WYCKOFF BOARD OF ADJUSTMENT
APRIL 21, 2016 PUBLIC BUSINESS MEETING MINUTES

Work Session: 7:30 p.m. Second Floor, Memorial Town Hall
Public Meeting: 8:00 p.m. – Court Room, Second Floor, Memorial Town Hall

The meeting commenced with the reading of the Open Public Meetings Statement by Erik Ruebenacker, Chairman:

> "The April 21, 2016 Public Business Meeting of the Wyckoff Board of Adjustment is now in session. In accordance with the Open Public Meetings Act, notice of this meeting appears on our annual Schedule of Meetings. A copy of our Annual Schedule has been posted on the bulletin board of Memorial Town Hall; a copy has been filed with the Township Clerk, The Record, The Ridgewood News and the North Jersey Herald and News--all newspapers having general circulation throughout the Township of Wyckoff. At least 48 hours prior to this meeting, the agenda thereof was similarly posted, filed and mailed to said newspapers." Formal action may be taken.

Board Member Attendance: Erik Ruebenacker, Chairman; Carl Fry, Vice Chairman; Mark Borst; Brian Hubert; Ed Kalpagian; Tim Shanley; Brian Tanis, Alt.; Rich DeLeo, Alt.

Board Member Absent: Susan Yudin

Staff Present: David Becker, Board Attorney; Mark DiGennaro, Township Engineer; Susan McQuaid, Secretary.

The Board of Adjustment Meeting began with the Pledge of Allegiance.

Chairman Ruebenacker stated that all phones, pagers and hand held electronic devices should be turned off or switched to silent mode in order to avoid interrupting the public session.

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Chairman Ruebenacker read this statement into the record: *"All applicants are hereby reminded that your application, if approved, may be subject to the terms, conditions and payment of the Affordable Housing Development Fee requirements of the Township. Information can be obtained from the Code of the Township of Wyckoff, Chapter 113-8 on the Township's website, www.wyckoff-nj.com"*

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OLD BUSINESS

APPROVAL OF MINUTES
March 17, 2016 work session/public business meeting
The minutes were approved at the work session meeting.

RESOLUTION TO APPROVE VOUCHERS FOR PAYMENT

RESOLUTION #16-04- Approval of vouchers from various escrow accounts.
Resolution #16-04 was approved at the work session meeting.

RESOLUTION(S) TO BE MEMORIALIZED

PIRRMANN, LAUREN BLK 269 LOT 14 (RA-15 CORNER); 91 Edison Street. *(The applicant proposes to increase the footprint of the first floor and add a second level addition which will trigger the enhanced side yard setback ordinance).*

This resolution was memorialized at the work session meeting

FOR INTERPRETATION

BERGEN COUNTY'S UNITED WAY/MADELINE HOUSING PARTNERS BLK 238 LOT 2 (B1A); 370 Clinton Avenue. *(The applicant, a non-profit corporation, proposes to develop this property for a multi-family community residence consisting of a four bedroom unit, 2 2-bedroom units and a studio unit for adults with developmental disabilities. The applicant seeks a determination that the proposed community residence is a permitted use in the B1A zone).*

Daniel Steinhagen, attorney from the law firm of Beattie Padavano, 50 Chestnut Ridge Road, Montvale, NJ on behalf of the applicant Bergen County United Way/Madeline Partners with property located at 370 Clinton Avenue in the B1A triangle business zone. The applicant has asked for an interpretation of the zoning ordinance for this group home for developmentally disabled residents. Pursuant to the Municipal Land Use Law (MLUL) a group home is a permitted in a residential zone. He said the BIA zone does permit 1 and 2 family homes and we are asking for a determination whether or not the proposed application is a conforming use under the MLUL or whether it would require a use variance.

