

**REORGANIZATION MEETING
&
REGULAR MEETING**

Salute to Flag: 7:40pm –Meeting opened by Mayor Daniel Mahler

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 12, 2021 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.

**Mayor Mahler swore in Re-Appointed Members Suzanna Henderson and Michael Sbarra, who is being appointed to move up from Alternate to Four Year Term.
Mayor Mahler swore in Member Charlie Sahanas as Alternate #2.**

REORGANIZATION MEETING

ROLL CALL: Members Jack Dunning, Suzanne Henderson, Don Ludwig, Helena Aumenta, Michael Sbarra, Dana Lynch and Charlie Sahanas

ABSENT: Members Bruce Grygus and Frank Covelli

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

ROLL CALL ON NOMINATION FOR CHAIRMAN: Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

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, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

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

ROLL CALL ON NOMINATION FOR ZONING BOARD ENGINEER AND PLANNER:

Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

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

ROLL CALL ON NOMINATION FOR BOARD ATTORNEY: Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

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 THE NEWSPAPERS: made by Member Sbarra, seconded by Member Aumenta. Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

MOTION TO MAINTAIN THE FIRST WEDNESDAY OF THE MONTH FOR THE REGULAR MEETING AT 8:00 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 2022: made by Member Ludwig, seconded by Member Dunning. Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

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

MOTION TO RECESS THE RE-ORGANIZATION MEETING AT 7:45pm: made by Member Aumenta, seconded by Member Dunning. Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

Attorney Mondello stated that the Board could do the Administrative Portion of the Meeting, but the Application needs to wait until 8pm since that portion of the meeting was advertised for 8pm. There may be residents that have some issue with it or in favor of it, and they are going to show up at 8pm.

ADMINISTRATIVE PORTION OF MEETING (7:45pm – 7:55pm)

RESOLUTIONS: ZBA2021-10 – Ramos Michael, 5 Tremont Terrace, Wanaque

Attorney Mondello: Board will recall that Mr. Ramos came before us with variance relief to construct a second story addition on the east side of the existing house and a single story addition to the southeast side of the house. Typical conditions were placed in the Resolution. The Applicant agrees to relocate two air conditioning units to the rear of the property and the Applicant agrees to either relocate the existing shed to conform with the ordinance, or to remove the shed. I'll entertain any questions, comments the Board Members may have at this time. Hearing none, seeing none, I'd ask for a Motion followed by a Second.

With your permission Mr. Chairman, I'll call those Members eligible to vote.

MOTION TO MEMORALIZE THIS RESOLUTION AS PREPARED BY BOARD ATTORNEY: made by Member Ludwig, seconded by Member Aumenta. Voting yes were Chairman Dunning, Members Ludwig, Henderson and Aumenta Motion Carried

MOTION TO APPROVE NOVEMBER 3, 2021 MINUTES WITH MINOR TYPOGRAPICAL ERRORS ON PAGES 15, 17, 19 AND 21: made by Member Sbarra, seconded by Member Aumenta. Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra and Lynch

MOTION TO APPROVE DECEMBER 7, 2021 MINUTES: made by Member Henderson, seconded by Member. Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra and Lynch

VOUCHERS: submitted by Ronald Mondello, Esq. for the Ramos Application in the amount of \$412.50; and attendance at the January 5, 2022, Meeting in the amount of \$400.

MOTION TO APPROVE: made by Member Ludwig, seconded by Member Sbarra. Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

VOUCHERS: submitted by Boswell Engineering for Scenic Landscaping Application in the amount of \$530; the Mano Application in the amount of \$318; and Ramos Application in the amount of \$318.

MOTION TO APPROVE: made by Member Ludwig, seconded by Member Lynch. Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

DISCUSSION: Attorney Mondello: We still have some time and I'd like to discuss the February Meeting and whether or not the Board was inclined to go virtual or remain in person. It is my understanding that the Mayor said that the Council was going to be virtual for at least January and February. I bring it back to the dais for discussion. Anybody have any strong feelings for or against virtual?

Chairman Dunning: I am against virtual.

Member Ludwig: I am against virtual.

Member Henderson: Against virtual.

Attorney Mondello: Anybody strongly in favor of virtual?

Member Aumenta: I am in favor of it and going with what the rest of the Borough is doing. Also, just for the public as well. They are going to have some concerns about coming in and being around. The covid here is just exploding everywhere so why take the risk.

Member Sbarra: I'll somewhat echo that. Personally, I do not like the virtual meetings; however, I am sensitive to the fact of what is going on and I do feel like we should follow what the Mayor & Council are doing as well. That is my personal take on it.

Attorney Mondello: Perhaps we couch it in these terms. "Just the February Meeting". Does somebody want to make a Motion and we'll see where it falls?

MOTION TO GO A VIRTUAL MEETING/ZOOM MEETING JUST FOR THE FEBRUARY 2, 2022 MEETING: made by Member Lynch, seconded by Member Aumenta. Voting yes were Members Aumenta, Sbarra, Lynch and Sahanas

Voting no were Chairman Dunning, Member Henderson and Member Ludwig

4 – Yes / 3 – No

Motion Carries For Virtual Meeting in February

Attorney Mondello: If there is a problem with the docket with the amount of applications, we can visit that at the end of the February Meeting.

