

REGULAR MEETING

Salute to Flag: 7:00PM

Attorney Mondello swore in New Board Member, Edward Bonner – Welcome Board

OPENING STATEMENT:

This is the Regular Meeting of the Wanaque Board of Adjustment and adequate notice has been given and it has been duly advertised by the placement of a notice in the Suburban Trends on February 8, 2023 respectively, and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque, on the Borough’s website and a copy thereof has been on file in the Borough

ROLL CALL: Chairman Jack Dunning, Members Helena Aumenta, Michael Sbarra, Dana Lynch and Edward Bonner and Attorney Ronald Mondello

Member Donald Ludwig arrived at 7:05pm

Engineer Christopher Nash arrived at 7:13pm

ABSENT: Vice Chairman Bruce Grygus and Member Frank Covelli

Chairman Dunning: We will conduct old business until Engineer Nash arrives.

RESOLUTION: ZBA2022-11 – Lebiedzinski, Liliana & Arkadiusz

Attorney Mondello: Applicant came before the Board looking to construct an addition on the front west side of the existing building at 85 Snake Den Road. They are in the infamous WRC Zone. I did circulate this to the Board Members and ask if there are any comments, questions, concerns, modifications, at this point and hearing none. Let me just indicate that there were some additional conditions in this Resolution and, in particular, there are five (5) sheds on this property, and the Applicant agreement to remove Shed #1 and Shed #2 and cut the concrete slab that is over the property line.

MOTION TO APPROVE: made by Member Aumenta, seconded by Member Sbarra.

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

CORRESPONDENCE:

Chairman Dunning: We have a letter from Attorney Barbarula withdrawing Application ZBA2022-10, which is 1323-1327 Ringwood Realty Inc., and the 21 apartment building.

Attorney Mondello: Now that has occurred, I would ask for a Motion to Dismiss the Application Without Prejudice, in case he wants to come back, followed by a second.

MOTION TO DISMISS APPLICATION ZBA2022-10 WITHOUT PREJUDICE: made by Member Aumenta, seconded by Member Sbarra. Voting yes were Chairman Dunning, Members Ludwig, Aumenta, Sbarra and Lynch

Chairman Dunning: The other item of correspondence is the Resignation Letter of Member Eric Willse.

Attorney Mondello: Motion to Accept the Resignation of Eric Willse, with a second.

MOTION TO ACCEPT RESIGNATION: made by Member Sbarra, seconded by Member Ludwig. Voting yes were Chairman Dunning, Members Ludwig, Aumenta, Sbarra and Lynch

MOTION TO APPROVE FEBRUARY 1, 2023 MINUTES: made by Member Ludwig, seconded by Member Lynch. Voting yes were Chairman Dunning, Members Ludwig, Aumenta, Sbarra and Lynch

Application ZBA2023-03 – Calabrese, Victor – 7 Fredericks Street

Attorney Mondello: I note for the record that the Applicant has noticed in the Suburban Trends and has sent notice to the residents within 200’ of the subject property. The Zoning Board is vested with the authority to hear the Application. Who is going to be testifying?

Attorney Mondello: Swore in David Longo, 15 Franeks Road, Hamburg, New Jersey (Contractor) and Victor Calabrese, 1111 Ringwood Avenue, Haskell, New Jersey (Applicant).

Mr. Calabrese: I want to construct a garage on my property at 7 Fredericks Street because I plan on making that my primary residence in the near future. Basically I need it for storage since I have accumulated a lot of things that I don’t want to do away with.

Mr. Longo: It is a 24x24 garage with parking on the bottom and storage on top.

Attorney Mondello: Just so that the Board understands, you are the owner, correct?

Mr. Calabrese: Yes.

Attorney Mondello: And you sir?

Mr. Calabrese: My contractor.

Attorney Mondello: So Mr. Longo is the contractor?

Mr. Calabrese: Yes.

Chairman: Both of these gentlemen were former Board Members.

Chairman: You presented a drawing/site plan and it is very detailed
(Engineer Nash Arrived 7:13pm)

Chairman: Have you prepared a report?