Chairman Ruebenacker asked what would trigger a use variance. Mr. Steinhagen said if the Board determines that the B1A triangle zone is not a residential district than the application would require a use variance. He added that the application does conform to the statutory definition of a facility in NJSA 40:55D-66.2. Board Attorney Becker asked about the qualification in the ordinance to limit to single or 2 family residents. Mr. Steinhagen said the statute refers o residential districts and there is no interpretation or case law that defines what a residential district is. Mr. Becker said in NJSA 40:55D66.1 "Community residences shall be a permitted use in all residential districts of a municipality and the requirements shall be the same as for single family dwelling units located within such districts." Mr. Steinhagen said the reason the applicant is here tonight to make sure this zone qualifies as a residential zone. Board Member Shanley asked if the Board is looking at this community residence as a single family in a residential zone according to the statute. Mr. Becker said the State passed a statute that said if it's a residential zone than a community residence or group home is a permitted use. Mr. Steinhagen said that his position is that if there are not more than 15 people it is permitted in any zone that is a residential district.

Board Member Shanley opined that the applicant does not need a use variance. Township Engineer DiGennaro said Mr. Steinhagen to define a group home. Mr. Steinhagen read into the record NJSA 40:55D66.2. Township Engineer DiGennaro said based on the definition of a community residence for the developmentally disabled a supervised apartment living arrangement under 15 people he is satisfied that the applicant would not require a use variance.

Board Member Borst made a motion that Bergen County United Way group home in accordance with MLUL 40:55D-66.1 & 2, Community residence, will not require a use variance.

Second, Board Member Shanley. Voting in favor: Mr. DeLeo, Mr. Tanis, Mr. Shanley, Mr. Kalpagian, Mr. Hubert, Mr. Borst, Mr. Fry and Chairman Ruebenacker. The applicant was advised to proceed with the application to the Planning Board.

APPLICATION(S) – CARRIED

765 WYCKOFF AVENUE, LLC (STONE HOUSE NURSERY) BLK 204 LOT 11 (RA-25 CORNER); 765 Wyckoff Avenue. *(The applicant proposes to install a propane filling station and installation of shade structure over a portion of the area where nursery products are located).*

Board Member Borst recused himself from discussion and removed himself from the dais.

Mr. Whitaker, from the firm of McDonnell & Whitaker representing the applicant, 765 Wyckoff Avenue, LLC. He said this application was presented at the March 17, 2016 meeting with the applicants 3 witnesses testifying. He said the applicant is proposing a 1000 gallon propane tank for members of the public to fill their barbeque tanks as an expansion of a non-conformity nursery business and the installation of 2 shade canopies structures. A D-2 variance is being requested for an expansion of a nonconforming use which is the current nursery in a residential zone.

Chair Ruebenacker asked if the applicant had considered moving the shade structure further away from Wyckoff Avenue. Mr. Whitaker said the shade structure is closest to the area where the public shops for flowers. He added that the cloth will be removed during the off season months. Chair Ruebenacker then opened the meeting to the public for general comments.

OPEN TO THE PUBLIC for public comment
Lynn McCormack, 407 Woodbury Drive, Wyckoff, NJ was sworn. She said she is opposed to the sale of propane gas in a residential area. We are unable to identify any propane retailers that are embedded in a residential community and are concerned with their safety. She explained prior conditions on site from the previous owner that occurred on the site and asked that the installation of the propane tank not be approved. Mr. Whitaker noted his objection to the issues and conditions that were raised by this neighbor are from a prior owner of the property and the prior mulch operation is not synonymous with the testimony that has been provided as it pertains to the installation of a propane tank. This was noted by the Board Members.

Aaron Nowland, 404 Woodbury Drive, Wyckoff, NJ was sworn. He said he purchased his house in May of 2015 and understood the prior situation with the nursery. He said he has no opposition against the variance request for a shade covering. However, he said that propane is an expansion into a new line of business. He was concerned with fire or explosion, noise pollution from filling activities and the opening and closing of metal safety gates, the odor of gas and increase of traffic. He said the Wyckoff residents in the neighborhood do not have to be exposed to this. He asked the Board not to approve this expansion application.