Board Secretary: Currently, there are going to be 4 Applications on the Agenda (Scenic Landscaping/1049 Ringwood Avenue/8 McKinnon Place/7 Humbert Place)

Attorney Mondello: We've got about 3 minutes before we can officially start this next hearing. We got through some administrative stuff that was not an issue.

REGULAR MEETING (8:00pm)

Salute To Flag

ROLL CALL: Members Jack Dunning, Suzanne Henderson, Don Ludwig, Helena Aumenta, Michael Sbarra, Dana Lynch and Charlie Sahanas and Attorney Ronald Mondello and Engineer Christopher Nash

ABSENT: Members Bruce Grygus and Frank Covelli

Application ZBA2021-08 – Scenic Landscaping, Jefferson Street (Block 459/Lot 19)

Chairman Dunning: I believe we heard from Scenic today.

Board Secretary read into the January 5, 2022 e-mail of David Rutherford, Esq.:

“My client would like to carry this now to the February 2, 2022, which I understand is the next meeting of the Board. Can you make an announcement this evening so as to preserve notice? To the extent needed, I am authorized to grant the Board an extension of time through February 2 to decide this matter. Thank you for your attention to this matter.”

Attorney Mondello: So if there's anyone here that was planning to hear the continuation of the Scenic Application that's been carried, adjourned, pushed out to the next meeting, which is going to be virtual, February 2nd of this year.

Chairman Dunning: Chris, do you need anything else from Scenic before the next meeting.

Engineer Nash: I don't. They submitted a site plan that had contours on it, we can see the grades and the modifications in terms of access.

Board Secretary: I mailed out the plan to all Members on December 28th.

Chairman Dunning: This has everything on it that we asked for?

Engineer Nash: They changed the layout. The access is no longer off Jefferson. The access is through their property.

Attorney Mondello: Mr. Nash, we really shouldn't get into what was changed, what wasn't changed.

Engineer Nash: I can tell him what changed and not comment about it. I'm just saying there was a change and that's what the change is.

Attorney Mondello: Mr. Chairman, the Board Engineer has indicated that he satisfied with this submission.

Chairman Dunning: I'll need a Motion to carry this matter to the February 2nd.

MOTION TO CARRY THIS APPLICATION TO THE VIRTUAL/ZOOM MEETING ON FEBRUARY 2, 2022: made by Member Ludwig, seconded by Member Lynch. Voting yes were Members Dunning, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

Attorney Mondello: How do we get the word out that it is virtual now?

Board Secretary: I'll do what we did last year. It will be on the Agenda, 1049 Ringwood Avenue and the new applications will have it in their notices, and it'll be on the website

Attorney Mondello: Maybe a sign on the door somewhere.

Board Secretary: Yes.

Chairman Dunning: Basically nobody's here tonight we had 20 people last time.

Attorney Mondello: I'm surprised. I don't know whether they knew or thought that this was going to be adjourned.

Board Secretary: I don't know since they sent the notices in plenty of time. They were mailed out December 23.

Board Secretary: We had 30 objectors here. I think it was a somewhat controversial.

Member Aumenta: I happen to know one of them and a lot of the people that were planning on coming they have covid, so that was that was part of the problem. Because they were asking if it would be virtual,

Attorney Mondello: Maybe you can reach out and let them know it's virtual and they can spread the word.

Member Aumenta: I will let them know. They were hoping that since the council went virtual that maybe we would too and I said no.

Attorney Mondello: This reminds me of this Get Smart thing. I have a hard time hearing people through this.

Attorney Mondello: I believe there's another matter that was on the Agenda; however, they hadn't noticed, 1049 Ringwood Avenue.

Board Secretary: I received an email from the attorney's office Price, Meese and they said, "As discussed, we will have to be carried to the Board's February meeting since we did not notice for the January date. Please confirm with me the February date at your convenience."

Attorney Mondello: Well, nobody should be here for the 1049 because they weren't noticed but, if you are, that's carried to the February 2nd meeting which is virtual.

Member Aumenta: Do we have an engineer's report for that one because I don't have one

Engineer Nash: Yes, there was a letter, December 12 and 13th or something like that.

Chairman Dunning: You looked at those plans Chris?

Engineer Nash: Yes.

Chairman Dunning: You can tell them what's missing so they come with the right stuff.

Board Secretary: I will email the report to all members.

Chairman Dunning: I have the full plan, but I don't have any architectural on that.

Board Secretary: You have all that I have.

Engineer Nash: The last sheet, I think, is the architectural.

Chairman Dunning: I didn't see that. There's a lot of questions so let's make sure we have the right paperwork.

Application ZBA2021-11-435 Ringwood Avenue, LLC, 435 Ringwood Avenue (Block 208/Lot 8)

Attorney Mondello: Good evening Mr. Martin, nice to see you. Come on up with your client and professionals. I'll just indicate Mr. Chairman that I am in receipt of notice of publication for this application and the notice that went out to residents within 200 feet. I deem the application complete from a notice perspective. Jurisdiction is vested in the Zoning Board to hear this application. Mr. Martin, please enter your appearance into the record.

Attorney Martin: Yes, thank you, Mr. Mondello. Edward Martin, 52 Skyline Drive, Ringwood, New Jersey, attorney for the Applicant, 435 Ringwood Avenue LLC.

