**

**REORGANIZATION MEETING**

**ROLL CALL: Members Jack Dunning, Frank Covelli, , Don Ludwig, Helena Aumenta, Michael Sbarra and Dana Lynch**

**ABSENT: Members Bruce Grygus and Edward Bonner**

**NOMINATION FOR CHAIRMAN: Member Sbarra nominated Jack Dunning, seconded by Member Covelli. No other nominations heard. Nominations closed.**

**ROLL CALL ON NOMINATION FOR CHAIRMAN: Voting yes were Members Covelli, Ludwig, Aumenta, Sbarra and Lynch  
Member Dunning abstained**

**NOMINATION FOR VICE CHAIRMAN: Member Covelli nominated Bruce Grygus, seconded by Member Aumenta. No other nominations heard. Nominations closed.**

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

**NOMINATION FOR BOARD ENGINEER AND PLANNER: Member Aumenta 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, Covelli, 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, Covelli, Ludwig, Aumenta, Sbarra and Lynch

**ADOPTION OF OFFICIAL NEWSPAPERS:** The Newspapers approved by Board are (1) Suburban Trends and (2) The Record.

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

(Questions on the Newspapers were brought up. 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 The Record is published every day.)

**MOTION TO MAINTAIN THE FIRST WEDNESDAY OF THE MONTH FOR THE REGULAR MEETING TO START AT 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 2024:** made by Member Ludwig, seconded by Member Covelli. Voting yes were Members Dunning, Covelli, Ludwig, Aumenta, Sbarra and Lynch

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

Member Covelli wanted the public to know that none of the Board Members are paid. We are all volunteers. Only the Professionals are paid. So when we make a joke such as Helena's pay was tripled, she got three times nothing. I think that is always worth putting out, that while we joke around up here, this is a Voluntary Serving Board.

**MOTION TO RECESS AND CLOSE REORGANIZATION MEETING AT 7:22PM:** made by Member Covelli, seconded by Member Sbarra. Voting yes were Members Dunning, Covelli, Ludwig, Aumenta, Sbarra and Lynch

**MOTION TO GO INTO THE REGULAR SESSION AT 7:22PM:** made by Member Covelli, seconded by Member Lynch. Voting yes were Members Dunning, Covelli, Ludwig, Aumenta, Sbarra and Lynch

## REGULAR MEETING

Regular Meeting called into order 7:23p.m.

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

**Application ZBA2023-06 – Theresa, Martin – 31 Tremont Terrace, Wanaque**

**Attorney Mondello:** Mr. Theresa I notice that Attorney Rubin is not in the audience. So you are going to have to standby second call and, if I may Mr. Chairman, perhaps we take the next application.

**Vice Chairman:** Is he supposed to be here?

**Mr. Theresa:** Yes, I don't know where he is.

**Attorney Mondello:** We do have two other applications. After those applications, if he is not here, you will be pushed out for another meeting.

**Application ZBA2023-08 – Benjamin Phillips – 29 Lakeside Avenue, Haskell**

**Matthew Trella, Esq., 1135 Broad Street, Clifton, NJ - Attorney for both Applications**

**Attorney Trella:** This is an application for permission to stay with the existing deck that was built covering two lots, one next to one another, both owned by relatives/in-laws of each other. This deck was put up and it does go a little bit into the water but there are footings there and I have Mr. Phillips here to testify if you have any questions concerning this. I know you have surveys of this and the other application and some of the Members, and I'm not sure which ones, did make the site visit.

**Chairman:** Some of us were there yesterday.

**Attorney Trella:** We are totally prepared to answer anything you might have.

**Attorney Mondello:** Right now, the Board Engineer has a couple questions and/or comments.

**Engineer Nash:** The application was presented as decks. When you look at the Wanaque Code, I just went with the deck because deck was what was on the application. Following that, I prepared my letter and there were variances associated with calling it a deck. But, in actuality, it is dock, but it makes a big difference. Dock is not defined in the Ordinance, but there is a routine/general procedure in the town on how they deal with docks.

**Member Covelli:** Past practice.

**Engineer Nash:** Past practice is a better way to say it. So it clears up a lot of the issues that I raised in my letter and it applies to both applications. Although the dock is constructed beyond the property line, it's common place, in other words. All that is needed is a release from the Property Owner of the Lake to allow them to construct the dock basically out onto the water. Most cases, lakes are private. In this case, the Lake is owned by the Borough. So they would need

a release from the Borough of Wanaque saying that basically it is okay to build this dock out onto the water.

**Attorney Mondello:** Well, so there are no variances that this Applicant needs.

**Engineer Nash:** They presented an application so the Board has traditionally looked at the whole property, where sheds are and things that like, so those things come into play. But, there are no variances that I'm see associated with the dock, but now they have sheds that I think the Board would want to talk about it. It seems to me that the dock issue is not an issue.

