

REGULAR MEETING
ZOOM VIDEO CONFERENCE

Salute to Flag: 8:00pm – Meeting Opened by Vice/Acting Chairman Bruce Grygus

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 January 17, 2021 and February 17, 2021 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 with the Borough Clerk and will be posted on the front door of Borough Hall on the day of the meeting.

ROLL CALL: Vice/Acting Chairman Bruce Grygus, Members Frank Covelli, Donald Ludwig, Bridget Pasznik, Michael Levine and Helena Aumenta and Attorney Ronald Mondello and Engineer Christopher Nash

ABSENT: Chairman Jack Dunning (excused absence) and Member Phillip Stefanowicz (absent with notice)

Application ZBA2021-01 –Hartwell, Michael & Dana – 16 Belvedere Avenue (Block 206/Lot48)

Acting Chairman: I assume it has been reviewed and we are good for notice and completion.

Attorney Mondello: That would be correct. I've had an opportunity to review the notice that was published in the paper and the notice to residents within 200', so I would deem the application complete and that jurisdiction is vested in the Zoning Board to hear the application.

Engineer Nash: Mr. Chairman, may I jump in one second. I reviewed the application in the beginning of February and, you know, typically most of the applications there's an architect, and there's a much more formal set of paperwork that went in. So I reviewed the application and I made some assumptions that were incorrect and I had to reissue a letter. I have a letter of February 11th, but it's superseded by a letter dated February 23rd, and since the error was my error, I did not charge any additional time for the second letter. I just want to make sure that's on the record. Thank you.

Attorney Mondello sworn in Michael Hartwell, 16. Belvedere Avenue, Wanaque, New Jersey. Mr. Hartwell, now that you are sworn, please tell the Board what you want to do and why you want to do.

Mr. Hartwell: What I want to do first of all is make the garage extend 9' over to make it a two car garage. My wife and I want to do this because we want a two car garage to put both vehicles in. Also our garage right now is only one car and, you know, due to the traffic on Belvedere in the summertime and when the football games and stuff like that, people are parking on the side of the street. We want to make sure we have adequate parking in our driveway for friends and family as well as our cars in our garage.

Attorney Mondello: Back to you, Mr. Chairman.

Acting Chairman: Okay, so I did see that there was a letter and then there was a revision. You have a drawing here, there's an architectural drawing, and if you have that drawing in front of you, perhaps you could just explain the two elevations and what they represent and what you're proposing as being the addition. So you have a sheet and it's numbered A6 by Scott Monroe, Architect.

Member Covelli: Mr. Chairman, while we're working on technical issues, let's be clear, this application is looking for five variances of which three of them already exist.

Acting Chairman: Correct.

Member Covelli: Another words, the lot area, the lot is already deficient, the lot depth, and the front yard setback are pre-existing non-conforming,

Acting Chairman: It's really the side yard is the only thing that's going to be different.

Member Covelli: Will the side yard on any side is already deficient and will be further exacerbated.

Acting Chairman: Correct.

Member Covelli: The total is currently 48' were 45' is required, and it would drop to 38', so there's the other.

Acting Chairman: Correct.

Member Covelli: But in other words, at first glance, it looks like a lot of variances until you pick it apart a little bit.

Mr. Hartwell: So what I'm looking at here is the architectural plan for the garage. I did see that that and I believe I'm looking at the same thing that you are with the side yard setback. Right side is no proposed change. The left side is changing 5.25'.

Acting Chairman: Why don't you just explain what you're proposing different from what exists now? For example, there's a covered porch there now. You have a one car garage, you want to add the second car garage, the patio exists and you want to extend it out the back and cover that. So on and so forth.

Attorney Mondello: I muted Mr. And Mrs. Hartwell, there was a lot of background noise and we're recording. Mr. Hartwell, are you able to answer the chairman's questions?

Mr. Hartwell: Yes.

Acting Chairman: So just explain to the Board starting off what exists there now and what you are adding based upon your drawings.

Mr. Hartwell: Okay, so what exists now is a one car garage and a covered patio behind it. And then what we're adding is the 5.25' on the left-hand side of the house, to extend the one car garage to a two car garage, and then the covered patio is going to stay in the back of the garage.

Acting Chairman: So everything with the covered front porch, that all exists already.

Mr. Hartwell: Correct, yes.

Acting Chairman: All right, any Board Members have any questions for the applicant?

Member Covelli: This is a point of clarification, Mr. Hartwell. The side yard will end up being 5.25' to the property line, not reducing it by 5.25'.

Mr. Hartwell: Right, correct.

Acting Chairman: Yeah, it's a little unclear on the drawing but Chris has it on his report.

Acting Chairman: Any other questions? Seeing and hearing none, I'll open it up to the public. If there's any member in the public that has a question and a question only at this time for this applicant?

Attorney Mondello: If you have a question, please unmute yourself and identify yourself please. Hearing none, seeing none, Mr. Chairman.

Acting Chairman: With that, I will open it up to the public. Does anyone from the public have a comment that they would like to make on this application? Alright, seeing none, hearing none.

Acting Chairman: So we're looking at Chris's letter dated February 23rd. We're looking at A, C, D, E, and F variances required. And as Frank advised, A, C and D are already pre-existing. So I'm looking for a Motion, ladies and gentlemen.