Attorney Mondello: As soon as you get squared away there, perhaps you can give a brief overview as to what this Application is about and who is going to be testifying.

Attorney Martin: Mr. Chairman, Board Members, Mr. Mondello and Mr. Nash, the Application this evening is seeking approval of an addition on a two family home located at 435 Ringwood Avenue. There are a number of bulk variances being requested as well as a use variance. The property is not only located at 435 Ringwood Avenue, but it's owned by an entity known as 435 Ringwood Avenue, LLC. The principal of that entity is seated here to my right, Adam Yaghan, and he will provide testimony for the applicant. I also have an Architect, Mr. Carballo, who will testify as to the plans that were submitted in support of the application.

Attorney Mondello: So Mr. Martin and I had a conversation with respect to what type of use variances this is because this is a two family home and a zone that doesn't permit two family homes. Normally, it would be a straight D-1 Use Variance so we spoke about was this house there prior to the prohibiting ordinance, which I guess we know from Tree Tavern is 1958. Although Mr. Martin thought it was, he believes that his client and himself would not be able to produce sufficient evidence to convince the Board that, in fact, you know, this was constructed prior to the prohibiting ordinance and remained as a two family home for that entire period from 1958 to today and, having said that, the application is for a D-1 Use Variance.

Attorney Martin: I believe it is.

Attorney Mondello: As opposed to expanding a non-conforming use.

Attorney Martin: Correct.

Attorney Mondello: Alright, fair enough; first witness.

Engineer Nash: If I may interrupt you. My interpretation was that it was a D-2 expansion of a non-conforming using. So I have a different interpretation on it.

Attorney Mondello: You have the same interpretation. They don't have the evidence to prove.

Attorney Martin: The only other point I wanted to make Mr. Mondello before actually questioning Mr. Yaghan is the variance is being sought and Mr. Nash does set this forth clearly in his letter. I just wanted to make it clear for the Board this is an addition that is going out the back of the house that's already there. So the structure itself is only being sort of pushed back, if you want to say that, we don't even need a rear yard variance ironically. The rear yard setback is not being violated. The variances being sought are all pre-existing. None of them are being exacerbated by the application at all. The reason they're necessary here is because again, these

are all pre-existing and the property is the R-10 Zone. Mr. Nash correctly pointed out that we do need these variances to be granted, but I just wanted to be clear, all of these things are pre-existing. Every single variance that is sought here is already there, so I just wanted to make that clear.

Attorney Mondello: Swore in the first witness, Adam Yaghan, 439 Ringwood Avenue, Wanaque, New Jersey

Attorney Martin: Now, Mr. Yaghan, you are one of the members of 435 Ringwood Avenue LLC, is that correct?

Mr. Yaghan: That's correct.

Attorney Martin: And that entity owns the property at 435 Ringwood Avenue, correct?

Mr. Yaghan: That's correct.

Attorney Martin: How long have you owned that property approximately?

Mr. Yaghan: We purchased it in November 2020.

Attorney Martin: When you bought it, it was your understanding it was a two family house.

Mr. Yaghan: That's correct.

Attorney Martin: Since you bought this house, it has always been used as a two family.

Mr. Yaghan: Correct.

Attorney Martin: I believe there was at least one tenant there when you bought the property?

Mr. Yaghan: Correct.

Attorney Martin: In your own words, just explain what you're seeking to do. What's the purpose of the addition?

Mr. Yaghan: I just wanted to add closets to the existing bedrooms, just to enhance the quality of life for the tenants that are potentially going to be moving in.

Attorney Martin: So these bedrooms are pretty small?

Mr. Yaghan: They're significantly smaller.

Attorney Martin: How many rooms are we talking about?

Mr. Yaghan: The first floor has three bedrooms and second floor has two bedrooms.

Attorney Martin: Am I correct when I said before the Board in my opening that the addition you're seeking would just be out the back of the property?

Mr. Yaghan: That's correct.

Attorney Martin: Now, when looking at this property, you actually live right next door, is that correct?

Mr. Yaghan: That's correct.

Attorney Martin: Which side do you live on?

Mr. Yaghan: If you are facing it from the street, I live on the left hand side.

Attorney Martin: So you live in that house and you're a principal in the LLC that owns this property?

Mr. Yaghan: Correct.

Attorney Martin: How long have you been living there?

Mr. Yaghan: I moved into 439 Ringwood Avenue, I believe, it is six years now.

Attorney Martin: To the best of your knowledge since you live there, next door to this house, has it been a two family to the best of your knowledge?

Mr. Yaghan: That's correct.

Attorney Martin: Now, you and I discussed this issue, obviously, that the property is actually in an R-10 Zone so it's zoned for one family homes, correct?

Mr. Yaghan: Correct.

Attorney Martin: Did you know that by the way when you bought this house?

Mr. Yaghan: I did not.

Attorney Martin: When you bought the home, was there any discussion or do you have any knowledge of how long it had been used as a two family?

Mr. Yaghan: The previous landlord stated he purchased it as a two family. I believe he had owned it for five years.

Attorney Martin: As part of our preparation for this matter, you're aware and we discussed this, I pulled the property record card, you're aware that you're familiar with that?

Mr. Yaghan: Yes.