**Attorney Mondello:** So Mr. Trella, apparently there are no variances required with respect to the dock. I won't say a/k/a deck, but you are going to have to make application to the Governing Body for some type of a waiver or, I guess permission, to actually extend beyond the property line.

**Engineer Nash:** The other thing too is the Ordinance only talks about offsets from the property line whether it be the principal structure, or a shed, swimming pools, they are all defined in the Ordinance about what that offset is, but there is no reference about docks.

**Attorney Mondello:** Mike, you are going to have to testify as to why are they here. Something needs to be on the record with respect to variances that, in your opinion, you believe that this dock needs.

**Chairman:** Mike, according to what we found out about this is that Joe, when he was the Zoning Officer before we got Mack, issued a notice based on him seeing it and then visiting the property.

**Mr. Hafner:** Right.

**Chairman:** What I don't understand is that basically, the deck itself, or dock, whatever you want to call it, is not in the water. There is a little piece that is actually floating in the water, like a raft, on the far left-hand end. That would be the only piece if it was totally anchored to the bottom of the lake. The rest of it hangs out over the water but the supports for it are set back. We were there yesterday looking at it. It is a little confusing because it is over the water, but the supports aren't really in the water. You are the Construction Code Official, how do we define this?

**Engineer Nash:** It would be no different than a structure cantilevering over the property line.

**Chairman:** That's what you say it is.

**Engineer Nash:** You would be prohibited from doing that. This is a different case because it is over water and all they need is the Borough to say it is okay for you to have a dock at this location.

**Attorney Mondello** swore in Mike Hafner, Construction Official of Borough Of Wanaque

**Attorney Mondello:** Why is Mr. Phillips here?

**Mr. Hafner:** I'll back it up a little bit. Whether it is called or deck or a dock, it is an accessory structure. Accessory structures are subject to setback from property lines whether it be a front, side or rear yard line. The reason that this particular application is here is because they violate one or more of those setbacks.

**Attorney Mondello:** Do you agree with that? It is an accessory structure. I don't know if the code looks at it that way, but maybe past practice.

**Engineer Nash:** I can understand because it has to fit into something. Just because it is not defined, that doesn't mean you have free range to do whatever you want.

**Mr. Hafner:** I would agree, yes.

**Attorney Mondello:** So what variances is this applicant seeking based on that this is an accessory structure.

**Mr. Hafner:** The general practice with a dock, a dock typically goes past the rear yard line onto the lake or over the lake so we generally don't look at giving relief for that rear yard setback so long as we have permission, as Mr. Nash has stated, from the property owner that it is going on to that it is okay.

**Attorney Mondello:** We don't need a rear yard setback variance?

**Mr. Hafner:** It is customarily not because you are actually going over the property line onto the lake's property. The only other setback that is usually adhered to, which would apply in this case, would be relief from the side yard requirements. For arguments sake let's say the required side yard for an accessory structure would be 10', these particular decks go right up to the property line on at least one side of each, one being the left side and the right side, because they join together so they clearly violate the side yard setback in each case. I think the relief that would need to be sought would simply be a side yard.

**Attorney Mondello:** Zero on one side and I'm not sure what the other side would be.

**Mr. Hafner:** The side yard setback for an accessory structure, you will know better than me, I'm not the Zoning Officer, but is it 10'? If it's 10', they need a 10' relief. If it is 5', they need 5' of relief. It is fairly simple whatever the Ordinance calls for.

**Chairman:** Mike, would it be like a shed, 5' from the property line.

**Mr. Hafner:** Your sheds may very well be a little different. Whatever the required setback for an accessory structure. If it is 5', then that is what they need. They need 5' relief on, again, either the respective either right or left side yard depending on which property we are speaking of. I think it is an easy one.

**Attorney Mondello:** I appreciate the clarity. In other words, the right side apparently is going to need a 0' side yard setback and Chris is working on the left side.

**Engineer Nash:** Can we speak east and west, not left or right side.

**Attorney Mondello:** Mike, I appreciate you clarifying the issue and why Mr. Phillips is here.

**Mr. Hafner:** You don't have a lot of lakes here, and we have tons of lakes up there.

**Chairman:** This is the idea for the new ordinances since we have various lakes in the community and a lot of people with docks.

**Mr. Hafner:** And they get replaced, they get changed, they get moved, they get bigger. I understand.

**Member Covelli:** I know we are not up to asking questions of the applicant yet, but my understanding is this was exactly a replacement.

**Member Aumenta:** That was my question.

**Member Covelli:** Of an existing dock. This is not a new construction, this is a rebuild. Is that true?

**Attorney Mondello** sworn in Benjamin Phillips.

**Attorney Mondello:** You have heard Mr. Covelli's question and it appears that you did answer and was told by Counsel that he didn't need a permit. Is that the reason why you didn't get a permit?