Member Covelli: I'll make that motion, Mr. Chairman. As a point of reference, Mr. Nash, in his usual efficient manner, actually identified it later in his letter that the five (5) variances is really three (3) with two (2) new variances and one exacerbated by the application. With that said, it appears to me that the applicant has made sufficient cause. I think their argument with respect to removing on street parking given their proximity to the high school and the like is a good one, and I would therefore make a Motion to Approve:

MOTION TO APPROVE THE VARIANCE FOR 16 BELVEDERE WHEREIN A LOT AREA OF 15,000 SQUARE FEET REMAINS AT 13,534 FEET, THEREFORE REQUIRING A VARIANCE FOR THE DIFFERENCE; AND WHEREAS THE LOT DEPTH REQUIRED IS 150' AND 125' EXISTS AND THEREFORE AN AFFIRMATION OF THE EXISTING DEFICIENCY EXISTS; AND WHEREAS THE FRONT YARD SETBACK IS REQUIRED 40' AND THE EXISTING HOME AND THE ADDITION PROPOSED THEREOF WOULD BE 38.7' AS IS THE EXISTING DEFICIENCY; ANY SIDE YARD REQUIREMENT OF 20', WHEREIN 14.7' CURRENTLY EXISTS AND UNDER THE PROPOSED APPLICATION 5.25' WOULD EXIST AND THEREFORE THAT WOULD BE A VARIANCE OF 14.75'; AND

WHEREAS THE SIDE YARD TOTAL IS 45' IN THE R-15 ZONE AND 48.2' EXISTS AND THAT WOULD BE REDUCED TO 38.75' SO THE VARIANCE WOULD BE 6.25':

**Motion made by Member Covelli, seconded by Member Ludwig. Voting yes were Acting Chairman Grygus, Members Covelli, Ludwig, Pasznik, Levine and Aumenta
Motion Carried**

**Application ZBA2021-02 – Petruccelli, Frank – 52 Smith Avenue (Block 310/Lot 14
Attorney Mondello sworn in Frank Petruccelli, 52 Smith Avenue, Haskell, New Jersey**

Attorney Mondello: Mr. Petruccelli please tell the Board what you want to do and why you want to do it.

Mr. Petruccelli: I'm basically looking to replace an above-ground pool that I had there when I bought the house in 2018. It was an 18' round and I'm looking to put in a 15' pool. They tell me that it was never put in the right spot, so I'm looking to put it in the right spot, because that's where I thought it could go when I bought the house.

Attorney Mondello: The rear yard should be 10', but you're proposing 5' and the side yard should be 10' and you're proposing 5'.

Mr. Petruccelli: Right

Acting Chairman: And the frame deck is not going to be there.

Mr. Petruccelli: No, there is no deck anymore. It's down.

Acting Chairman: One question that I would have, and Chris I don't know if you can scale it, would be the distance from the pool to the corner of the building where those two little steps.

Mr. Petruccelli: It's over 10'.

Acting Chairman: Yeah, Mr. Petruccelli, if you know what that dimension is, that's fine, too.

Mr. Petruccelli: It's like 10' something. I don't remember the exact number 10-1/2'. The old 18' pool that was there was not 10' from the house.

Acting Chairman: Okay.

Engineer Nash: It appears that that's approximately what's shown on the plan.

Acting Chairman: All right, so we should probably have a dimension on that for the final I would think. Just so we have it on the record that the pool is not going to be closer than 10' to the house.

Attorney Mondello: That can be a condition if the Board is so inclined to approve the application.

Member Covelli: Mr. Chairman, if I may, Mr. Petruccelli what your testimony is, if I understand it correctly, and I'm not trying to put words in your mouth, I'm just looking for clarification, that the former pool was closer than 10' to the structure, but by moving it closer to the property line, you'd maintain that 10' distance from the structure.

Mr. Petruccelli: It was not in any dimensions to the setbacks. It was always 5' from the fence when I got here. But since it was 18' round, I think it was 8' away from the house it measured on a diagonal to the corner, so the new pool is going to be 3' smaller and I pick up that extra footage from the house.

Member Covelli: Okay, I have no further questions.

Acting Chairman: Al right. Any other Board Members have any questions?

Engineer Nash: The 10' dimension needs to be measured radial from the pool. Radial means basically from the center of the pool you measure it out, and it's from the edge of the pool then to the house.

Mr. Petruccelli: Right. The edge of the pool to the house is 10-1/2' roughly.

Engineer Nash: Okay, and it's measured radially I think we need to add that, Mr. Chairman, if it's a condition. "10', measured radially"

Engineer Nash: I do have a question, where's the filter equipment and the pumps and all that, where's that? Because that should not be located within 5' of the of the property lines.

Mr. Petruccelli: Right now with the pool is down because I took it down, but it won't be 5' from the fence. I'm going to put it in the middle of the property more.

Acting Chairman: So would you say that you're going to put the mechanicals for it between the shed and the pool?

Mr. Petruccelli: Exactly. 5' away from the fence.

Engineer Nash: No closer than 5' from the fence.

Mr. Petruccelli: Right.

Acting Chairman: Any other questions?

Member Levine: Are all the electrical line existing and just going to tap into them? Or are you running new electrical cable?

Mr. Petruccelli: No, it wasn't done right the first time. I'm not a licensed electrician so I will be running all new electric to it.

Acting Chairman: Are you just going to access the pool with a ladder?

Mr. Petruccelli: Yes.

Acting Chairman: Any other questions from the Board? Alright, Seeing and hearing none, I will open it to any members of the public that have questions and questions only at this time for the applicant, please unmute yourself and speak up. Seeing and hearing none, I'll open it up to the public. If there's any members of the public who have any comments about the application, please unmute yourself and speak up. Seeing and hearing none.