Attorney Martin: That card indicates that the property was built in 1904. Is that right?

Mr. Yaghan: That's correct.

Attorney Martin: It also references that, at least as of this property record card, it is noted as a two family property.

Mr. Yaghan: That's correct.

Attorney Martin: So you live in the neighborhood and you live right next door, right?

Mr. Yaghan: Correct.

Attorney Martin: Are you aware of any other properties in the neighborhood that are also two family houses?

Mr. Yaghan: That's correct. So you're looking at my house in the center, the property that's in question right now for 435, has been a two family and the property next door, which is two buildings on one lot, which is also two, two families.

Attorney Martin: 441 and 443 Ringwood Avenue?

Mr. Yaghan: Correct.

Attorney Martin: Now, your plan here is to do this addition. Am I correct you're not going to change the use of the property right? You are keeping it as a two family house.

Mr. Yaghan: That's correct.

Attorney Martin: You live in the neighborhood. Is it your opinion, just as a lay person, I know you're not a planner, but as a lay person, do you believe this project will change the character or the type of neighborhood it is?

Mr. Yaghan: It's an eyesore right now. Once I'm completed, it's like a brand new home. So it's going to probably increase property value taxes for everyone.

Attorney Martin: For this project, from the street, are you going to be able to see this addition?

Mr. Yaghan: No.

Attorney Martin: By the way, what's your profession?

Mr. Yaghan: I'm a general contractor.

Attorney Martin: Do you believe that if you were to be given the relief you're seeking tonight, again, just based on your background as a contractor and as a citizen of Wanaque and living in this neighborhood, do you think that would cause any kind of detriment to the neighborhood?

Mr. Yaghan: No.

Attorney Martin: I think that's all I have for the witness.

Attorney Mondello: And I think you can give that opinion as an attorney if you want at the end. Nothing that I can ever find that prohibits an attorney from opining, you're not giving testimony. You can give an opinion. Any questions from Board Members for Mr. Yaghan?

Chairman Dunning: Did you start this project already?

Mr. Yaghan: I did start it originally and then I got stopped. Once the tenant upstairs left, I got a permit to do demolition on the second floor.

Chairman Dunning: So what do you see there, the existing structure covered with tarp, that's how far back you're going?

Mr. Yaghan: That's correct sir.

Chairman Dunning: And it's not going to follow the roofline off the main house, right?

Mr. Yaghan: No it's not.

Chairman Dunning: Just going to have a pitch roof of it?

Mr. Yaghan: Correct.

Chairman Dunning: What about drainage? Where's the water coming off that pitched roof going? Do you have a storm drain system there, or it just hits the ground?

Mr. Yaghan: It's going to be hitting the ground. But I can easily install some type of french drain system.

Chairman Dunning: You have no issues where the water's running into the neighbor's yard or your yard near the side?

Mr. Yaghan: Not at all.

Chairman Dunning: The other issue with that property is the shed is in the wrong place. It should be 5' off and 5' off. The garage is the same thing. It's too close to the rear property line. You're not going to knock the garage down.

Mr. Yaghan: No, sir.

Chairman Dunning: So you need to really ask for a variance for the deficiency of footage to the side and the rear of the garage. The shed, it is up to you, you can either knock it down, move it or ask for a variance for it to stay.

Mr. Yaghan: That's going to get removed.

Attorney Mondello: Sorry, Mr. Chairman, he's going to remove the shed. Is that what he said?

Attorney Martin: He is going to remove the shed. I had planned with him, and I was going to speak when the professional testifies, we were going to discuss the garage. But you're right, absolutely; we need a variance for the garage, which was also pre-existing by the way.

Chairman Dunning: Yeah, it has been there a long time.

Attorney Martin: And just in case, I'm guessing the Board Members would know this, the property to the rear is the ballfield. There's not a house there.

Chairman Dunning: Yes, it is Memorial Field.

Chairman Dunning: As far as the finished structure, it's going to blend into the existing house as far as siding, windows, whatever.

Member Yaghan: Yes, sir.

Chairman Dunning: It doesn't impact any rear entrance. Does it?

Mr. Yaghan: No, sir.

Member Henderson: I have a question. Counselor, you had mentioned something about some kind of note from 1904?

Attorney Martin: The property record card indicates that the property was built in 1904.

Member Henderson: And you mentioned something about that stating that it was a two family home at that time.

Attorney Martin: I didn't say that. The card that is on file with the Borough right now lists it as a two family house.

Member Henderson: Oh, the card on record now.

Attorney Martin: Yeah. I don't even know if the Borough has cards from years ago.

Member Aumenta: I have a question. So I know you said it was to add closets, but it looks like you're also expanding both bathrooms as well.

Mr. Yaghan: Yes.

Member Aumenta: Do you currently have bathtubs in those bathrooms? Are they showers?

Mr. Yaghan: Yes, there bathtubs.

Member Aumenta: Alright, so there's no change really in what you're setting up there.

Mr. Yaghan: It's going to be just a bigger bathroom and we're going to be adding in a washer/dryer closet.

Attorney Mondello: Anyone else? Any residents within 200 feet have any questions for Mr. Yaghan? Questions? Hearing none, seeing none, your next witness.

Attorney Mondello: Swore in Architect Jose Carballo, 171 Main Street, Hackensack, New Jersey.