Tom Mosca, 411 Woodbury Drive, Wyckoff, NJ was sworn. He was concerned with runoff onto the Church parking lot and runoff down Woodbury Drive from a broken pipe. Mr. Whitaker objected to the irrelevancy of this testimony since it has nothing to do with the application before the Board this evening. Township Engineer DiGennaro said after he received a phone call from Mr. Mosca he then spoke with Mr. Brisby who agreed to fix the broken pipe. Mr. Mosca

continued with testimony about parking & traffic and the 18 wheeler trucks delivering product at 7 a.m. in the morning. Mr. Whitaker again objected to this line of questioning since the court orders and settlements orders between the Township and the applicant and there are no requirements for a sound barrier for the residents and no prohibition for the trucks on site. Township Engineer DiGennaro suggested Mr. Mosca contact the township property maintenance code official about public safety issues. Chairman Ruebenacker asked Mr. Mosca to limit his comments to the subject of this application. Mr. Mosca said there will be another truck delivering propane.

Mike Ravensbergen, 415 Woodbury Drive, Wyckoff, NJ was sworn. He asked the Board to consider in their deliberations the non-conforming uses on this site. He opined that the exemption of non-conforming uses was intentionally limited. The Board and the owners know the history of the property and to the surrounding neighbors this is a quality of life issue. He said a commercial propane distributor is not a prevalent service provided by garden nurseries in this area and should not be located in a heavily populated residential neighboring. Mr. Whitaker said the comment about propane distribution occurs in a garden nursery has no foundation to this application and should be stricken.
CLOSED TO THE PUBLIC

Mr. Whitaker said in summation said a non-conformity has a lawful existence under the Municipal Land Use Law (MLUL). He said the non-conformity on this site has been properly established and acknowledged by the Township in connection with the Court Orders that came down thorough the years when there were problems with the prior owner. He said the applicant is proposing an expansion of a non-conforming use and are requesting a propane tank filling station. He added that safety standards will be met through the New Jersey DCA and the tanks will be filled by trained employees. The distance of the tank will be 125' from the closest neighboring property owners in a particular suited location and the tank will be surrounded by protective bollards. He said the Wyckoff Fire Department report said that a 1,000 gallon propane tank is the size compared to other nurseries that have propane filling tanks in neighboring towns. He said the tank will be refilled 2 to 3 times a month in a safe manner. He continued that the second aspect to the plan is the canopy shade structures to protect the plant life which will enhance the site and blend with structures that currently exist. He listed the following stipulations: no customer access to the fenced in area; the fenced in area will have green slates through the fence so it will not be seen; there will be no extra tanks left in or around the filling area; and the hours of operation will be the same hours for the nursery use. He concluded that what is being proposed this evening is a minor expansion of a non-conforming use, will serve the public with propane in a location that is particularly suited for it without any substantial detriment or impairment to the Township zoning ordinance and he respectfully requests that approval be granted.

Chair Ruebenacker asked if this application can be bifurcated. Mr. Whitaker said the applicant would have no objection to bifurcating the application. Township Engineer DiGennaro asked that it be stipulated that the shade structures cannot be converted to greenhouse structures in the future with no walls or permanent roof being constructed.

Vice Chairman Fry made a motion to approve the 2 shade coverings on site as presented subject to the following condition: no signage, permeable clothe, removed in the winter and cannot be converted or expanded into walled structures. Second, Board Member Shanley.

Voting in favor: Mr. DeLeo, Mr. Tanis, Mr. Shanley, Mr. Kalpagian, Mr. Hubert, Mr. Fry and Chairman Ruebenacker.

Chairman Ruebenacker said the next vote will be taken on the propane tank. He said there was testimony of the applicant, the criteria for the D2 variance, testimony from the applicant's experts, memorandum of the Wyckoff Police & Fire Departments and residential comments not supporting the filling station. Board Member Shanley said there is not any testimony regarding the danger or significant detriment to the public regarding this application. Chair Ruebenacker said the neighbors comments were minimal concern over the safety. Their primary concerns were traffic, noise and odor. Board Member Hubert said he is very sensitive to the comments from the neighbors but this is a complimentary use to the existing garden center. Board Member Kalpagian said he is sympathetic to the neighbors and the applicant will have to follow safety requirements. Vice Chair Fry said a benefit is the convenience to fill a gas tank where there are not any filling stations in Wyckoff but his concern is the potential safety, traffic & odor issues that were discussed since this is located in a residential zone. He said there could be a quality of life concern.