Engineer Nash: I did not and the reason why I didn't is because there was a question whether there was a variance needed or not.

Mr. Calabrese: It is a corner lot, you have to have it. We always had it that way. It's a corner lot, it has to have 70' setback.

Engineer Nash: I believe it doesn't.

Mr. Calabrese: No? Building Inspector told he it is.

Engineer Nash: I disagree with him, that's all.

Chairman: There has been a discussion about that.

Engineer Nash: It looks like you need a height variance.

Mr. Longo: No, can I explain?

Attorney Mondello: Of course you can.

Mr. Longo: I went over this with Mike Hafner and, what he told me is, Wanaque's law is that the center of the gable end, as long as it doesn't go over 14', you are allowed to go the other 6' to 20' to the ridge. We kept it down. It's 13.8' to the center of the gable end and the ridge was at 19.8'. I went in front of him and that is what he explained is legal in Wanaque.

Engineer Nash: I don't think you need the height variance.

Mr. Longo: That's what he explained to me.

Engineer Nash: I do have a handout, Mr. Chairman, if you don't mind.

Chairman: We are waiting for you. You have all the information.

Engineer Nash: I am sorry. I thought the meeting started at 7:30pm.

Chairman: We all have to get used to the new time schedule.

Engineer Nash: Let me walk you through the process that went through my mind. I could be wrong too but I just want to go through the thought process that I had and the conclusion that I came up with. The Applicant is proposing a garage.

The first thing I looked at was the ordinance that says what a garage is. That is a pretty easy description of the garage to understand. For the record I am reading from Definitions §114-3 of the Wanaque Code and it says "Garage, Private: A garage used for storage purposes only, and having a capacity of not more than three automobiles." The dimensions of the garage, in my estimation, fit the definition. I don't think you can fit more than three automobiles inside the garage.

So the next thing I was looking for, okay I know what it is, so what are the rules around and how do you apply the zoning bulk requirements to a garage. I went into the R-10 and there are no bulk requirements specific to a garage. I did come across the zoning bulk table and it talks about an accessory building. So I went to the Accessory Building definition and it is a broad definition and that is also from §114-3 and it is "A subordinate building or portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building." So again that garage falls under the definition of it being an accessory building.

I found on the zoning table it does talk about accessory buildings. So here is where the money is. How does everybody read this and understand and interpret it. "Accessory buildings in all R districts shall not be closer than: 10 feet to any principal building. It's okay; it is further than 10' from the main building). Then it says, "70 feet to any front lot line; 15 feet to any side street lot

line, in the case of a corner lot;” So, if you read that all together, it says 70’ to any front lot line and then there is a semi-colon, pause, 15 feet to any side street lot line, in the case of a corner lot. So the way I read it that phrase, when there is a corner lot, the offset is 15’ to any side street lot line. There are two sides so it can be 15’ from either one. That is how I read it.

Corner lots are always exceptional in when you apply the bulk because it is a corner. It is an oddity. A lot of towns handle it differently. They say there are two front yards, they say the longer of the two is the front yard, some say where the building is facing is the front yard. There are many definitions on what is the front on a corner lot. Wanaque doesn’t have that. Wanaque is silent on it. The only thing that I can see to go on is that phrase.

My interpretation is that they don’t need a variance because they are 20’, I believe, from the side yard.

Member Aumenta: 22’.

Engineer Nash: 22’ from the side street lot line. I don’t think he needs a variance but, again, that is my opinion and interpretation.

Attorney Mondello: Let’s take a couple of steps backwards. So you did speak to Mr. Hafner about this, and what did he tell you, and why are you here if you don’t need a variance?

Mr. Calabrese: He gave me a report that said that because of the corner lot and I think my property is 146x75. He said because the house faces the shorter distance, the depth, they have a 70’ setback that I would need a variance for that.

Attorney Mondello: So he hung his hat on the 70’.

Mr. Longo: What do we do in that case?

Engineer Nash: My understanding is you are here for an interpretation. The MLUL has a provision.