Attorney Mondello: I don't think the Board has had the pleasure of hearing Mr. Carballo before so perhaps briefly you can give the Board the benefit of your qualifications.

Architect: Absolutely. I've never had the pleasure of appearing in front of you. By the way, Happy New Year and Happy and Healthy New Year to everybody. Hopefully everybody's fine. I've been registered since 1986. I've owned my own practice since 1986. I have appeared in about 50% of the Boards in Bergen County, about 100% of the Boards and Hudson County. I've been around for a while. I've been in Trenton, Camden, Newark, Paterson and I've always been accepted as an expert in architecture.

Attorney Mondello: Can you name any towns that you testified before the Boards in Passaic County?

Architect: Yes, I have in Paterson.

Attorney Mondello: That works for me. Any objections from Board Members accepting Mr. Carballo as an expert in the field of architecture? Hearing none, seeing none, your witness. Mr. Martin.

Attorney Martin: Thank you, Mr. Mondello. Mr. Carballo, the Board has been provided with a plan dated July 19, 20 21. Is that a plan that you prepared?

Architect: That's the plan that we prepare, yes. And there's also a date of December 14, 2021. That is the latest date that was for the submission to the Board.

Attorney Mondello: So we'll mark this as Exhibit A-1.

Attorney Martin: Also, just so we're clear, the plan given to the Board I do not believe is the December one. Mr. Carballo made some changes after Mr. Nash's letter was obtained. So we can certainly submit copies of that to Mrs. Fiorito after the meeting. He can certainly testify to it now. What changes were there between the two plans that you just referenced?

Architect: So when we received the report from Mr. Nash, we looked at his zoning chart, the requirements, and there were a couple of different numbers, and this is what we actually updated on this one. By way of Mr. Nash's letter, we do agree with all of these variances, and just want to bring something up that I guess it might be a typo. The line item F, side yard, when you get to propose Mr. Nash shows 29.8 is actually 19.8. So that's a change that we'd like to put in testimony tonight.

Attorney Mondello: Existing and proposed?

Architect: It's both existing and proposed.

Attorney Martin: So just to clarify that change, that doesn't mean that we're exacerbating any variance that exists, or any deviation from the zoning plan that exists right now. That's just, you believe, a typo from the beginning.

Engineer Nash: Can you go over what the potential error might be?

Architect: Yes, that's line F, side yard. When you get two proposed, it's both side yards; it's the addition of the two side yards, and it's shown us 29.8. We have 14 on one side and 5 on the other

side, that's 19. So it is 19.8 not 29.8. It's a typo I believe. It doesn't change anything. It doesn't change the plan, doesn't change the variances and doesn't change what we're actually building and proposing tonight.

Attorney Martin: Based on Mr. Nash's numbers, and based on his report, correcting the zoning schedule, you didn't make any changes to the plans themselves, correct?

Architect: That is correct. What we submitted originally is what we have here.

Member Ludwig: I'm looking at the plans and the plans on the original here are showing the dimensions you just mentioned.

Architect: Right, exactly. So that was the typo.

Attorney Martin: Mr. Carballo, could you, in your own words, just describe the architectural plans that you prepared in terms of what Mr. Yaghan wants to do with the property.

Architect: Absolutely, and he did a fantastic job as you heard here tonight. He actually explained the project the way it should be. The property is 435 Ringwood Avenue. It's a 50 x 125 piece of property, which is a 7500 square foot property, just shy of the 10,000 that we need. That is one of the variances that we are seeking tonight. You're going to see the location of a house. This is the existing building is the figure that you see here, and the dark portion that you see in the back, that's the addition for the project that we're presenting tonight. It's a 6' addition on this side. On this side over here it shows as 8' only because the side of the house actually angles. So it's a 6' addition to the rear of the building. It's a two story, two family building. You have the first floor that actually has three bedrooms and has the two bedrooms in the back and the one bedroom is in the center of the building. Then you have two more bedrooms on the back of the property on the second floor. Even though we have five bedrooms, this application only impacts the two bedrooms in the back of both floors. I'm looking at it as a quality of life addition to the project. The bedrooms are actually 10-1/2 x 11 and 10-1/2 x 12, and that is without closets. Three out of the four bedrooms do not currently have a closet. So in a 10-1/2 x 11 and 10-1/2 x 12 bedroom, you're actually trying to lay out furniture to include a bed, and also some pieces of furniture that will hold your clothes. If you can imagine, and that's one a room, once you put in those pieces of furniture, how tight that room is, it's basically unlivable. So we're trying to add closets and trying to give the bedrooms a little bit of you know, more ample room, just to be able to walk around furniture and be able to lay it out. When we get this, we added 6' towards the back of the building on both floors and that allows for now these bedrooms to have more. The 10-1/2 doesn't change. The width of the bedrooms doesn't change. We're basically keeping to the size of the building, and there's a bathroom that's in between the two bedrooms, so that does not change at all. But what changes is the depth of the bedrooms, and now these bedrooms are 10 x 15. Still not a great bedroom, not a master bedroom per se, but it allows for a better layout and better function of the bedrooms. It also allowed us to replace the bathrooms with normal sized bathrooms. And, again, adding to the quality of life, we're also adding a washer/dryer so that they can actually do those functions within the apartment and they don't have to go into the basement if they have one or elsewhere to do laundry. So basically that's the intent of the this application is just to give the