**Mr. Phillips:** Yes. I was under the impression that since I had an existing deck and a dock and I was repairing the deck and fixing the dock that it was okay.

**Chairman:** The previous deck, was it the same length as what you put in?

**Mr. Phillips:** No. It was smaller. It was definitely smaller.

**Member Covelli:** So you didn't rebuild, you expanded.

**Mr. Phillips:** I expanded.

**Member Covelli:** That changes the whole equation. Doesn't it counselor?

**Attorney Trella:** Not in my mind. In my mind, it looks fine.

**Member Covelli:** So when you rebuilt, you expanded it?

**Mr. Phillips:** A lot of it was destroyed and I did fix it up.

**Member Covelli:** It was a simple question. You expanded it when you rebuilt it.

**Mr. Phillips:** Yes.

**Member Covelli:** I actually have a question but I don't know if it is Mr. Nash question or back to Mr. Hafner question, but when you were talking about east west docks and that one needed a 10' but one was a 0, they would both be under the same requirement to be 10' from the property line.  
**Engineer Nash:** It is 5'.

**Member Covelli:** So wouldn't they each need 5'.

**Engineer Nash:** One side is offset and the other side is at the property line which abuts the other one that sits on the property line. Look at the map.

**Member Covelli:** So what you are saying is that where the joint of the two docks is not at the property line.

**Engineer Nash:** It is.

**Member Covelli:** So it is 5' and 5'.

**Member Sbarra:** We aren't talking about the other application yet. They are two separate applications.

**Member Covelli:** In my mind it is 5' and 5'.

**Chairman:** We agree with that.

**Attorney Mondello:** And apparently on the west side, he has got more than 5'. On the east side it is right on the property line. So he needs a variance for the east side.

**Member Covelli:** Because we are treating them as each, you are talking about the east and west side of the dock as one unit on that property, not as the whole in its entirety. Hence why we only need the variance on one side.

**Member Aumenta:** Yes.

**Attorney Mondello:** Just to clarify Mr. Trella there are two things going on here. Your client will be seeking a variance for the east side, which should be 5' from the property line side yard setback, and it it's zero. I don't know if it is the Board's inclination to start looking at sheds although this applicant is not here for any relief from the shed, but that is obviously up to the Board. Secondly, if the Board is so inclined to grant the relief sought by the applicant, one of the conditions is you have to go to the Governing Body and get permission.

**Attorney Trella:** Absolutely.

**Chairman:** That is very important.

**Attorney Mondello:** What is the Boards's pleasure with respect to sheds?

**Member Covelli:** Before we get there, just one further bullet on Mr. Nash's letter, No. 7. The deck is exempt from environmental protection standard as the dock is less than a 1,000 square feet. You are referring to NJDEP?

**Engineer Nash:** Yes.

**Member Covelli:** And you are referring to the dock in its entirety or the piece before this gentleman's application?

**Engineer Nash: On this property.**

**Member Covelli: Is the total of the two abutting docks exceed**

**Engineer Nash: The total of the one. They are separate applications.**

**Member Covelli: And they are separate structures. They just abut each other.**

**Engineer Nash: Correct.**

**Member Covelli: They are not tied together or constructed together.**

**Engineer Nash: No.**

**Member Covelli: They are just abutted.**

**Attorney Mondello: All right, I guess we are not going to delve into sheds.**

**Member Lynch: No.**

**Attorney Mondello: Is there a Motion either for or against the relief sought by this applicant?**

**Member Covelli: The pool is another question apart from the sheds. The pool is a deficiency of the property. That might be something we want to address.**

**Member Aumenta: The pool is only 6' and it needs to be 10'.**

**Member Sbarra: According to Mr. Nash's letter, and I'm not going to speak for you, but Mr. Nash is saying that the pool is 6' on the western property line there where 10' is required by code. If we do want to clean this up.**

**Chairman: If we are going to clean it up, let's do the sheds, the pool, the deck, whatever it is and be done with it.**

**Member Lynch: No.**

**Member Covelli: Why wouldn't we?**

**Member Lynch: Because they are not here for that.**

**Chairman: Dana, this is how we help them.**

**Member Covelli: We generally do that so that they are here, they walk away with a compliant piece of property, which I think is in the applicant's best interest.**

**Chairman: Dealing with the pool is simple. The ordinance says 10' from anything, fence, structures, whatever.**

**Mr. Phillips: I purchased the house with the pool.**

**Chairman: The idea behind that is somebody gets on the fence, jumps in the pool and breaks their neck, you have a major lawsuit. So we try to get the pools away from fences, garages, decks, whatever. Your shed is on the property line. The shed is supposed to be 5' from the property line, 10' from the house. You said yesterday when we looked at the property that there used to be a fence there so the shed was just put against the fence. I don't think you put the shed up; you said it was there when you brought the house.**