Attorney Mondello: It does, but you don’t have to notice residents if there is an interpretation.

Board Secretary: That came after everything was done.

Engineer Nash: While I was doing my review, this is what I came up with.

Attorney Mondello: We can change the request from a C Variance to a 70B, which is an interpretation. You have already heard the Board Engineer’s interpretation of the ordinance and the scheduling table. I certainly have no reason to disagree with this expertise. We will open it up to the Board Members if they have any comments, or maybe they disagree, maybe they agree, so back to the dais here.

Chairman: All right, Members, any questions.

Member Aumenta: Based on what I’m reading, I agree with the interpretation.

Attorney Mondello: Anyone else?

Member Ludwig: It doesn’t really matter, but is that shed coming down?

Mr. Calabrese: I was hoping to repair that. We want to repair it. I want it make nice. I want to keep one building for fertilizer, etc.

Member Ludwig: Repairing it would be fine with me. Make it look nicer.

Mr. Calabrese: That’s what I want. I want everything to look nice because I want to live there.

Chairman: The only question with that shed is it is only 3.73’ from the property line; where you need 5’.

Attorney Mondello: So he is here for a variance, even though it is pre-existing.

Member Ludwig: That shed was built long before there were zoning laws.

Mr. Calabrese: It was built in the 1960s. The wood inside is all tongue-and-groove.

Member Ludwig: It looks like it was possibly done before the new setbacks.

Chairman: That was built before setbacks. The question is you chop 2' off of it or we give you a variance for the shortness. That would be up to you and builder.

Mr. Calabrese: Okay, the variance would be better.

Attorney Mondello: They did apply for a variance this evening. There is the catchall language in the notice in the Suburban Trends so we certainly could amend the application to include the shed so all is not for naught.

Chairman: It is a protection clause. Once we give you the variance, your shed is safe.

Chairman: The other question is the gravel driveway.

Mr. Calabrese: That is going to go. Once the garage is up, I want to pave that. That was my sister's house and she never wanted to go for a driveway. Trust me, it will be gone. It will be blacktop.

Chairman: The only other missing from drawing is the depressed curb. How big is that going to be? How wide is it going to be?

Mr. Calabrese: The depressed curb is already there. That is how I pull my car in. When they paved the road, I wanted originally to have the driveway over on this side, but they told me you could only have a depressed curb on one side. Is that true? I have one there and it is existing.

Chairman: How wide would you say it is?

Mr. Calabrese: Isn't the measurement on the plan.

Member Sbarra: If the garage is 24' it is probably 24'.

Mr. Calabrese: I think so; I think it covers the whole thing.

Chairman: That would be the safest thing if it covered the whole thing. That's all. Whether it is 24' or 20', it still works. We don't want to give you another variance you don't need.

Mr. Calabrese: That's how I come up with the 24'. I think they staked it out.

Member Bonner: Mr. Chairman, because our Engineer pointed out the fact of the height, is that an issue here?

Engineer Nash: The height is an average height. When you have a gable roof, the height is measured to the midpoint so they are allowed to be 15' high and they are averaging about 14'.

Chairman: What are you running to the garage, electric water?

Mr. Calabrese: Electric only.

Chairman: You need lights and you need electric for the doors to open. So you are going to run a cable underground probably.

Mr. Longo: There will be a subpanel inside the garage.

Chairman: The other thing, on the left side of the garage, you have a circle with some little lines coming out of it. What is that?

Mr. Calabrese: That is a lamp post. There is a bush there and a lamp post.

Member Bonner: So it is unheated?

Mr. Longo: No, no heat.

Mr. Calabrese: No heat but I am going to insulate it well.

Mr. Longo: Just electric for the lights and garage door opener.

Chairman: The second floor, what is the basic mean ceiling height?

Mr. Longo: From the floor beams to the ridge?

Chairman: Yes.

Mr. Longo: It is going to be 14', no it is 12'.

Chairman: Second floor?

Mr. Longo: Second floor is going to be 12' to the ridge from the ceiling beams.