Board Member Hubert made a motion to approve this application for a 1000 gallon filling station subject to the following stipulations: no customer access to the fenced in area; the fenced in area will have green slates through the fence so it will not be seen; there will be no extra tanks left in or around the filling area; and the hours of operation will be the same hours for the nursery use. Second, Board Member Shanley. Voting in favor: Mr. DeLeo, Mr. Tanis, Mr. Shanley, Mr. Hubert and Chair Ruebenacker. Voting in denial: Mr. Kalpagian and Vice Chair Fry.

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Chair Ruebenacker announce that the Fox application and the Baykowski application may not be heard this evening due to the full agenda and the meeting will end promptly at 11:00 p.m. this evening. The Fox application representatives agreed to have their application carried to the May 19, 2016 public hearing meeting. The Baykowski application representatives agreed to wait an hour until the end of the meeting in case there may be time for their application to be heard.

The Board unanimously agreed to carry the Fox application to the Thursday, May 19, 2016 public hearing meeting and no renotice will be required.

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APPLICATION(S) – NEW

DAMIANI, NICHOLAS & LISE BLK 443 LOT 1 (RA-25 CORNER); 768 Hickory Hill Road. *(The applicant proposes to redirect the driveway from Squawbrook Road to Hickory Hill Road for safety which will exceed impervious coverage).*

Mr. Nick Damiani, 768 Hickory Hill Road, Wyckoff, NJ was sworn. He said he would like to move their existing driveway where it enters off of Squawbrook and over to Hickory Hill side of the property for safety reasons for their 2 children and for exiting the driveway. He added that the retaining wall structure will be a modular block wall.

Board Member Borst noted that the impervious coverage is increasing but he is pleased to see that 2-500 gallon seepage tanks will be installed to catch the runoff water. Chair Ruebenacker said that any future additions to this house will require additional variances. Township Engineer DiGennaro asked if the driveway is going to be curbed. Mr. Damiani said he will use Belgium block curbing at the catch basin locations. Township Engineer DiGennaro said some sort of curb will be needed to hold the water and strengthen and support the entire new asphalt driveway on the downhill side of the driveway.

OPEN TO THE PUBLIC
No one appeared.
CLOSED TO THE PUBLIC

Board Member Shanley made a motion to approve this application subject to the following condition: curbing will be placed on the downside of the driveway. Second, Vice Chair Fry. Voting in favor: Mr. Tanis, Mr. Shanley, Mr. Kalpagian Mr. Hubert, Mr. Borst, Mr. Fry and Chairman Ruebenacker.

DOICK, JONATHAN BLK 462 LOT 68 (RA-25 162 Wyckoff Avenue. *(The applicant proposes to add an addition to the first floor and renovate the second floor providing rooms with full height ceilings and also enlarge the existing detached garage. Both additions which encroach into the side yard setbacks due to the unique shape of the property).*

Mr. Fred Klenk, the applicant's architect, 684 Route 208, Franklin Lakes, NJ was sworn. The Board accepted Mr. Klenk's credentials since he has appeared before the Boar don numerous occasions. He summarized the aspects of the application. He said it is a very unusual piece of property shaped in a pie shape with a Cape Cod style home on it. He said the applicant would like to expand the second floor of the house, square off the first floor which will be a 133 square foot addition and turn the house into a 2 story colonial style home. The variance request is for an existing 16.1' side yard setback where 25' is required due to Gross Building Area (GBA) which exceeds 3,700 square feet. He added that there is a detached garage to the rear of the yard which the applicant would like to expand with a Dutch style roof, however, the garage cannot be used as a residential living unit or dwelling. He said the applicant is willing to remove shed which will bring the square footage of the house below 3,700 square feet and thus reduce the side yard setback to 20' instead of the 25'.

Board Member Hubert asked how much of the house will be removed before construction begins. Mr. Klenk said the existing second floor will need to be removed. Chair Ruebenacker thanked the applicant for removing the shed which will lower the GBA. Vice Chair Fry asked what the overall length of the garage will be. Mr. Klenk said there will be a 19.6 extension to the 30' original garage with no second floor. He added that electric utilities will be extended to the garage.