**Mr. Phillips: Correct.**

**Chairman: The pool is an issue.**

**Attorney Trella: The pool was also there when he brought the house.**

**Chairman: Right, but its an issue of what the Board wants to do. Frank, since you opened the door, what do you think?**

**Member Covelli: Do you have any intention of moving the pool?**

**Mr. Phillips: Negative, sir.**

**Member Covelli:** Then I would think that we should grant him relief on the existing conditions so that he is not in non-compliance. That is unless he doesn't want it. I'm not forcing a variance relief on him.

**Member Ludwig:** I have a problem with that because most pools, well maybe not a pool above-ground, if you had a pool in the ground, and the one I grew up with had a concrete sidewalk all the way around it. What's the difference between a wooden deck abutting the pool and what we used to jump off the concrete sidewalk.

**Chairman:** That's different. Inground pool is usually a little deeper too.

**Member Covelli:** I think the issue here is that chain link fence. Can somebody climb on the fence and decide to jump in the pool.

**Mr. Phillips:** No. I have a chain link fence on my side and my neighbor has a 6' privacy fence on his side. The fences abut each other.

**Member Covelli:** Well, that would be the safety concern for the purpose of the setback.

**Member Covelli:** There are two sheds. There is a metal shed that you said the fence was probably behind in and the vinyl shed.

**Engineer Nash:** The vinyl shed is in the side yard.

**Chairman:** That shouldn't be there, but that's up to you.

**Engineer Nash:** That's another variance.

**Member Ludwig:** It is a pre-existing condition. I don't know. When he bought it, it was there.

**Chairman:** The vinyl shed cannot be in the side yard. I would suggest with that is to move it to the rear yard. It is a fairly new shed and I'm sure he can move that since it's not that big. Might be a pain in the ass to move it.

**Mr. Phillips:** My motorcycle is in there.

**Attorney Mondello:** So no objection, you are going move the vinyl shed from the side property to the rear. Is that correct Mr. Phillips?

**Mr. Phillips:** Yes.

**Engineer Nash:** Put it 5' off the property so there is no variances required.

**Chairman:** It has to be 5' away. This way that clears that up.

**Mr. Phillips:** Okay.

**Attorney Trella:** Thank you very much.

**Attorney Mondello:** What are we doing with the metal shed, if anything?

**Chairman:** It is quite old. I don't think he can move it. So let's grant him a variance for that. Eventually he is going to have to replace it because it's old and starting rust away, when he replaces it, he is going to the Building Department and get a permit for it to put it 5' away from the property line and 10' away from the house. Very simple.

**Mr. Hafner:** If you grant a variance for the older, metal shed, then he can replace in kind, in place, when replaced.

**Chairman:** We are going to make it a condition of the approval that he can't replace it.

**Mr. Hafner:** If you don't grant a variance for it, eventually it will get old, he'll go to replace it and it'll go to a compliant location.

**Attorney Mondello:** So what Mike is saying is that the variance runs with the land. Isn't there a flip side to that. If he takes it down, it is gone, so how can it run with the land?

**Attorney Trella:** We agree to make a stipulation that he can't just replace it where it is. It can be a stipulation of the Resolution. If he constructs a new one, he has to comply.



**Member Covelli:** So we grant him the variance on the pool because he has a lot invested in all the decks to it and the like. So we grant him a variance on the pool, we grant him a variance on the shed with the stipulation that it is a limited variance in that it runs the life of the shed and not the property. And, the applicant has agreed to move the vinyl shed to bring it into compliance both in location and setback from the property line.

**Attorney Trella:** Yes.

**Member Aumenta:** And Mr. Mondello are we okay to set a variance that doesn't run the life of the land? Is that allowed to say that it only lives with the shed as it is now, or if we do a variance on the shed, that does live with the land forever.

**Chairman:** We are making it a condition.

**Member Aumenta:** But are we allowed to do that?

**Attorney Mondello:** That's interesting and there is another aspect to this and, I'll be honest with you, I'm not 100% sure, if there is a house that violates certain setbacks, and I demolish the house, that's it, I have to comply with the new rules. So if we are granting this variance, it would run with the land and if he were run into court, maybe some judge would say no, you've got the variance, you can put it exactly where you got the variance for it.

**Member Aumenta:** Should we not grant the variance for the shed and just put a condition that says when the shed goes away, it has to go and then needs to be put where it needs to go or should we do the variance if the variance lives with the land forever?