Acting Chairman: So I guess what we're looking at is a Side Variance of 5' where 10' is required, a rear for 5' where 10' is required. The two (2) conditions would be the mechanical location and the measurement of the pool has to be 10' from the house measured radially from the center.

Chris does that sound good? Chris, we're not touching lot coverage at all with this. Are we?

Engineer Nash: No.

Attorney Mondello: My understanding is that the mechanicals would not be less than 5' from the fence.

Acting Chairman: Correct.

Member Covelli: Mr. Chairman, I think that was very eloquently put and, if that was in the form of a Motion,

Acting Chairman: I was just stating what was needed. If someone wants to make a Motion.

Member Covelli: I'll make the motion as was described by the Chairman.

Engineer Nash: And there are two variances.

Acting Chairman: Correct.

MOTION TO APPROVE APPLICATION AS STATED BY THE ACTING CHAIRMAN: made by Member Covelli, seconded by Member Ludwig. Voting yes were Acting Chairman Grygus, Members Covelli, Ludwig, Pasznik, Levine and Aumenta
Motion Carried

Application ZBA2020-12 – Liljestrand, Stephen & Karin, 36 Hillside Road (Block 105/Lot 11)

Attorney Mondello: Mr. Conte, would you be so kind as to enter your appearance into the record and tell us who you represent?

Attorney Conte: Thank you, Mr. Mondello. For the record John Conte Jr. of the law firm of Meyerson, Fox, Mancinelli & Conte in Montville New Jersey. I represent Stephen and Karin Liljestrand from 36 Hillside Road. We're here tonight requesting an interpretation of a letter from the Code Official dated October 21, 2020 for an interpretation which is within the exclusive jurisdiction of a Zoning Board.

Attorney Mondello: That is my understanding, Mr. Chairman. I have reviewed the notices that were sent to residents within 200' and the notice that was placed in the newspaper. I would deem the application complete from a legal perspective and that jurisdiction is vested in the Board to decide this interpretation that the applicant is requesting.

Acting Chairman: Counselor, could you just tell the Board who you're going to have as far as witnesses.

Attorney Conte: Steve Liljestrand, one of the owners, will testify. We also have with us Scott Ward law 13 Mine Road; Ulrike Lippner, also known as Ri, and she's lived next door there for

many years and her parents did; and John Van Rossen, who's actually visiting us from Corona, California. They are all here to testify with respect to the use of the property for 60 plus years.
Acting Chairman: All right, counselor, why don't you present your case with your first witness.

Attorney Mondello: Sworn in Stephen Liljestrand, 36 Hillside Road , Wanaque, NJ

Attorney Conte: Mr. Liljestrand, Steve, you purchased the property on December 9, 1999 with Karin, correct?

Mr. Liljestrand: Actually it was November 1999.

Attorney Conte: I'm sorry I think the deed was actually recorded December 9th. So in November 99, you and Karin bought the property, and when you bought the property, there was a garage with an apartment above. Is that correct?

Mr. Liljestrand: That's correct.

Attorney Conte: In fact, the property was listed for sale that way, correct?

Mr. Liljestrand: Yes.

Attorney Conte: You purchased it and you maintained the apartment above the garage since 1999.

Mr. Liljestrand: Yes.

Attorney Conte: Okay. You've since obtained some information from others, and I'm going to verify that with the other witnesses and I recognize that it's hearsay. But you have been told that this had been a legal apartment, correct?

Mr. Liljestrand: Yes.

Attorney Conte: In fact, you even received the tax card from the Borough of Wanaque indicating that there's a garage apartment on the property that was being taxed. Is that correct?

Mr. Liljestrand: That's correct.

Attorney Conte: From the time that you've owned and forward, others have indicated that for many years, they knew it to be a garage apartment. Is that correct?

Mr. Liljestrand: Yes, it is.

Attorney Conte: As a result, you continued it that way, correct?

Mr. Liljestrand: That's correct.

Attorney Conte: I have nothing further, Mr. Mondello.

Attorney Mondello: Any Board Members have any questions for Mr. Liljestrand?

Acting Chairman: Did you obtain a CO when you bought the house?

Mr. Liljestrand: Yes. When we moved in, you know its 21 years ago, and this all came up recently. We just moved in. I don't remember the specifics. But yes.

Acting Chairman: So you don't have a copy of CO?

Mr. Liljestrand: I'd have to look; it's 21 years ago.

Attorney Conte: When we did the OPRA request, we were not provided with a CO. I do not know if one was required, or if it was just fire and I know the property was fire inspected on September 5, 2012.

Acting Chairman: Yeah, I bought my house prior to 1999 and I did get a CO for it.

Attorney Conte: We had hoped that the building department would have that on file, but we didn't get one.

Acting Chairman: You have no architecture or anything for the apartment. What is the square footage of the apartment?

Mr. Liljestrand: I'm going guess. I think the structure is 20X 20, and it's just a single flat above the above the parking area of the garage.

Acting Chairman: So it's 400 square feet.

Mr. Liljestrand: Something in that range.

Acting Chairman: What exists up there?

Mr. Liljestrand: An open area with kitchen, living room, a bathroom and a bedroom.

Acting Chairman: Have you done any upgrades to the septic system since you've had it?

Mr. Liljestrand: No.

Acting Chairman: So when you bought the house, how many bedrooms are in your house?

Mr. Liljestrand: My house is four (4) bedrooms.