Jonathan Doick, 162 Wyckoff Avenue, Wyckoff, NJ was sworn. He said he will use the proposed garage for cars and storage on the second floor. Vice Chair Fry said the proposed overall size of the garage will be 50' x 24' with a height of 20'. He said that no business will be conducted out of the garage.

OPEN TO THE PUBLIC
No one appeared.

CLOSED TO THE PUBLIC
Board Member Shanley made a motion to approve this application as presented with the following condition: any landscaping damaged during construction will be replaced with the same kind and the shed will be removed. Second, Board Member Hubert. Voting in favor: Mr. Tanis, Mr. Shanley, Mr. Kalpagian Mr. Hubert, Mr. Borst, Mr. Fry and Chairman Ruebenacker.

INFANTOLINO, ANTHONY BLK 230 LOT 3 (RA-25) 548 Old Woods Road. *(The applicant proposes to add a level to the existing home which will increase the gross building area. The existing side yard setback of 16.63 will remain).*

Jordan Yuelys, the applicant's attorney, 505 Main Street, Hackensack, NJ said this is a single family home which will be utilized by the applicant and his family. He then introduced the applicant's architect.

Chris Lopez, the applicant's architect from TF Cusanelli, was sworn. He said he is a registered architect for 8 years in the State of New Jersey. The Board accepted Mr. Lopez' credentials. He said the existing house is a split level style house and it will be made into a craftsman style home. An existing side yard variance of 16.63' was granted in 1993. He said the existing footprint is not going to change and a second floor level will be added over the garage and a second level to the rear of the house on the right side. He said an in ground pool and gazebo eliminate the applicant from adding on to the rear of the house in this area. Due to the location of the house on the lot we will be encroaching into the side yard setback with the cantilever of the second floor. He added that once the house increased to over 3,700 square feet the side yard setback increased to 25 feet.

Board Attorney Becker asked that the following exhibits be marked as identification:
A-1 Application package
A-2 Sky exposure diagram

Mr. Yuelys asked if the second floor expansion is setback from the existing first floor. Mr. Lopez said the second floor is 19.6' setback with a 1' overhang from the side yard which is a 3' increase from what presently exists which is 16.63'. Mr. Lopez that a second bedroom for guests was important as well as a new master suite with bathroom and 2 walk in closets above the kitchen and living area. Mr. Yuelys said a request for a waiver of the landscape plan and stipulated that the applicant will replace any damaged landscaping during construction with the same kind. Chair Ruebenacker and Board Member Borst said he struggles with the second floor addition further encroaching into the side yard setback. Mr. Lopez said 2' could be sacrificed from the master bedroom. Mr. Yuelys said the applicant is willing to scale the bedroom back by 2'. Mr. Lopez said the impervious coverage is over but not the lot coverage. He added that all trees will not be disturbed during construction and will remain.

Township Engineer DiGennaro suggested that the changes be made and the resolution can be prepared ahead of time. Chair Ruebenacker was adamant about the side yard setback being reduced to 21.78' which would shrink the closet and bathroom in the master bedroom by 2'. He said this revision could be handled in the engineering office.

Jennifer Infantolino, 548 Old Woods Road, Wyckoff, NJ was sworn. She said she currently lives in Saddle Brook, NJ was would like to start the project as soon as possible so her children can start the Wyckoff public schools in the fall.

Township Engineer DiGennaro asked that the revision be bubbled and that the setback be placed at 21.78' setback to the alignment of the first floor wall.

OPEN TO THE PUBLIC
No one appeared.
CLOSED TO THE PUBLIC

Board Member Shanley made a motion to approve this application subject to the plans being revised and the side yard setback be setback to 21.78' to the wall which would align with the first floor wall with a 1' soffit and if any landscaping is damaged during construction it will be replaced with the same kind. Five (5) sets of revised drawings must be submitted to the Board office. Second, Mr. Kalpagian. Voting in favor: Mr. Tanis, Mr. Shanley, Mr. Kalpagian Mr. Hubert, Mr. Borst, Mr. Fry and Chairman Ruebenacker.