tenants, the occupants of the building, a better quality of life so they can actually be in the bedrooms, and be able to lay out furniture. One of the questions, I think it was the Chairman, asked what the addition was going to look like. The addition is going to be clapboard or finished in the same way as the rest of the building. So when you're looking at this building from any angle, you're going to see one uniform building. You're not going to see a building and an addition. It's all going to look the same. Being only 6' it's barely discernible from the front of the building. Actually it will be very undiscernible from even the side yards, and even the rear yard. The building doesn't expand beyond some of the other building lines that we have existing along the back. So there's not going to be any obstruction of views through the rear yards. The only thing is that when we're looking at the side that really impacts, or the larger issue with the setbacks, is the north side. That's only 5. The house next door is pushed all the way to the north on the property line so the distance between the buildings is great. It's almost as if you had two 15' yards. You are actually not impacting that building at all, I would say. So, all in all, and speaking as an architect, not as a planner which I'm not, I think that the addition is not going to negatively impact the surrounding area, is not going to impact, you know, the street. We're not adding to the width of the building, we're just adding towards the rear of the building, which is something that is hidden from view. We're not adding bedrooms. We still have the three bedrooms in one and two bedrooms in the other one so we're not impacting parking, and we're not impacting the number of people that live in the house. Aside from that, yes, there is a garage that is pre-existing; it is there. When it was built, it was built right on the property line, or very close to the property line, so we do need variances for those. So we're also asking for those variances to be added to the chart that Mr. Nash created. Aside from that, some of these variances are because we have a 50' wide lot, as opposed to an 80' foot wide lot, which is what's required, and there's really nothing we can do about it. That's it, it's there and I wish we could buy more land for this but it's just not available. I don't have anything else for you.

Attorney Mondello: Any questions for the Architect?

Engineer Nash: I do. So the Applicant's looking for a D Variance. Most of the time, we're dealing with the bulk variances, which this application has, but they didn't create any of them. So I think for the record to be complete, we need some more testimony on the positive criteria. I've heard some negative criteria, that it's not impacting the neighbors, but the only positive criteria I heard was benefiting the property owners and the people living in the building, which is not satisfying the positive side of the equation. Maybe just expand upon what you opened with Mr. Martin, the positive impacts to the neighborhood.

Attorney Mondello: So Mr. Carballo, despite the fact that you're not a planner, you know, planners have always been given this duty to testify with respect to *Medici*, but I've seen attorneys give opinions, I've seen architects give opinions, and I've seen lay folks give opinions. So perhaps, you know, you can just elaborate on what you think the positive aspects are in the general welfare, that sort of thing, and if you need Mr. Martin's help, perhaps he can ask you the questions.

Architect: He can ask me the questions. I mean I'm very opinionated but not when it comes to this, so I'll let him handle this one.

Engineer Nash: I just want the record to be complete.

Attorney Martin: Would you agree, just as an Architect, that the application can be granted without substantial detriment to the public good? Do you agree with that?

Architect: Absolutely.

Attorney Martin: Do you feel that this application, the granting of it, would somehow impair the intended purposes of the zone plan?

Architect: No, it doesn't. We're not really exacerbating any of the variances that we have. The building basically, it's in its form, is staying the way it is. It's just a small addition towards the rear. So I don't think that this building is going to impact the neighborhood in a negative way.

Attorney Mondello: And taking a look at some of the purposes, would you say that it does provide adequate light, air and open space?

Architect: Oh, absolutely. Especially on the right side where we have the one setback that is short, but the house next door is way away from us, so it does provide a decent dimension for wall to wall. And it does provide nice light and air.

Attorney Mondello: And it provides sufficient space in appropriate locations for this type of residential use, correct?

Architect: Yeah, it does in a couple of ways in the parking and a couple of ways to the building and it still has some open land for the tenants or the occupants.

Attorney Mondello: Does it create a desirable and visual environment? I know you said that you can't see it.

Member Ludwig: Only from Memorial Field.

Attorney Mondello: That works.

Architect: The entire building is going to be re clad in a wood finish so you'll have a brand new building. So that in itself is beneficial to the neighborhood.

Engineer Nash: Thank you.

Architect: Thank you Mr. Nash.

Member Henderson: Can I ask a couple questions? So you state that this is currently being used as a two family home? It's rentals, correct?

Mr. Yaghan: Correct.

Member Henderson: Okay. Originally, it's in an R-10 Zone, which is for one families. So unofficially, it's been serving as a tool for rentals for tenants. My concern is that, is this going to set precedent for the surrounding area for future people to be coming in, you know, requesting for two family variances. Ringwood Avenue has a bunch of like, very nice, quaint houses, which I think has a nice streetscape within the town. It's nice driving down the road, seeing, you know, all the different Victorian houses, and all that. And I think by granting something like this, is setting a precedent, which is changing the image of the street, and in the neighborhood the feeling of homes.

Attorney Mondello: So I'll just add and see what Mr. Martin can add to what I have to say. So applications are not supposed to set precedent. Each application rises or falls on its own merits. An applicant can't come in and say, well, wait a minute, you gave them that. That's irrelevant, and I would object if somebody ever made those comparisons. But also, my understanding, some of the testimony was that you've already got several, two family homes, so why don't you take it from here?