**Attorney Mondello:** That's a great point. Probably, you don't want to do the variance because it does run with the land, and ever though he is agreeing, and I know you wouldn't do this Mr. Phillips, but if you ran into court and said, listen I got this variance and I want to put the exact same, or a variation thereof, in the same place. The judge would say you can put it there.

**Member Aumenta:** Or if he sells the house, it could be somebody else, because it lives with the land.

**Attorney Mondello:** I know it is the Board's past practice to clean this stuff up, but it may make sense not to give the variance. It is the Board's pleasure.

**Engineer Nash:** If you are going to be consistent, why not do the same for the swimming pool?

**Attorney Mondello:** Obviously. Either do the variances, with the stipulation, or don't do them at all. It's the Board's pleasure.

**Member Sbarra:** Typically, haven't we not just cleaned it up. If that's the case, we don't we just clean it up.

**Member Aumenta:** I agree with that.

**Chairman:** Isn't it the ordinance that you cannot replace something that is in violation of our ordinances.

**Attorney Mondello:** Well, if they get the variance though, it is no longer in violation.

**Chairman:** Exactly, so we don't give it to them, then it is going to work out better. Okay, Frank, what do you want to do?

**Member Covelli:** I heard compelling arguments on both sides. I'm thinking back to an application we did a long time that was a lot more controversial and in that application we said that if the property ceased to be used in the manner that we were granting the variance, it would revert back to its prior zone. Do you remember the application I am referring to? I think we can do what we want until we are challenged. The question is, is it worth challenging. So I heard both side, but is someone going to fight us on it, or do we just say as a condition of the Resolution, without saying we are granting a variance, its not approved or it's not disapproved. As part of the

disposition of the issue, the applicant agreed to move the vinyl shed and on the demise of the metal shed he has agreed to follow the then applicable zoning.

Engineer Nash: I think prior to deliberating, which it seems like the Board is doing, I think we should open it up to the public and maybe get some more information that may help you deliberate better.

Attorney Mondello: Do you have any other witnesses Mr. Trella?

Attorney Trella: No, I do not.

Attorney Mondello: Are there any other questions for Mr. Phillips? Anybody in the audience have any questions, and questions only, on the testimony that Mr. Phillips has given this far?

Hearing none, seeing none, we will now open it up to the public.

**Ed Leonard, 21 Morningside Place, Wanaque**

Mr. Leonard: I have two points about the reorg meeting. We are missing a member. The Alternate Member No. 1 is Vincent Farinella and I just called him.

Attorney Mondello: Mr. Leonard, this was public comments on this application.

Mr. Leonard: I wanted to bring it up because he is on his way over here and we can swear him in after this application.

Mr. Leonard: Mr. Azar, he mentioned to me he actually had some notes and comments on this application and I just want to make sure the Zoning Officer has an opportunity to make his points.

**Mack Azer, Zoning Officer**

Mr. Azer: I just want to see the plans because there is a definition for deck and a definition for dock. There is requirement for deck and a dock.

Attorney Mondello: It is not in our Code.

Mr. Azer: I know we don't have a Code, but the DEP has a Code. We work on that. A lot of issues like this was DEP. You cannot have a 20' dock in the water, but you can only have 4' as a requirement so we have to define the deck and dock requirements. We cannot mix them up. The deck has to go with the 5' off the property line, but you can extend your dock to the deck. So we need to know what is it. There is no way you can put a 20' dock in the water. The dock is used for a boat, you have jet ski and it is usually 4' wide. I am a Licensed Engineer and worked with DEP before so we have to define what it is. They each have their own requirements.

Attorney Mondello: I appreciate this, but hopefully you can understand and sympathize with the Board's quandary here because he goes for a permit, the construction office denies it and we need to know why it is denied and we need to know why the individual is here so we know what relief is being sought. I'm trying to get my arms around what do we do.

Mr. Azer: I need to see the plans.

Engineer Nash; The dock is not extending 20' into the water and less than 1/2 is beyond the property line.

Member Ludwig: There are no piers or anything into the water. To me it is a deck hanging out.

Member Sbarra: In getting eyes on it yesterday, to be honest with you, hardly any of the dock is hanging into the water.

**Member Lynch:** I think it's beautiful.

**Mr. Azer:** Usually the property owner has a 30' extension in the water so he can install the dock so the Zoning Board has to give them the relief beyond his property line.

**Attorney Mondello:** Understood, that's what Mike said. So looking at those plans, are you in agreement that the Board need not give any variances other than the side yard setback to the east?

**Mr. Azer:** If you consider it as a deck, then you need the variance. But from the deck, you have to deck you have to extend your dock. That's different.

**Attorney Mondello:** So what is this a deck or a dock?

**Mr. Azer:** For me it is a deck.

**Engineer Nash:** It doesn't meet the definition because a deck is attached to the principal structure and it's not. It is not a deck. Decks aren't free-standing according the Ordinance and all we have is the Ordinance. My opinion is the Board is dealing with it appropriately.