BAYKOWSKI, ROBERT BLK 310 LOT 1 (RA-25); 530 Carlton Road. *(The applicant proposes to expand the existing house with a second floor addition and first floor front and rear addition which will exceed gross building area and encroach into the side yard setback).*

Mark Steffanelli, the applicant's architect, was sworn. He said that he is a licensed architect in the State of New Jersey for 20 years and has testified before other Land Use Boards. The Board accepted Mr. Steffanelli's credentials. Mr. Steffanelli said he will be removing the roof and doing alterations to the first floor of the existing ranch style house, basement and adding a second floor level. This property is pie shaped and this addition will encroach into the side yard setback of 16' and 18.9' on the forward part where the town requires 20'. With the addition of the second floor the gross building area will be 4,321 square feet which will trigger the enhanced side yard setback variance requirement of 25'. Since this house is over 3,700 GBA the side yard setback requirement has been increased from 20' to 25'. A height variance is also being requested for 36' where 35' is required to the driveway and the third variance is for a 3 story building due to the walk out basement. The front of the house will be colonial in style with a new facade and gabled roof. The hardship variance concerns are due to the odd shaped lot and the height variance and third story variance are due to the driveway, topography of the land and walk out basement.

Board Attorney Becker asked that the following exhibits be marked as identification:
A-1 Application package

Robert Baykowski, 530 Carlton Road, Wyckoff, NJ was sworn. He said he currently lives in Clifton and would like to move to Wyckoff and the Hartung area.

Chair Ruebenacker asked the applicant's architect if the proposed first floor plan is being enlarged. Mr. Steffanelli said there is a 2' cantilever in the proposed living room. He said a bay element has been extended from the first floor to the second floor in order to create a sitting area on the first floor and a master bath on the second floor. Chair Ruebenacker asked if the cantilever encroaches into the side yard setback. Vice Chair Fry said this 2' plus cantilever makes it a 13' setback instead of 16' to the foundation. Mr. Steffanelli said it is 13.3 to the new overhang and the front side is 18.3' to the new overhang. Chair Ruebenacker said the applicant cannot exasperate a preexisting deficiency. He asked that the second floor be stepped in further than 16' where 25' is required. Board Member Shanley said this is a very aggressive application and will be impacting 3 neighbors. Board Member Borst noted where the applicant

is asking for relief they are 31' tall in the corner or 23' to the eve of the house and 31' to the ridge line of the roof. He said this is aggressive and the second floor will need to be stepped in. He added that the neighbor in the rear will be looking at the 23' wall of house. Chair Ruebenacker said the applicant will need to return to the May 19, 2106 public hearing meeting.

Board Member Borst asked the application to produce a professional landscaping plan with a better layout and plant choices. Township Engineer DiGennaro asked if the utility services will be placed underground. Mr. Baykowski said the utilities will be placed underground.

OPEN TO THE PUBLIC
No one appeared.
CLOSED TO THE PUBLIC

Vice Chair Fry said the applicant has the ability to remove another variance by lowering the ceilings on the second floor from 9' to 8'. He asked that the eave be reduced to 20'. Chair Ruebenacker asked that the side yard setback on the second floor be reduce, the first floor cantilever be removed and a professional landscape plan be provided. The Board unanimously agreed to carry this application to the Thursday, May 19, 2016 public hearing meeting. The applicant will not need to renotice the newspaper or the neighboring property owners within 200'.

FOX, MICHAEL & AMY *BLK 345 LOT 9 (RA-25); 456 Florence Avenue. (The applicant proposes to add a master bedroom/bath, porch & mudroom addition which will increase the gross building area and therefore increase the side yard setback requirement).*

This application has been carried to the Thursday, May 19, 2016 at the request of the applicant.

420 WEST MAIN STREET, LLC BLK 224 LOT 5.01 (L1); 420 West Main Street*. (The applicant proposes to construct a 38 car parking lot and a dumpster area and also install a 24 square foot sign illuminated with external solar power lighting).*

This application has been carried to the Thursday, May 19, 2016 at the request of the applicant.

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There being no further business, a motion to adjourn the meeting was made and seconded and passed unanimously. The meeting concluded at 11:35 p.m.

Respectfully Submitted,

Susan McQuaid, Secretary
Wyckoff Board of Adjustment