Attorney Martin: Well, I was going to indicate, and I know this is clear, but just to reiterate, for all we know, this property has always been a two family. What I indicated earlier is to not seek a variance, a use variance, I'd have to prove, I'd have to bring in witnesses and prove that from 1958 until today it has always been used as a two family that entire time.

Member Henderson: But you just guesstimating that. You're not sure, you don't know that for a fact, and if this is in an R-10 Zone, then how can a two family home be there since 1904?

Attorney Martin: Wait, let me rephrase that. I didn't say that clearly. We're seeking a Use Variance. The reason we're doing that is because I cannot say. I can bring in that I be able to prove beyond any kind of doubt that from 1957 forward, it was a two family. I don't know that anyone can do that with regard to a property like this. So I know I can't do that. But what I think is clear, based on just Mr. Yaghan's testimony, and based on the records from the town, it certainly has been used as a two family for some time, certainly for many years, for sure. And not only that, there are other houses right literally a few doors down. Two more that we know are being used as two families. So again, I'm not saying I can prove that it's been a two family since that time, and that's the whole reason we are you asking for the Use Variance, but the Borough of Wanaque has indicated to me that as of right now, it knows it's a two family house, and it's being taxed as such, and you know, there's no way I can know from this when it was first used that way. But it was used that way for many years.

Attorney Mondello: We you here, I forget, for the Tree Tavern.

Member Henderson: Yes, I was.

Attorney Mondello: It would be something similar to that except you can't get the witnesses. You can't get the old guys to come in and say I always drank back there.

Attorney Martin: I certainly would be approaching this differently if it was a one family house and I just decided, we decided we're going to try to make it two family. That's really not at all what this is. I mean, he bought it as a two family, he had no idea at the time, as he testified ,that the zoning was not zoned for that. But it's certainly been a two family for certainly the last number of years.

Member Ludwig: I would bet that once he starts doing some demolition to do this addition you can probably tell what has been there a long time and what has not.

Member Sbarra: I had a question actually. I've heard testimony today basically saying that this is going to look like a new home, and I also heard something to the effect that, you know, everything's going get reclad. If you could just expand on that. In conjunction with this project, are you planning on residing the whole building and all that?

Mr. Yaghan: That's correct. I still haven't decided if I'm going to do siding or stucco because my house is stucco next door. As far as aesthetics, I'm hoping my wife and my kids are going to help me. My son has some great ideas. So it's going to be all brand new siding, brand new windows and brand new roof.

Member Sbarra: On both what's existing there as well as the addition?

Mr. Yaghan: Yes. It is all going to be uniform. All four sides will be uniform.

Member Aumenta: My understanding is from your testimony that you started to do this project, and then you stopped because you were stopped because you didn't have permits, etc.

Mr. Yaghan: Originally I had started in the first floor, just willing to just do cosmetic work. When I opened the walls, I noticed and I still had a tenant upstairs, and I don't know how the building was still standing, so I put into permits, was a little late after we started, for some framing, repair, and for electrical and plumbing work. I believe, Mike Hafner, and actually I actually had COVID at the time, so I was kind of delirious the whole situation, I tried to bring in everything that I could, and he had instructed me to just stop work. You need to follow these protocols, which I admittedly did. Once the second floor tenant had left, I was eager to just at least start the demolition upstairs, so I submitted for permits for that are approved and now we're before the Board to get approval to complete the project.

Member Aumenta: Just wanted to clarify because as a contractor, you would think that, you know, you kind of knew that you had to get permits and all of that ahead of time.

Mr. Yaghan: Absolutely. It was a mistake on my fault. I was truly concerned for the tenant upstairs. There was termite damage, water damage and it was just all behind the wall. I saw stuff that I didn't even see during the home inspection.

Member Aumenta: Welcome to Haskell and Wanaque. When I bought my house with an addition, and we thought the second floor was going to come down, so termites are a mess.

Member Sbarra: One more thing as far as the site, so you said you're going to be removing the shed, correct.

Mr. Yaghan: Correct.

Member Sbarra: Is there any work going to be done to the garage?

Mr. Yaghan: With the garage, the roof kind of doesn't look like it's sitting right to be honest and I also want to match the house with the garage because it's going to look stupid having the old siding on the one and brand new exterior on the other. I definitely want it to match the roof shingles, maybe add some support inside, some new rafters.

Member Sbarra: So at least for aesthetics to the garage, you're looking to match siding or stucco or whatever you choose to do.

Mr. Yaghan: Absolutely. Definitely want to do some yard work back there, you know, make it look nice and pretty. If approved, I want to put a fence up.

Attorney Mondello: Anything else for this witness? Hearing none, seeing none, any residents within 200' or residents in Wanaque have any questions for this witness? Hearing none, seeing none, next witness?

Attorney Martin: I don't have any other witness.

Chairman Dunning: Alright, okay, one question. With the garage, are we going to include a variance for the garage.

Attorney Mondello: Yes sir.

Chairman Dunning: What's the footage?

Attorney Mondello: 4-1/2 versus 5, right? The minimum is 5' and they have 4-1/2'.

Chairman Dunning: What about the side?

