

REGULAR MEETING

Salute to Flag: 8:05 P.M.

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 Herald News and the Suburban Trends on February 10, 2013 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

**ROLL CALL: Chairman Jack Dunning, Vice Chairman Bruce Grygus, Members Frank Covelli, Donald Ludwig, Michael Levine, Suzanne Henderson, Attorney Ronald Mondello and Engineer Christopher Nash
Member James Minogue arrived at 8:08pm**

MEMBERS ABSENT: Members Peter Hoffman and Joseph D'Alessio

Application #ZBA-2013-01 – Joyce Thompson, Applicant, 13 Toquet Street, Haskell, NJ, Block 403 Lots 112 & 114 (Bulk Area Variances)

Attorney Mondello has reviewed the file and all notices were served and published, and the application is deemed complete and jurisdiction is vested in the Zoning Board to proceed with this matter.

The following witnesses are still under oath since they were sworn in at the April meeting:

- Vincent Lanza, 40 Forest Lake Drive, Hewitt, NJ - Builder**
- Scott Thompson, 13 Toquet Street, Haskell, NJ**
- Joyce Thompson, 13 Toquet Street, Haskell, NJ**
- Scott Thompson, 22 Toquet Street, Haskell, NJ (Across the Street)**

This matter is being treated as a new application, with the merging of Lots 112 & 114.

Mr. Lanza stated that the Thompsons' house was destroyed during Hurricane Sandy when a tree fell on it and the Building Inspector deemed it not livable and he condemned it. We had to knock down the house and we are going to build a new house for them. The property that the original house was on, and the way the house was, it was pre-existing, non-conforming and they also owned the lot next door to it. We combined the two lots by

Deed, which has already been recorded. They are going to orientate the house the same way as it was but they are just making it a little bigger and more livable.

Mr. Thompson testified that his family has lived on this property since approximately 1919 and has owned the adjoining lot since then also.

The tree fell on the house around 7:30pm, and I had to climb out of the window because the gas started to leak and I had to shut the gas off in the basement. We couldn't get anything from the insurance company right away, so we stayed with our son for a while, and then we pulled our trailer onto the property and stayed there for a couple of days until the insurance company said it was okay to stay at a hotel and we have been there since. The house we are building is similar to the original. It is a cape, just a little bit bigger.

Attorney Mondello asked why do you want to make it bigger? Mr. Thompson stated to make it more livable. Also, all our neighbors turned their small houses into really big houses so our new house will conform to the neighborhood. It will not have a negative impact on the neighborhood. I think it should improve it.

Chairman Dunning stated you supplied us with new drawings on April 19th. A couple of questions that the engineer had raised: You have shown on the plan that there is an existing 12" sanitary sewer that runs from that manhole on the roadside of your property through the second lot, through the neighbor behind you to the street behind them. What you don't show is that the Borough has an easement for that sewer line. I checked with the Sewer Authority and they have an easement through your property. It is a recorded easement on their documents. Mr. Lanza stated the easement did not come up in a title search, nor did it come up anywhere, and if there is an easement that is recorded, could we have a copy? Chairman Dunning stated if you check with Mike Reiff of the Sewer Authority, they have an easement through there for that sewer line in case they have to maintain it for whatever reason. Mr. Lanza believes they proposed the easement, but never recorded it because if it was recorded, it would have shown up in the title search. Attorney Mondello stated that the Board could impose, as a reasonable condition of passing this application, that the applicants agree to an easement on their property because the sewer line is there and someone has to fix it if it breaks. Chairman Dunning stated it goes back to the early 1980's and the manhole cover is dated 1983. This easement is for the protection of all parties.

Chairman Dunning questioned Engineer Nash if the existing house connection satisfies your request on how that hooks to the sewer system. Engineer Nash stated "Yes" and confirmed with Mr. Thompson that they are going to re-use the lateral.

Engineer Nash questioned, if the town has to come in and do some work on the sanitary sewer line, the shed is in the way, can it be moved? Mr. Thompson stated the shed is not a permanent structure and I can roll it on pipes. Engineer Nash stated that we don't want the property owner to come to the town and say, you owe me a new shed because you wrecked it fixing the sewer line. Usually, Sanitary Sewer Easements do not allow you to put anything over them and I don't know how this easement reads. It may say something to that effect.