Acting Chairman: Do you know what the approval was for the septic?

Mr. Liljestrand: I do not.

Attorney Mondello: If I may jump in. Mr. Liljestrand, you had indicated that this all just came about recently. How did this come to light recently, to your knowledge?

Mr. Liljestrand: The notice that I got that my apartment was illegal from the town. That's when it all came to light.

Attorney Mondello: And that's it. Nobody else mentioned anything other than this letter that came from the building department.

Mr. Liljestrand: No, sir.

Attorney Mondello: I see that on the property tax card it says that this house, not that you would know this personally, but the house was built in 1942. Would you agree with me?

Mr. Liljestrand: Yeah, I think so.

Acting Chairman: Counselor, were you going to go over any of the exhibits or no?

Attorney Conte: Well, I'd be happy to. Again, I wanted my client to testify as to the background, but it is part of the application, we have submitted the card, which does, in fact, indicate that there is a garage apartment by the Borough's official record here, built 1942.

Acting Chairman: What's the date of this property card?

Attorney Conte: This property card is dated 2012.

Acting Chairman: Is that saying that the garage was built in 1942 as part of the house or the apartment was?

Attorney Conte: Well, that's a good question. It does not indicate either, but I think my client, and again the testimony will be cumulative of the other witnesses that are on zoom right now, I'm not sure of one because I can't tell by the names, but that at least since the 60s, the apartment had been occupied. My client only has knowledge of 1999 when he purchased other than what he's been told from other individuals,

Acting Chairman: What are you presenting as the date of the zoning for it?

Attorney Conte: The date of the zoning card?

Acting Chairman: No the date of the zoning that only permitted single family homes. I think your contention is that this exists pre-dated the zone.

Attorney Conte: Correct.

Acting Chairman: So my question would be, what was the date that the ordinance was adopted to make the zone what it was?

Attorney Conte: Well, it looks to me from the internet information that the last adoption of the zoning ordinance was 1979. I know there was a prior adoption. I don't have the exact year for that, but I know basically in the 50s every municipality, or just about every municipality in the state, had adopted a zoning ordinance, but I don't have that in particular.

Attorney Mondello: Let me help you out, Mr. Conte. My understanding is that those types of ordinances basically prohibiting certain things in various zones were adopted in 1958 in Wanaque. But you're right, most towns did it in the 50s.

Attorney Conte: So the testimony that we have by other individuals is they could testify at least into the 60s. We have no one else living that we have available to us to testify that it was prior to the 60s. Two (2) witnesses, in particular, will be able to testify of their personal knowledge that in the 60s there was an apartment there that was occupied.

Attorney Mondello: Members of the Board questions?

Member Aumenta: I have a question. Is this apartment being rented out currently?

Attorney Conte: Yes.

Member Aumenta: How many people are living in the apartment?

Attorney Conte: One (1).

Acting Chairman: Did you present anything at all to show off street parking or anything along those lines?

Attorney Conte: Well, we're not here for a site plan or a variance. We're here only for an interpretation.

Acting Chairman: The Board is going to give a Certificate of a Pre-Existing Non -Conforming Use, as opposed to, you know, the whole use variance application. I think the idea is to try to determine if it pre-existed the ordinance and then we're just going to affirm that it's a certification of a pre-existing, non-conforming use. Counselor, I don't know whether that's the same burden as a use or is it the same burden as a bulk?

Attorney Conte: It's not a five vote requirement as a use variance; it is a majority of the Board.

Acting Chairman: Ron, you agree with that?

Attorney Mondello: Yes. And it's a preponderance of the evidence. Is it more likely than not that this apartment pre-existed the prohibiting ordinance in 1958? It's not beyond the reasonable doubt, but preponderance of the evidence that the applicant and Mr. Conte are going to present.

Acting Chairman: Because the other issue we have, I don't have my book in front of me, Chris, maybe you can help me, but I believe that that's also a substandard size lot.

Attorney Mondello: It wouldn't matter, Mr. Chairman?

Acting Chairman: It's pre-existing so it doesn't matter.

Attorney Mondello: Correct. In other words, if this applicant is able to prove that this apartment pre-existed the prohibiting ordinance, they have a vested right. A concrete vested right to continue this particular use, which was just simply pre-existing. They either do or they don't.

Member Ludwig: Sounds like they've had testimony from neighbors and whatnot that it was there into the 60s.

Acting Chairman: Well, I think that the counselor is going to present some of that testimony. If there's no other questions specifically to what the applicant or the attorney presented, why don't we let the attorney go with his other witnesses?

Attorney Mondello: Mr. Chairman, may I just simply indicate that perhaps we should still go through the procedure of asking: Are there any members of the public that have any questions for Mr. Liljestrang, or comments, probably questions?

Acting Chairman: All right. Do we have any other questions for the applicant from the Board?

Member Covelli: I actually have a question as to whether if there is municipal water or sewer to this property?

Mr. Liljestrang: Neither it's a well and septic.

Acting Chairman: All right, any other questions? With that, we'll open it up to the public. Any members from the public have any questions and questions only for the applicant's testimony? All right, hearing none, seeing none, Counselor next witness.

Attorney Conte: Thank you, Scott Wardlaw.

Attorney Mondello: Sworn in Scott Wardlaw, 13 Red Mine Road, Wanaque, NJ

Mr. Conte: You've heard the introductory statement that I made as well as the testimony by Mr. Liljestrang, correct?

Mr. Wardlaw: Yes, sir.

Mr. Conte: Do you have a familiarity with this property?