**Attorney Mondello:** We are going to reel this back in. We are going to focus on the side yard setback to the east. Thank you.

**Attorney Mondello:** Apparently, we are not going to do anything with the variances. I will put that stipulation in or condition that, in fact, the metal shed is removed or the pool is removed that it has to comply with all of our ordinances. Can we now go forward?

**Member Covelli:** And that the vinyl shed will be relocated.

**Attorney Mondello:** In the back.

**Member Sbarra:** And we are talking about the side yard setback on the eastern side of the dock.

**Attorney Mondello:** Exactly. With that, I do not need open it up. Does anybody have any comments either for or against this application? Hearing none, seeing none, I'll close that portion of the application. Do you want to say anything else Mr. Trella?

**Attorney Trella:** I would not hold you up at all.

**Attorney Mondello:** All right, so back to the dais for a Motion either for or against as outlined.

**Member Covelli:** I make a Motion that we grant the relief sought in that the deck/dock as built is accepted with regard to Borough of Wanaque approval and in accordance with DEP requirements. Regarding the existing pool, the applicant has agreed in testimony and has represented to the Board that there is a recognition that the above-ground pool and the metal shed are in non-compliance with the zoning bulk requirements of the Borough of Wanaque and at such time that those structures are demised, the applicant will follow proper protocol and requirements for that. With regard to the vinyl shed, it will be relocated to the rear yard with proper setbacks in accordance with current zoning. Member Lynch seconded.

**Member Sbarra:** Did we mention the 5' on the eastern side off the property line for the deck? I just want to clarify that.

**MOTION TO APPROVE APPLICATION ZBA2023-08:** made by Member Covelli, seconded by Member Lynch Voting yes were Chairman Dunning, Members Covelli, Ludwig, Aumenta, Sbarra and Lynch  
Motion Carried

**Application ZBA2023-09- Pardo, Desiree - 27 Lakeside Avenue, Haskell**

**Matthew Trella, Esq., 1135 Broad Street, Clifton, NJ**

**Attorney Trella: The Board has the survey which shows exactly what is there already. It would be the same testimony as previous application.**

**Attorney Mondello: Are there any different variances other than what we had mentioned before?**

**Chairman: It's the same thing. Only this time it is on the eastern side and the western side.**

**Attorney Mondello: So we need side yard setbacks for the east and the west because they are both on the property line.**

**Member Sbarra: We are going to impose the same condition that they have to go get the approval from the Governing Body.**

**Attorney Mondello: Yes.**

**Attorney Trella: That will go out tomorrow.**

**Chairman: You have a vinyl shed that sits to the left of your enclosed porch that's against the house. What is that for? Just for storage?**

**Attorney Mondello swore in Desiree Pardo, 27 Lakeside Avenue, Haskell**

**Attorney Mondello: What is the vinyl shed used for?**

**Mrs. Pardo: Tools and storage.**

**Chairman: Can that be moved away from the house:?**

**Mrs. Pardo: If we have to move it, yes.**

**Chairman: It has to be at least 10' from the house and 5' from the property line. Your inches from your house.**

**Mrs. Pardo: When we brought the house it was there.**

**Chairman: It was existing. So anywhere else on the property more than 5' from the property line and 10' from the house you are safe. So you will move that shed and its part of your testimony.**

**Mrs. Pardo: Yes.**

**Attorney Mondello: Any objection to make sure that this vinyl shed is 10' away from the house and 5' from the property line?**

**Mr. Trella: Absolutely none.**

**Member Sbarra: There is a metal shed there as well on the property.**

**Member Aumenta: It looks like it is 5'.**

**Chairman: It's close.**

**Attorney Mondello: So apparently that one is closer so perhaps what we will do is the same thing and just put a stipulation that if that metal shed is removed for any reason that the applicant will comply with the side yard setbacks and the distance from the house.**

**Chairman: It is 10' from the house now and a couple feet from property line. Any other questions on this?**

**Attorney Mondello: Open it up to the public. Any questions or comments? Hearing none, seeing none, back to the dais for a Motion either for or against.**

**Member Sbarra:** I'll make the Motion but before I do that what is the eastern setback on this?  
**Member Aumenta:** It looks like it is 3.4' what it is right now based on Chris' letter.  
**Engineer Nash:** The variance is 1.6'.

**Member Sbarra:** I'll make a Motion to Approve as we just spoke about with the variance of 1.6' on the eastern side and on the western side 5' variance with the condition that the vinyl shed moves 10' off the house and 5' off the property line.  
**Attorney Mondello:** Is there a second?  
**Member Lynch:** I second.