Attorney Mondello questioned Mr. Thompson that since it is not a permanent structure, could he move it so that it is not on top of the easement? Chairman Dunning also stated that if he moves the shed forward, that will get rid of another variance problem. Vice Chairman Grygus also questioned the fact no one knows how wide the easement is, but it's probably ten feet; five feet on each side of the sewer line. Member Ludwig asked if we could include this as part of the Resolution that he holds the Borough harmless. Attorney Mondello agreed that something could be put into the Resolution that, if in fact, the Sewer Authority comes on your property, and you can't move the shed for some reason, and the shed does get damaged, you can't place the liability or blame on the Borough and seek any kind of compensation from the Borough.

Vice Chairman Grygus asked the Engineer that, if it were to pass, would one of the conditions be that a test pit has to be done for the seepage pit. Mr. Lanza advised that a test pit was done and the information was given to the applicant's engineer today, but late in the day. Engineer Nash asked if they hit rock and how deep did you go? Mr. Lanza stated the soils there were really good and we didn't hit rock. We went about 7' and we hit gritty, sandy soil. As we went down, we broke through a little layer of clayish type stuff and then it turned into almost like a bank run type.

Mr. Lanza stated there were questions about the other structures on the property that were pre-existing. Chairman Dunning stated the shed was one issue, the garage is another issue. The Borough Ordinance is 70' from the street to the front of the garage, and you have 35' and a couple of inches. The rear is suppose to be 10' and you have 5.7' so a variance is needed for both the front and rear of the garage. Mr. Lanza stated the garage was probably built before the ordinance.

Member Levine asked why don't you move the shed up and get rid of that variance? Mr. Lanza stated we can do that; it is not a major issue. Chairman Dunning stated move it up one foot and we can get rid of that variance. Mr. Thompson stated he can move it tomorrow.

Vice Chairman Grygus questioned Engineer Nash as to how he got the dimensions on the pool deck? Engineer Nash answered he scaled it. It is less than 5'. Mr. Thompson said that can go too. I don't even use it as a deck. I can get rid of it. Both Vice Chairman Grygus and Member Ludwig stated you have to tell us what you want to do because we will have to grant a variance for it. Mr. Lanza stated just include it and if he decides to move it, we will. Attorney Mondello stated that the deck can't be moved, it will either be torn down or stay in its current condition. Vice Chairman Grygus stated there are some decks that are just flush to the ground and can be moved. Mr. Thompson stated it just has four legs, not anchored to the ground. It is a wood deck just sitting on cinder blocks and is easy to move and they have moved it before. Engineer Nash stated that you can just rotate it around. Chairman Dunning stated either way, removing it or moving it, gets rid of this variance.

Attorney Mondello stated we are now down to 6 variances from 8.

Vice Chairman Grygus asked if the porch was going to remain open? Mr. Lanza stated yes. It will have a roof over it, but it will remain open.

Engineer Nash mentioned that the architectural drawing does not show any sign of a basement. Mr. Lanza stated there is going to be a basement and the elevation is referenced on the site plan. The entrance to the basement will be from inside the house, no bilko doors.

Public Discussion On Application: Let the record show that there is no one present in the audience.

MOTION MADE BY VICE CHAIRMAN GRYGUS TO APPROVE THE APPLICATION FOR THE CONSTRUCTION OF A NEW TWO STORY DWELLING WITH THE FOLLOWING VARIANCES: FIRST VARIANCE WILL BE FOR LOT DEPTH WHERE THE REQUIREMENT IS 120 FEET AND THE APPLICANT IS PROPOSING 66.5 FEET FOR A VARIANCE OF 53.5 FEET; SECOND VARIANCE WILL BE FOR FRONT YARD WHERE 30 FEET SETBACK IS REQUIRED AND THE APPLICANT IS PROPOSING 7.8 FEET FOR A VARIANCE OF 22.2 FEET; THIRD VARIANCE WILL BE ONE SIDE YARD VARIANCE WHERE 15 FEET IS REQUIRED AND THE APPLICANT IS PROPOSING 9 FEET FOR A VARIANCE OF 6 FEET; AND REAR YARD SETBACK WHERE 40 FEET IS REQUIRED AND THE APPLICANT IS PROPOSING 26.6 FEET FOR A 13.4 FEET VARIANCE. ON THE ACCESSORY BUILDING, (GARAGE) THE REQUIREMENT IS 70 FOOT SETBACK FROM THE FRONT PROPERTY LINE AND THE APPLICANT IS PROVIDING 35.3 FOR A VARIANCE OF 34.7 FEET AND THE LAST WOULD BE FOR THE REAR YARD SETBACK ON THE GARAGE WHERE THE APPLICANT IS PROVIDING 4.5 FEET WHERE 10 FEET IS REQUIRED FOR A VARIANCE OF 5.5 FEET; AND THE STIPULATIONS WOULD BE THAT THE SEWER EASEMENT ISSUE IS RESOLVED AND THAT THE CALCULATIONS FROM THE TEST PIT INDICATE THAT THE PROPOSED DRAINAGE PLAN WILL WORK.