Mr. Wardlaw: In more ways than one.

Mr. Conte: Okay, could you tell the Board what those years are?

Mr. Wardlaw: I live there for approximately four years, about 1993 to 1997. I grew up about 200 yards from there, and most of the people that lived in that house for years and years. As a child, I would go up there and play with Philip Mueller and he lived in the apartment with his parents when the grandparents lived in the house. Then years later, the generation switched and the grandparents moved into the garage, and the parents moved into the house. It's been that way for years. My folks talked about it for years, who are both passed away now. But they said it's always been that way, and it's my recollection has been that way since as far back as I can remember.

Member Ludwig: We won't ask you how old you are.

Acting Chairman: Let's just ask you this, would that recollection go beyond 1958?

Mr. Wardlaw: I'm not that old, now go easy. Listening to what my parents told me, absolutely. And all the people in the neighborhood. Everyone that has lived there is gone now, but you know, there's always stories in the neighborhood, everybody was friends here for years. As far back as anybody can remember, there was always an apartment there. The house was originally built out of an ice house off of Greenwood Lake. That was the stories in the neighborhood and the apartment was built when they were working on a house. So, as far as I know, it's been there years and years and years.

Acting Chairman: Unfortunately, you can only testify for the period of time that you know and anything else would be hearsay.

Mr. Wardlaw: Absolutely.

Acting Chairman: I'm not saying it's right or wrong.

Mr. Wardlaw: I was going to buy the house before Stephen did off of Carol, who owned it when I was living in it. It was going to be sold to me as having an apartment over the garage too. So I don't know if that helps you.

Attorney Conte: I would just like to clarify you said years and years and years, that's more than 50 years?

Mr. Wardlaw: Oh, yeah. Bob Carter lived across the street, and if he's still alive, he's in his 90s. He knew when the house was built, he told me stories about it.

Acting Chairman: But this witness can't testify what another person said he can only testify what he has experienced.

Attorney Mondello: Mr. Chairman, you are you are 1,000% correct. However, this isn't a court of law and the rules of evidence are somewhat relaxed they're not thrown out the window, but the Board can weigh Mr. Wardlaw's testimony with respect to other things that people have told him. But you're absolutely right. It's hearsay.

Member Levine: Your personal understanding when you live there to go back to what date you say, years and years, but give me a date as to you personally having knowledge of that.

Mr. Wardlaw: Well, as far back as I can remember. I mean, I said I played with the son of the people that lived in the house. I played with him as a child; I mean, a small child.

Member Levine: Give me a year rather than you can remember going way back. What year?

Mr. Wardlaw: 1965. I can remember going up there when I was two with my father carrying me to go sit in the cop car in the garage under the apartment.

Member Levine: Okay, thank you.

Acting Chairman: Any other questions?

Member Ludwig: And the building looked old back then.

Mr. Wardlaw: Absolutely.

Acting Chairman: Any other questions from Board Members? All right, hearing none, seeing none, we'll open it up to the public. Are there any members of the public that have any questions for this witness? Questions only at this time. Seeing and hearing none, Counselor your next witness.

Attorney Conte: I call Ulrike Lippner

Attorney Mondello: Sworn in Ulrike Wundrack Lippner

Ms. Lippner: My personal address is 490 Ridge Road, West Milford, NJ, but I own the property at 26 Hillside Road, Wanaque, NJ, and I'm a realtor.

Attorney Conte: Could you give the board the benefit of your recollection of this property and the apartment that's at issue?

Ms. Lippner: I certainly can. My parents had purchased 26 Hillside Road in the autumn of 1963. At that time, my younger brother was the same age as Philip Mueller, who Mr. Wardlaw had referred to. He was the grandson of the elderly people that lived in the home. The Muellers lived in the primary home and their son, daughter-in-law and two young children lived in the apartment over the garage.

Attorney Conte: And how far back can you remember?

Ms. Lippner: This was in 1963. That's when my parents moved in.

Attorney Conte: I have nothing further, Mr. Chairman.

Acting Chairman: Do any Board Members have any questions? Seeing and hearing none, we'll open it up to the public. Is there any members from the public who have any questions of this witness? All right, seeing and hearing none, Counselor, next witness.

Attorney Conte: I call Jonthan Van Rossen.

Attorney Mondello: Sworn in Jonthan Van Rossen, 2900 Spring Meadow Drive in Corona, CA.

Attorney Conte: Could you also give the Board the benefit of your recollection of that apartment and the garage and the apartment above it?

Mr. Van Rossen: Absolutely. My grandparents owned 28 Hillside Road, which is right next door to Steve and Karin's place. I bought the property after my grandfather passed away. But the apartment above the garage was lived in and rented through the 60s and the 70s, as far as I know. The family that lived there was Phil and Jean Mueller. The parents lived in the larger house, of course, and they lived above the garage. There was four in the family. There was a young Phil Jr., I'm not sure the daughter's name, and Phil and Jean Mueller.

Attorney Conte: And could you give us a year that your recollection goes back to?

Mr. Van Rossen: 1960.

Acting Chairman: Getting closer.

Attorney Conte: Thank you Mr. Van Rossen.

Acting Chairman: Any Members of the Board have any questions for this witness?

All right, seeing and hearing none, we'll open it up to the public. Are there any members from the public that have any questions for this witness? Seeing and hearing none, Counselor, you have another witness?

Attorney Conte: No, that concludes our testimony.