Mr. Calabrese: It is just for storage.

Mr. Longo: For storage, you are only allowed to put in disappearing stairs. You are not allowed to have permanent stairs.

Chairman: We have to ask. 10 years from now Victor decides he is going to sell the house and new owners say they want to put an apartment or two up there. This happens all the time, so we have to ask these questions just to protect you and the town because once we give an approval, it is good for the life of the property. 100 years from now if someone wants to build an apartment up there, we don't want that to happen. It happens a lot in Wanaque. We got garages that became houses.

Mr. Calabrese: Is there anything we can do to prevent that from happening?

Chairman: By enforcement.

Mr. Longo: If the neighbor calls and says there are people living up there, then the building inspector has to go look.

Member Ludwig: I think you would need plumbing applications, and all sorts of approvals.

Chairman: A lot of it has been done illegally.

Mr. Longo: As we have said, he is only putting in electric.

Mr. Calabrese: Yes, that is it.

Chairman: And that is why we ask these questions. This way it is on the record.

Chairman: Any other questions or thoughts on this?

Mr. Ludwig: The only question I had was is he going to neaten up the shed.

Chairman: Okay, we are good.

Chairman: Does anyone in the public have any statements about this application, or comments?

Attorney Mondello: Hearing none, seeing none, we will close that portion.

Attorney Mondello: We are going to have a Two Phase Motion. The first one Motion is to accept Engineer Nash's opinion that the provision 70' to any front line does not apply to this application.

MOTION TO APPROVE BOARD ENGINEER'S INTERPRETATION: made by Member Ludwig, seconded by Member Aumenta. Voting yes were Chairman Dunning, Members Ludwig, Aumenta, Sbarra, Lynch and Bonner
Interpretation Motion Carried

Attorney Mondello: The second would be a Motion to approve the Shed Variance since the Shed is not 5' from property line.

MOTION TO APPROVE VARIANCE FOR SHED: made by Member Sbarra, seconded by Member Aumenta. Voting yes were Chairman Dunning, Members Ludwig, Aumenta, Sbarra, Lynch and Bonner
Shed Variance Motion Carried

DISCUSSIONS:

Scenic Landscaping – Chairman questioned Engineer Nash on this matter.

Engineer Nash: I haven't gotten any more calls.

Member Aumenta: I also haven't gotten any calls.

Engineer Nash: If somebody calls me, I ask if I can come.

Chairman: Since we approved something they haven't followed at all.

Engineer Nash: I had a meeting with Mr. Covelli and we walked the site. It is not exactly per plan, but this type of application is random pathways so it is not going to match. The big concern that I had was the water running off the property and that is self-policing because if that was still happening, they would be calling.

Chairman: We haven't had a good rain and in our February meeting we talked about it briefly.

Engineer Nash: This is back into the fall that it started. After we met in the field with Scenic Landscaping, they did a lot of work. They put berms up and stuff like that which prevented water from leaving the site. It rained a lot in the winter. There was plenty of opportunity for people to be calling.

Member Aumenta: I haven't heard a thing about anybody. They are not complaining to me anymore.

Engineer Nash: We don't have policing power, but the power you have is if there is water coming off that site that didn't happen before and they have a site plan application with an approval that says that is not going to happen.

Chairman: That is the concern we have with the neighbors and they weren't happy this to start with, but Scenic had the right to make the application and they agreed to everything we asked so we said yes.

Engineer Nash: They would not have liked the alternative either; six to ten houses.

Chairman: Realistically, it is land locked piece of property. Because their proposal was to come in off of Jefferson in that little bit of a street that we created by approving house there some years ago.

Engineer Nash: It is a Borough street so they could.

Chairman: But it is part of the Green Acres. Where they showed the road in, that was all Green Acres. They couldn't go near that since it wasn't their property.

Member Aumenta: I don't think it was Green Acres back then.

Chairman: That whole mountain was part of Green Acres because originally there was 105 condos coming.