Engineer Nash: Side is good I believe.

Member Sbarra: The side is listed as 5' too.

Attorney Mondello: It's just the rear property line.

Chairman Dunning: That 5.2', that's okay?

Engineer Nash: Yes.

Chairman Dunning: So we just got to give him the distance of 5' in the back?

Engineer Nash: No, 1/2'.

Chairman Dunning: Yes, to make it 5'.

Engineer Nash: Yes.

Chairman Dunning: So we would include that in as a variance for the garage.

Attorney Mondello: You got lot area existing, lot width existing, front yard existing, side existing.

Chairman Dunning: The driveway is big enough. I mean everything, other than that, seems to be okay.

Attorney Mondello: Do you want to sum-up Mr. Martin or is there anything else you want to add?

Attorney Martin: The only other thing I would want to add is, you know, the neighbor. We covered before that Mr. Yaghan owns the house if you're looking from the street to the left. The neighbor to the right, I did contact, I did write a letter to and they did respond that they have no objection to the application.

Attorney Mondello: I forgot to open this up to the public. Any member of the public have any comments either for or against this application? Hearing none, seeing none. Back to the dais Mr. Chairman, for your motion for or against.

Chairman Dunning: We need a Motion on this Members.

Engineer Nash: The only other conditions, it's in my letter, since the side yard is deficient, like a lot deficient, I'm suggesting that they not put any utility, like HVAC equipment, in that strip.. Put it on the other side.

Mr. Yaghan: Absolutely.

Attorney Mondello: Any problems with that?

Attorney Martin: No. It shouldn't be located in the north side yard. Okay, fair enough.

Chairman Dunning: Okay, somebody want to make a Motion on this?

Member Sbarra: I'll make a Motion to Approve the variances that were proposed today, including the rear garage setback, and the side variances that we spoke about, as well as the D-1 Variance, right? That's what we spoke about the D-1 Variance.

Attorney Mondello: The D-1 Use Variance; two family is prohibited in this zone.

Chairman Dunning: Notice, if you have 20,000 square feet, it's not prohibited.

Attorney Mondello: I thought two families were prohibited period.

Chairman Dunning: Not in an R-10.

Attorney Mondello: It's an R-15 Zone.

Engineer Nash: No, it's an R-10.

Attorney Mondello: Okay.

Chairman Dunning: If you have 20,000 square feet, you can do it two family.

Attorney Mondello: So hold on a second. So then this is a conditional Use Variance because one of the conditions is it's supposed to be, as you said, 20,000 square feet. When you don't have 20,000 square feet, is the use permitted or not?

Chairman Dunning: See where it says in here, 20,000 square feet.

Attorney Mondello: I understand that Mr. Chairman.

Chairman Dunning: I assume that's where it came from.

Engineer Nash: If it's a two family house. That doesn't mean that it's permitted at this point.

Chairman Dunning: I don't think we've ever had one in recent years that had 20,000 square feet, but we have a number of two family houses in Wanaque and Haskell.

Attorney Mondello: So I just want to clarify the record, and I forgot to bring my codebook with me one time, so a two family residence, forget about these other conditions, is a two family house permitted in the zone with certain conditions? Or is it just simply not permitted?

Chairman Dunning: Yes, it's permitted as long as you have 20,000 square feet.

Attorney Mondello: All right, Jack would know this. So it's not a D-1 Variance. It becomes a D-3 under Coventry, which is a very loose, easy standard for an applicant to meet, as opposed to a D-1. It makes a big difference.

Engineer Nash: Permitted uses are one family dwellings. That's the permitted use.

Attorney Mondello: Jack, you stand corrected, I think.

Chairman Dunning: No, keep going down.

Mr. Hafner: Keep going down to Conditional Uses.

Attorney Mondello: He's got a memory. All right.

Chairman Dunning: That's where I thought the 20,000 square feet came from and his chart.

Engineer Nash: Two family dwellings by conditional use.

Attorney Mondello: It's a D-3 Variance. There's a famous case Coventry, which says that you really don't have to prove the negative criteria because the Governing Body has already permitted the use and the testimony only needs to be that, absent the condition that you have not met, it's still an appropriate use and the site is appropriate. All right, we got that cleared up.

Member Sbarra: So I guess I'll continue with my Motion then.

Attorney Mondello: Just change it to D-3.

Member Sbarra: So we are going to change that Motion to now being a D-3 Variance. And also with the conditions that the applicant had stated that we're going to be removing that shed and also we're going to be recladding this building as well.

Mr. Yaghan: Yes.

Member Sbarra: So that's my Motion.

Member Ludwig: I'll second that.

Attorney Mondello: Roll call.

MOTION TO APPROVE APPLICATION: made by Member Sbarra, seconded by Member Ludwig. Voting yes were Chairman Dunning, Members Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas. **Motion Carried**

Engineer Nash: The last item is each unit has to be greater than 950 square feet.

ENGINEER'S REPORT: Board Secretary is handing out two new applications. There'll be four applications on the February Agenda.

PUBLIC DISCUSSION: Hearing none, seeing none, let the record show there was no one to come forward.

MOTION TO ADJOURN AT 9:00PM: made by Member Ludwig. Motion carried by a voice vote.

Jennifer A. Fiorito
Board of Adjustment Secretary