Acting Chairman: I have a question for the Zoning Officer. Mike, if you could unmute your mic for a minute. Mike, if the Board was so inclined to certify this continuation of a non-conforming use, does the Board need to deal with and get on the record issues such as adequate fire egress and things like that, if the town has never really inspected this as a separate dwelling unit?

Mr. Hafner: I think that the only thing that we would take away from this is that with regards to zoning, it was it and is permitted, whether it be pre-existing, non-conforming, or be allowed through interpretation allowed in the R-87 Zone. That would be the only takeaway that we would have tonight. Whether it was particularly suitable as an apartment, whether it met all the codes, you know, would be for the building department to look at, if need be. But you're really only looking at the zoning issue.

Acting Chairman: My concern was, God forbid something were to happen and something happened to someone, I wouldn't want to put the Borough in any peril for someone to come back and say, well, you people approve this. One of the things that will probably be triggered is that, if the Board sees this as an apartment and it gets the blessing, then ultimately, I think the CCO inspection would need to be done so that we know we have at least the minimum state standards with regards to smoke alarms, carbon monoxide alarms, and fire extinguisher.

Acting Chairman: All right. Thank you, Mike. All right, Counselor, before you summarize, let's open it up any other questions from the Board?

Member Covelli: I guess I'm going to ask this question, because now after Mr. Hafner's answer, the question becomes how did this application come before us?

Attorney Conte: As a result of the letter that my client received from the Zoning Official.

Attorney Mondello: What Member Covelli is trying to find out is who tipped off the building department?

Member Covelli: Another words, is it the testimony and representation that this apartment has been continuously occupied since somewhere prior to 1958, if it was constructed in 1942, if we are using that date?

Attorney Conte: Yes, that's my client's testimony.

Member Covelli: The Board is wondering that we're in the year 2021, and that this is coming before us now.

Acting Chairman: Especially since it's on the property card.

Attorney Mondello: Mike, how'd you find out?

Mr. Hafner: I want to clear up a couple of things. One is, as well as I am at the Board representing the building department, technically, Joe Setticase is the Zoning Officer. Our contract with Wanaque is for sharing services for Construction Official. So I just wanted to make that clear that I'm not acting in the capacity of the Zoning Official. However, Joe and I have worked together on this particular case. We did receive a complaint and upon speaking to the homeowner, looking at our past records, and yes, looking at the property record card, it indicated that, while the apartment may be on the books with the Tax Assessor, we never had a record of it getting the proper approvals through zoning. The thing that you got to remember is that the property tax card is a great indicator of what's on the property. It's just that it's a snapshot in time. When the evaluation company goes out, they mark down exactly what they saw when they were there. Whether or not that's legal is not always the case. What we found in this case was that we technically did not have an approval on the books for this apartment, which went to the Notice of Violation.

Attorney Mondello: And it makes sense. Based on the testimony the Board has heard, there wouldn't be any records or documentation with respect to approval, because none was required prior to 1958.

Acting Chairman: So that everyone's on the same page, this Board cannot change the permitted uses in the zone, only the Governing Body can do that. We could grant a use variance coming in for something that went through the date of the ordinance or something that they were proposing, which doesn't apply. So essentially, what they're asking this Board to do, is to certify that this is a pre-existing non-conforming use, which requires just a simple majority vote. So before we get to that, I would like to open it up if there's any members of the public that would like to make a comment on this application at this time, please unmute yourself and speak.

Member Covelli: Bruce, before that happens, I have two more questions. Counselor, is it the applicant's representation that, since they purchased the home in around 1999, that the apartment has been rented for the duration of their ownership, which would be a factual yes or no question?

Attorney Conte: Steve, it's been rented the entire time, correct?

Mr. Liljestrand: Yes, when we bought the house, my wife and I lived in the apartment ourselves while we were renovating, but yes, we have had renters in and out of there over the years. So including ourselves as renters, if you want to call it that.

Member Covelli: And when you purchased the house, do you recall if you were subject to a continuation of certificate of occupancy?

Mr. Liljestrand: I don't recall.

Member Covelli: Does the Borough have any record that such an inspection was made at the time of the real estate transfer?

Acting Chairman: I think the Counselor had already advised that under discovery, they filed and OPRA and tried to get any documents, and there was no COs were returned.

Attorney Conte: Correct.

Acting Chairman: And the applicant said that he didn't have any also.

Member Covelli: So I guess my last question would be that as a condition, if this Board were to concur with the observation of the applicant, that this is a pre-existing non-conforming use, would the applicant agree to have the apartment inspected for a CCO, so we could be assured to, I think Mr. Hafner's point, but certainly Mr. Grygus' point, that we're assured that the apartment is safe for occupancy?

Acting Chairman: I think Mike already had said that that it will kick that in if it was granted.

Attorney Conte: But for the record, Mike, my client would consent to that. I believe he's bound to comply with whatever the fire code, building, plumbing requirements are regardless. But the answer is, and he's nodding his head, that he would consent to comply with whatever the requirements are.

Member Ludwig: For his own liability and it is to his benefit.

Attorney Conte: I think that's true, Mr. Ludwig.

Member Covelli: I understand.

Acting Chairman: Any other questions from the Board? All right, we'll open it up at this time to members of the audience, the public. Anybody have a comment now on this application?

Attorney Mondello: This would be a period where any member of the public could simply say, well, we think this is the right way to go; this is the wrong way to go, etc. It's not questions; it's a comment period.