Engineer Nash: If you have a dedicated right-of-way, the municipal right-of-way, if there is public right-of-way on Green Acres, you can use it for access to your property. Otherwise it wouldn't be a right-of-way anymore; it would just be Borough property.

Attorney Mondello: When Green Acres dollars are spent on a park, especially, everybody gets to go the park, not just people from Wanaque, but everybody. So I'm not too sure that Green Acres typically restricts the use all the time.

Buske Property – Chairman has been questioned by a certain person in town about that and why nothing is being done. What is holding this up because the house looks like hell with all that green plastic wrap that has been on a couple of years, and they built deck off the second floor, but they didn't build the ramp around to the front.

Member Aumenta: I know Mike talked to him because I brought it up to him at the last meeting and I know he said he'd talk to him too.

Engineer Nash: It has nothing to do with this Board.

Chairman: We have no police powers.

Attorney Mondello: But he does. This is the Zoning Official, Joe Setticase.

Zoning Officer: We are in communication with Mr. Buske and he is definitely going to follow through and get things done.

Attorney Mondello: We appreciate that.

Chairman: There have been questions because, other than the deck and not the ramp down to the front, not much has been done. The new garage hasn't been put up.

Board Secretary: We don't have a permit for the garage. They are working on the house and the interior. They are getting there inspections to get the apartment and the office.

Chairman: Our approval is only for nine months and you don't have a permit for the garage. So does he have to come back?

Attorney Mondello: Have they done anything because once you put a shovel in the ground that is sufficient.

Engineer Nash: They have.

Attorney Mondello: They don't need to come back here. They put a shovel in the ground and they started some kind of work so that stops the clock from ticking. I know it may be patently unfair, but that is my understanding of the case law.

Engineer Nash: It includes site work.

Attorney Mondello: They are not out of time.

921 Ringwood Avenue

Chairman: We have an application for this address but it never came before the Board because Engineer Nash put a letter together.

Attorney Mondello: Let's not talk about.

Chairman: I just want to know if anything came back.

Board Secretary: No, nothing has come in.

Chairman: Engineer Nash was the last person to touch it. He deemed them totally incomplete and that is the end of it.

Attorney Mondello: No clock ticking there since it is not deemed complete.

July 5, 2023 Meeting

Engineer Nash: Are we having a meeting on July 5th?

Chairman: If we don't have anything, no.

Member Aumenta: We were just give a new application.

Engineer Nash: I will not be here for July 5th. Obviously, someone could appear in my place.

Chairman: No July Meeting.

Attorney Mondello: We published for a July 5th Meeting, correct?

Chairman: We can adjourn for no agenda.

Engineer Nash: Is this of urgency that we should have a July Meeting?

Member Sbarra: No.

Chairman: If Chris isn't going to be here.

Attorney Mondello: It is my understanding that the Board Engineer is not available for the July 5th Meeting and the Chairman is suggesting that meeting be cancelled. Is there a Motion along those lines?

MOTION TO APPROVE CANCELLING JULY 5, 2023 MEETING : made by Member Aumenta, seconded by Member Ludwig. Voting yes were Chairman Dunning, Members Ludwig, Aumenta, Sbarra, Lynch and Bonner

The Next Meeting would be Wednesday, August 2, 2023.

Board Secretary: No meeting scheduled for December. I will be on vacation that week.

ENGINEER'S REPORT: Board Secretary handed out new Application.

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

VOUCHERS: submitted by Ronald Mondello, Esq. for 1323-1327 Ringwood Avenue Application in the amount of \$363; for Lebieczinski Application in the amount of \$825; and attendance at the June 7, 2023 Meeting in the amount of \$500.

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

VOUCHERS: submitted by Boswell Engineering for the Scenic Landscaping Application in the amount of \$1,166; Lebieczinski Application in the amount of \$212; and 921 Ringwood Avenue Application in the amount of \$530.

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

MOTION TO ADJOURN AT 7:55PM: Motion made by Member Ludwig, seconded by Member Aumenta and carried by a voice vote.

Jennifer A. Fiorito
Board of Adjustment Secretary