**MOTION TO APPROVE APPLICATION ZBA2023-09:** made by Member Sbarra, seconded by Member Lynch Voting yes were Chairman Dunning, Members Covelli, Ludwig, Aumenta, Sbarra and Lynch  
**Motion Carried**

**Attorney Mondello swore in New Member Vincent Farinella**

**Application ZBA2023-06 – Theresa, Martin – 31 Tremont Terrace, Wanaque**

**Attorney Mondello:** It appears that Mr. Rubin, for whatever reason, and Mr. Theresa has no idea why, but Mr. Rubin is not the audience. Isn't that correct?  
**Mr. Martin:** No, I've been looking for him.  
**Attorney Mondello:** I would suggest to the Board that there be a Motion to carry.  
**Chairman:** We have two chooses. Would you go on without Mr. Rubin?  
**Attorney Mondello:** I would strongly suggest against that.  
**Chairman:** I know that but it is his choice.  
**Mr. Martin:** No.  
**Chairman:** So without Mr. Rubin, we have to carry you to our next meeting.  
**Attorney Mondello:** Is there a Motion?

**MOTION TO CARRY APPLICATION ZBA2023-06 TO FEBRUARY 7, 2024 MEETING:** made by Member Ludwig, seconded by Member Covelli. Voting yes were Chairman Dunning, Members Covelli, Ludwig, Aumenta, Sbarra and Lynch

**PUBLIC DISCUSSION:**

Chairman and Ed Leonard discussed the Zoning Officer and the fact that all our Ordinances need to be changed. Between Mack and Mike they suffer every day. There is an Ordinance Committee (Police Chief, DPW Superintendent, Zoning Officer, Members of the Planning Board & Zoning Board) that is going to meet regularly. There are a lot of changes that need to be done.

Chairman advised that there was an application at the Planning Board in an RD-2 Zone. I want everyone to read that RD-2 Zone. It's a mess. It is a New Business Application. Off of Doty Road there is a street called Williams Street where 4 different businesses. This street isn't even on the Zoning Map. According to the Planning Board, all these businesses are in violation, written up by the Zoning Officer because of something done on the property. If you read this Zone, it makes no sense for those businesses to be there. None of them are a permitted use in the property. You have tenants that have been there for over 20 years. According to that Ordinance, you can only access the property from Union Avenue. You have 4 businesses that have been there for well over 20 years coming in off of Doty. It allows a lot of uses but not industrial uses. I don't what Mack can do at the Planning Board or they are going to come to the Mayor & Council because you have businesses that have been there forever and now you basically, technically could put them out of business. This is where the Ordinances have to be reworked. The Mayor & Council has to start looking at protecting the residents of the town and businesses in the town. This creates a major problem for the Zoning Officer.

Ed Leonard congratulated our Co-Borough Engineer, Christopher Nash & Boswell Engineering . They are going to be sharing a lot of new engineering responsibilities for the town.

**RESOLUTION: ZBA2023-05 – Mercado, Sigfredo**

Attorney Mondello: This application was for variance to replace and extend the existing deck in the rear yard. All the typical conditions were placed in the Resolution. The Applicant must submit accurate drawings with dimensions to the Building Department. Any questions, comments, modifications? Hearing none, seeing none, I'll accept a Motion followed by a Second to Memorialize this Resolution.

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

**CORRESPONDENCE:** Board Secretary passed out to Board Members a letter on the Theresa Application and Engineer Nash's letter on the application for 1025 Ringwood Avenue.

**ENGINEER'S REPORT:**

Engineer Nash: Referring to my review letter on the 1025 Ringwood Avenue application, the main issue that I have is the profile of the road. They come right off the sidewalk and its 7-1/2%

grade. There is no transition. If you look at the development to the south, it comes off the sidewalk relatively flat for 25'.

**Attorney Mondello:** This is a fairly substantial comment without the applicant being here.

**Engineer Nash:** What I'm saying, and it is in the letter, my point is they have to redesign the driveway and it affects the entire property. The drainage has to be redesigned as well.

**Member Covelli:** Your letter lists 68 points. Based on that, is that why the applicant isn't here tonight.

**Engineer Nash:** They weren't scheduled for tonight.

**Chairman:** It wasn't deemed complete.

**Engineer Nash:** I sent the letter in and that deems it complete. The clock is running but they have a lot of issues.

**Member Covelli:** So they've chosen not to come here thus far.

**Engineer Nash:** No, they haven't been scheduled yet. I sent the letter two weeks ago.

**Board Secretary:** Do you need the revised stuff before it's scheduled?

**Engineer Nash:** I need to talk to them. I think you should put them on the agenda for February. The clock is running.

**Engineer Nash:** The only other thing in my report is Scenic Landscaping. There is a resident that's been complaining about drainage issues that they've been having. The claim is that they never had drainage problems before and now they have them. I'm trying to gather some more data. I've asked the applicant to provide topographic survey of what was constructed so that we can compare the runoff that was coming off the site prior to the development compared to now. Right now, we have a resident saying, and you've probably heard it before, where I never had this problem ever and now I have all this flooding on my property.