Attorney Mondello: Sworn in Joseph Ludden, 35 Hillside Road, Wanaque, NJ

Mr. Ludden: We live directly across the street from the Liljestrands. We've been here for two and a half years. The apartment has been there since we've been here, but I believe in my heart of hearts that this is the right thing to do by granting them a non-conforming use.

Acting Chairman: Thank you, Mr. Ludden. Any other members from the public that would like to speak? I see Cornelius's iPad. You have your hand up?

Attorney Mondello: Sworn in Joy Vanderweert, 40 Hillside Road, Wanaque, NJ

Ms. Vanderweert: I live at 40 Hillside Road and I used to live at 44 Hillside Road, so I've lived here almost my entire life. I recall people always renting there as well. I just want to say I support it. It's a very nice place, and they have my support as well.

Acting Chairman: I see Lori Thompson has her hand up.

Attorney Mondello: Sworn in Lori Thompson, 32 Lilly Road, Wanaque, NJ

Ms. Thompson: We live at 32 Lilly Road, but the backside of our property is up against Hillside, so Steve's property is directly across from us. Both my husband and I are here and we both support Steve as well and are okay with.

Attorney Mondello: Thank you very much. You have quite a fan club Steve.

Member Ludwig: It sounds like you're narrowing out who it might be.

Acting Chairman: Are there any other members of the public that would like to make a comment at this time on the application. I see a "Daisy" is on and muted. Daisy, did you want to say something? You see anybody else Ron?

Attorney Mondello: I do not. Okay.

Acting Chairman: So seeing and hearing none, we'll close the public portion. Any other questions or comments from the Board? Bridget?

Member Pasznik: I just want to say what Ron said, you have a fan club. It just seems that all your neighbors are here to support you; it's just nice to see.

Mr. Liljestrand: Thank you for saying that. We have a great group here.

Member Pasznik: You certainly do.

Mr. Liljestrand: We love the town and we love our neighborhood. "It is how we roll on the hill" is our expression.

Attorney Mondello: I would say that you're going have to reimburse Mr. Van Rossen for his traveling expenses from California.

Mr. Liljestrand: He made me pay as Internet bill for the month. Off the record, that was a joke.

Acting Chairman: All right, any other questions or comments from the Board? Counselor did you want to summarize?

Attorney Conte: I think we've mentioned it all. It is very difficult typically in these interpretation matters (I represent two zoning boards myself) where you can really solidify all the evidence. I think that just the personal testimony that you received this evening, back to 1960, is actually pretty amazing in light of the fact that this building was built in the 1940s and we actually

were able to have live testimony to almost the actual time of the ordinance. This is the best we could do. We had actually hoped that the borough would have assisted us with some Borough records in the building department, but sometimes these things get lost or don't exist, or whatever the case may be. We did the best we could. My client purchased the building as he testified with the garage apartment. You've heard the testimony of the other witnesses that it goes back again to the 1960s and he is willing to comply, and would certainly comply, with whatever the requirements are for safety, for health, for fire, for building whatever the case may be. He has never not complied; it's just hasn't come up until now. Thank You

Acting Chairman: Alright, so once again, the applicant is requesting a Certification of a Pre-existing Non-conforming Use and we're looking for a Motion regarding that.

Member Ludwig: I'm going to make a Motion to Continue a Pre-existing Non-Conforming Use with the condition that any fire extinguishers and any safety issues that the building inspector finds have to be taken care of.

MOTION TO APPROVE A CERTIFICATE OF PRE-EXISTING NON-CONFORMING USE:
made by Member Ludwig, seconded by Member Pasznik. Voting yes were Acting Chairman Grygus, Members Covelli, Ludwig, Pasznik, Levine and Aumenta
Motion Carried

PUBLIC DISCUSSION: Any members of the public have anything they would like to discuss with the Board? Seeing and hearing none.

RESOLUTION: None

CORRESPONDENCE: None

VOUCHERS: submitted by Ronald Mondello, Esq for attendance at the March 3, 2021, Meeting in the amount of \$400.

MOTION TO APPROVE: made by Member Ludwig, seconded by Member Aumenta. Voting yes were Acting Chairman Grygus, Members Covelli, Ludwig, Pasznik, Levine and Aumenta

ENGINEER'S REPORT:

Board Secretary: I mailed out a new application today. I also just want to check with you on an older application from 2020 regarding 1458 Ringwood Avenue. I haven't received anything and I believe you spoke to the architect or the attorney about them redoing the plans for the old powder

mill. Building; it's the building all the way at the end of Ringwood Avenue at the border of Pompton. Lakes.

Engineer Nash: I prepared a letter and, based on the letter, they saw a lot of writing on the wall and went back to the drawing board but they haven't resubmitted anything yet.

Acting Chairman: All right, Jen, do you know what we ever had from them regarding extensions.

Board Secretary: They never advertised to be heard.

Acting Chairman: Okay, so it was never been complete.

Board Secretary: No. I guess I could always reach out to the attorney and send an e-mail.

Acting Chairman: Personally I would say that we should send them a letter, saying that if we don't hear from them what their intentions are, that the Board will dismiss it due to lack of prosecution.

Attorney Mondello: There is nothing to dismiss, you know. They filed an application and it was never deemed complete, they never advertised and never came before us. The clock didn't start.

Acting Chairman: It did show up on our agenda a couple times.

Board Secretary: Only because they let me know the day before that they weren't appearing.

Attorney Mondello: If that's the case, I mean, to be on the safe side, I would ask for a Motion followed by a second to dismiss an application that is not deemed complete without prejudice.