MEMBER COVELLI WILL SECOND THE MOTION, BUT WITH A POINT OF ORDER FOR COUNSEL: VICE CHAIRMAN GRYGUS MENTIONED THE EASEMENT ISSUE, COULD WE MAKE IT A CONDITION THAT THE APPLICANT SO AGREES THAT, IF FOR SOME REASON IT WASN'T RECORDED, BY THIS APPLICATION SHE IS GRANTING THE EASEMENT ON THE SEWER. ATTORNEY MONDELLO STATED THAT, IN FACT, THIS IS WHAT MY NOTES INDICATE THAT I AM GOING TO ASK THE BOARD FOR SOME HELP TO CONFIRM OR DENY THAT THE EASEMENT WAS IN FACT RECORDED. IF IT WASN'T, THEY ARE GOING TO RECORD ONE. I WILL DRAFT ONE, THEY ARE GOING TO SIGN IT AND WE ARE GOING TO RECORD IT. I WILL ALSO PUT IN THE RESOLUTION THAT THE APPLICANT WILL MOVE THE SHED SO THAT VARIANCE IS ELIMINATED. THE APPLICANT WILL RELOCATE THE POOL DECK, THEREFORE ELIMINATING THAT VARIANCE. IN FACT, I AM ALSO

GOING TO PUT SOME LANGUAGE TO THE EFFECT THAT THE APPLICANT HAS AGREED TO HOLD HARMLESS THE BOROUGH IF, IN FACT, THE SEWER AUTHORITY WOULD COME ONTO THE PROPERTY AND PERHAPS DAMAGE THE SHED.

Engineer Nash stated, that although it does not need to be included in the Resolution, he would like a copy of the soil log. Mr. Lanza stated he will have the Applicant's engineer e-mail it to you.

Attorney Mondello also stated that the Chairman has mentioned that the site plan indicates the Planning Board and, of course, we are the Zoning Board so the record is clear, and it is the Board Engineer, not Town Engineer.

Attorney Mondello also read into the record that the Deed was, in fact, recorded on April 15, 2013, Instrument No. 2013020990, Book D2304, Page 215.

MOTION TO APPROVE APPLICATION: made by Vice Chairman Grygus, seconded by Member Covelli. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Ludwig, Levine, Henderson and Minogue. Motion Carried.

PUBLIC DISCUSSION: None/Closed

RESOLUTIONS: None

CORRESPONDENCE: Letter from County of Passaic on Exxon Gas Station Application approving Site Plan.

VOUCHERS: submitted by Ronald Mondello, Esq. for attendance at the April and May Meetings in the amount of \$600.

MOTION TO APPROVE: made by Member Ludwig, seconded by Member Levine. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Ludwig, Levine, Henderson and Minogue. Member Covelli abstained.

MOTION TO APPROVE APRIL 3, 2013 MINUTES: made by Member Ludwig, seconded by Vice Chairman Grygus. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Ludwig, Levine, Henderson and Minogue. Member Covelli abstained-not qualified.

ENGINEER'S REPORT: There is a new application I will be reviewing. Board Secretary passed out the new Shutte Application to all Board Members present.

DISCUSSION: Everybody should have gotten their rejected Disclosure Statements. Attorney Mondello stated that it is a new process this year. The Division of Consumer Affairs wants everybody to do it online. Vice Chairman Grygus had no problems but don't go to the link or don't cut and paste the link. If you go into that link, it won't take you there. Go to the site and then put Financial Disclosure 2013 in the search area and it will bring you there. There was something wrong with that link. Chairman Dunning also stated you need the Wanaque e-mail which is in the letter. Member Covelli did mention that there is a receipt you have to print out with a confirmation number and you have to print that out and give the paper proof of the confirmation to the Borough. Board Secretary also stated that if the confirmation number doesn't come through on the first attempt, you can go back to the website at a later date, hit the tab "Listing Names" and it will list all members alphabetically that have successfully filed their report with the confirmation number. This has to be done by May 30, 2013. Also if you hold more than one position in a town, that can be listed on the one form. However, if you hold positions in multiple towns, you have to complete a form for each town.

MOTION TO ADJOURN: at 8:45 P.M. made by Chairman Dunning. Motion carried by a voice vote.

Jennifer A. Fiorito
Board of Adjustment Secretary