**Member Covelli:** There is a lot of that going around Wanaque.

**Chairman:** We've had a hell of a rainstorm too.

**Engineer Nash:** Yes, but lets look at the data instead of opinion. That is in the works.

**Attorney Mondello:** If Chris' conclusion is, that as a result of the improvements that is causing, I think I could easily reach out to the attorney, have them show up and see if we can correct this problem.

**Engineer Nash:** Scenic has been very cooperative every step of the way. They have done a lot of things to prevent this complaint, but the complaint is there. It is going to turn out one of two ways. It is either going to show that there is no additional runoff, which is not going to be happy news to the resident, or the other way around and then Scenic would have to do something, make some changes to the runoff.

**Member Covelli:** I would like to go on the record that with regard to this application, Mr. Nash has been spot on top of this from day one. He has been a mediator, he has listened to all sides, he has advocated for both sides as applicable and as necessary, and I think you are to be commended on the job you've done on the application.

**Member Aumenta:** I agree. I think it is a great service to the town and the residents.

**VOUCHERS:** submitted by Boswell Engineering for the Scenic Landscaping Application in the amounts of \$318 and \$212; and for the Theresa Application in the amounts of \$212 and \$212 .  
**MOTION TO APPROVE:** made by Member Aumenta, seconded by Member Ludwig.  
Voting yes were Chairman Dunning, Members Covelli, Ludwig, Aumenta, Sbarra and Lynch

**VOUCHERS:** submitted by Ronald Mondello, Esq. for the Mercado Application in the amount of \$330; and for attendance at the January 3, 2024 Meeting in the amount of \$500.  
**MOTION TO APPROVE:** made by Member Sbarra, seconded by Member Sbarra.  
Voting yes were Chairman Dunning, Members Covelli, Ludwig, Aumenta, Sbarra and Lynch

**MOTION TO APPROVE NOVEMBER 1, 2023 MINUTES WITH CHANGES ON PAGE 19:**  
made by Member Aumenta, seconded by Member Sbarra. Voting yes were Chairman Dunning, Members Covelli, Ludwig, Aumenta, Sbarra and Lynch

**DISCUSSION:**

**Member Aumenta:** The only thing I want to throw out is just that there was a council person that told those applicants that they didn't need a permit. Somebody should have a conversation that they should send them to the Building Department, and it was written in the application.

**Engineer Nash:** The problem is you are hearing one side of the story. I spoke to the council person and was told that she was told the question was, we have existing footings, can we reconstruct the deck on existing footings. That is the question that was posed according to the council person. That has no bearing on anything because you are not going to ask the ice cream who to invest in the stock market.

**Member Aumenta:** That's what I'm saying. Caution people and send them to the Building Department because it just gets everybody in trouble.

**Chairman:** They did use existing footings because they're destroyed.

**Member Sbarra:** These new footings.

**Engineer Nash:** That statement had nothing to do with the application.

**Chairman:** She was a former Board Member and should think a little bit.

**Engineer Nash:** Regardless, it is not pertinent to the application. I don't think.

**Member Aumenta:** It's like the Scenic Landscaping thing. My response to them consistently is you need to come to the meeting, or you need to talk to the Building Department. I'm not going to put myself in that position and it could put the town in a bad place.

**Jamie Rabi – 125 Doty Road, Haskell**

**Ms. Rabi:** The deck, that is on Rainbow Lake, is that a dock or a deck? It is very big; its huge. Is it a moveable structure? Is in the lake?

**Chairman:** No

**Ms. Rabi:** Can they launch a boat off of it?

**Chairman:** Yes. My parents had the house on Lake Iosco for 52 years. I've launched a lot of boats off our dock.



**Ms. Rabi:** That's Lake Iosco, but we are talking about Rainbow Lake. What are you going to swim there? You can't eat the fish in there either.

**Chairman:** It is what it is. Listen there are a lot of houses on the lake and some have docks and some don't. The ones that have docks that hang in the water with poles or piers to hold it up, that's an issue for Mike to deal with.

**Ms. Rabi:** None of them have it on Rainbow Lake.

**Chairman:** Some of them do in the back. They are there.

**Engineer Nash:** It's a big dock.

**Ms. Rabi:** It is a big dock.

**Chairman:** But it's not that deep, front to back. It's the whole front of the property.

**Ms. Rabi:** Just asking, thank you.

**MOTION TO ADJOURN AT 8:38PM:** Motion made by Member Covelli, seconded by Member Aumenta and carried by a voice vote.

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