Acting Chairman: Yeah, just to protect the Board being the fact that it was on the agenda at one time.

Attorney Mondello: With the understanding they would have to refile with filing fees and escrow etc. You can't pay these things and then do nothing for years.

Member Covelli: Well, how long has it been before we use the term years?

Attorney Mondello: How about months?

Board Secretary: It has definitely been November, December, January, February and March. I think it's at least five or six months.

Engineer Nash: Yeah, my letter was dated November.

Acting Chairman: Yeah so it's been six months at least.

Member Covelli: Well, before we make a motion to dismiss, could we send them some correspondence that says this is open and we need direction, or else we will dismiss it at the next meeting.

Acting Chairman: We've gotten this far. Counselor is there any peril in doing that?

Attorney Mondello: No.

Acting Chairman: Let's send them a letter that if we don't hear anything from them by the next meeting, that we're going to dismiss it without prejudice, just because it was on the agenda at one time.

Member Aumenta: Yeah, it looks like it was originally back from August 2020 when everything was submitted. So we're getting closer to a year.

Board Secretary: No problem. I'll draft a letter, have Mr. Mondello approve it and then I'll send it out.

Attorney Mondello: Do you know if there's an attorney on that application?

Engineer Nash: Yes, it was the Levine Law Firm.

Attorney Mondello: Okay, Ira's son. I've spoken to him a couple times. I'm going to call him and tell him that he's got to do something for next month otherwise we're going to dismiss. We can send a letter as well without prejudice.

MOTION TO APPROVE FEBRUARY 3, 2021 MINUTES: made by Member Pasznik, seconded by Member Ludwig. Voting yes were Acting Chairman Grygus, Members Covelli, Ludwig, Pasznik, Levine and Aumenta

ENGINEER'S REPORT: Nothing to report.

Acting Chairman: All right Jen, what was the application that you mailed?

Board Secretary: It is for 1161 Ringwood Avenue, which is on the corner of Ringwood Avenue and Coles Avenue. It's that construction yard for a Use Variance.

Attorney Mondello: I would just make mention from experience that, I know having been the board attorney for a couple of years, we haven't had many contentious applications. But if any of the Board Members know or think that there's going to be an application that's going to be quite contentious with a lot of participants, if you could give me a heads up, I will convert the meeting to a webinar. I'm currently working on an application in Bergenfield where there was more than 100 people, so it was unruly to have a meeting. It had to be webinar. I mean Tree Tavern comes to mind, but that's about it.

Acting Chairman: So what's the cutoff for number of people that you think is manageable, Ron?

Attorney Mondello: I think probably 20 plus the Board is okay. Much past that, it becomes a free for all because people can unmute themselves and yell things and that's what was happening. So let me explain how that works. The Board Members and of course, Jennifer, Chris and myself our panelists, and everybody else is an attendee. I work the webinar when ready to call an application, I promote the attendee to that of panelist and, only at that point in time, can you see and hear that person. When the application is over, I put them back in as an attendee, and so on and so forth. It is somewhat laborious, but it should definitely be used when you think there's going to be quite a few participants, and it's going to be contentious.

Acting Chairman: I mean, it's kind of one of those things, you know, better to have it and not need it, then to need it and not have it.

Attorney Mondello: Well, it's one of these things where I can also convert it at the last minute, but not once the meeting starts, but you call me up and go, or if Jennifer says, I've gotten 58 phone calls on this application, and it's zoom, everybody's going probably show up, I can hit a couple buttons and convert it to a webinar.

Member Ludwig: I think in our area with the economy the way it is, with a stupid pandemic, we're probably not going to face the problems they have down in Bergen County.

Acting Chairman: I don't know.

Member Pasznik: What are you thinking, Bruce?

Acting Chairman: Well, just some feedback that I've received.

Attorney Mondello: Speak to me offline. I don't want to get into a specific application.

Member Covelli: Is that house in the front part of that application?

Board Secretary: Yes.

Member Covelli: So it's the house that they were working on that seems to have stopped. And that whole property behind it, where you see it all cleared out, and trucks parked?

Board Secretary: Yes. When you're looking at the house, it's more the stuff to the left.

Engineer Nash: We probably shouldn't be discussing the application.

Attorney Mondello: Thank you.

Acting Chairman: So what is the absolute drop dead time that you would need to make that switch? Can it be done after the agenda is posted?

Attorney Mondello: Yes. It's all it's all automatic.

Acting Chairman: If you click on the zoom invite, it'll redirect him to the webinar.

Attorney Mondello: That's correct. What happens is you get personal emails with your name on it, the panelists. And even if that doesn't happen, because we're short on time, you can all come in as attendees, and I just promote you one by one.

DISCUSSION:

Acting Chairman: Okay. All right. We have discussion on zoom meetings.

Board Secretary: I just put it if we're still having zoom meetings and what Attorney Mondello just talked about, because he brought it up at the last meeting too about webinars with bigger applications.

Member Covelli: What is the Governing Body doing with respect to meetings? Have they set a date as to resuming in person?

Board Secretary: I haven't heard anything.

Acting Chairman: They haven't even opened the Borough Hall either.

Member Ludwig: But bowling alleys can be wide open.

Acting Chairman: They're opening up the schools, and which I think is a good thing, but we still can't open our Borough Hall and they are all behind glass. So that's my soapbox.

MOTION TO ADJOURN AT 9:19PM: made by Member Ludwig. Motion carried by a voice vote.

Jennifer A. Fiorito

Board of Adjustment Secretary