

CALL TO ORDER:

This meeting was called to order at 7:30 p.m. via Zoom webinar by Chairwoman Robin Malley with the reading of the Open Public Meetings Act.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Robin Malley, Chairwoman	Present
Sanjeev Dhawan, Vice Chairman	Present
John Altadonna, Alt. 1	Absent
Gerald Barbara, Alt. 2	Absent
Dianna Cereijo	Arrived at 7:35pm
Christina Hembree	Present
Michael Kaufman	Present
Philip Maniscalco	Present
Lynda Picinic	Present
S. Robert Princiotta, Esq.	Present
Anthony Kurus, Engineer	Present
Elizabeth Leheny, Planner	Present
Clairese Neumann, Secretary	Present

APPROVAL OF MINUTES

The minutes for September 27 2022 were approved as edited on a motion from Vice Chairman Dhawan and seconded by Mr. Maniscalco. All board members were in favor of approval, Ms. Cereijo abstained.

RESOLUTION OF APPROVAL

75 Carnot Avenue
Sascha Kreideweis

Block: 1906 Lot: 1
R-22.5

Requesting variances to construct a two-story stairway addition and a second story addition over the existing garage which will require two variances for setbacks of 16 ft. and 6.92 ft. where 20 ft. is required. Variances of 4 ft. and 13.08 ft. would be needed.

The resolution for 75 Carnot Avenue was approved as amended on a motion from Ms. Hembree, and seconded by Mr. Maniscalco. On a roll call vote Chairwoman Malley, Vice Chairman Dhawan, Mr. Kaufman, Mr. Maniscalco, Ms. Picinic, and Ms. Hembree voted in favor of the motion. Ms. Cereijo abstained.

APPLICATION – (Carried):

24 Hunter Ridge Road
David Yoskowitz

Block: 1108 Lot: 5.01
R-30

Requesting a use variance to permit a recreational court / basketball court in the front yard of the property. This would also require a variance for an accessory structure in a front yard where only side or rear yard is permitted and a front yard setback of 6.2 ft. where 50 ft. is required.

The applicant's attorney, Mr. Stamos reintroduced the application. He stated testimony was given by the applicant's planner and engineer. Mr. Stamos stated he would like to continue the testimony with the planner, Mr. McDonough. Mr. Stamos submitted a Power Point to the board of residential properties in Woodcliff Lake with Basketball/ Tennis courts, and asked it be marked as A-6 on the exhibit list.

Mr. McDonough was reminded by Mr. Stamos, he was still under oath and explained the PowerPoint to the board members. Mr. McDonough stated this PowerPoint was a reconnaissance of the area with residences with tennis/basketball courts. The addresses listed in the Power Point were 299 Werimus Road, 225 Glen Road, 78 West Hill Road, 36 Mill Road Extension, 35 Arcadia Road, and 55 Fairview Avenue with photos from google. Mr. McDonough stated they are in the community of Woodcliff Lake and the applicant is not asking for anything out of context.

Mr. Stamos stated he provided an OPRA request for the properties listed in the Power Point presentation and asked to have it marked as A-7 on the exhibit list. Mr. Stamos stated there were no permits for the properties provided found for the installation of basketball/tennis courts.

Mr. Stamos asked Mr. McDonough from his testimony and his earlier testimony if the courts were not a complete anomaly within the municipality. Mr. Stamos stated there is accessory to the principal use of the home and for use by the family.

Mr. McDonough agreed with Mr. Stamos.

Mr. Stamos stated Mr. McDonough noted the typical size of the tennis courts is 50 x 100, and the basketball court proposed for 24 Hunter Ridge is 30% the size of that.

Mr. McDonough agreed with Mr. Stamos.

Mr. Stamos asked Mr. McDonough to explain what is being looked at with the use of the proposed court and the detriment to familial use of the recreational court with the additional coverage.

Mr. McDonough stated he looked for integration with the site and integration with the property. He explained the property of 24 Hunter Ridge is extremely well buffered. he stated the court is outlined to be in proximity with the back yard and the distance from the court to the front yard is outlined as well. He stated there is a 10' set off the curb from the court. Mr. McDonough summarized his testimony when he stated he believes the court is a good common-sense development with no harm neighborhood and no substantial impairment to the zone plan.

Chairwoman Malley and Mr. Stamos agreed to finish taking testimony from his witnesses before taking questions from the board.

Mr. Princiotto stated he would rather question the planner before hearing more testimony.

Mr. Princiotto deferred to the board for their questions.

Borough Planner, Elizabeth Leheny stated she had some questions.

Mr. Princiotto swore in the Borough Planner.

Borough Planner stated she did her own research regarding basketball/tennis courts throughout the Borough of Woodcliff Lake. Ms. Leheny stated she found with each instance, the courts at each location provided by the applicant's planner were there as of 1995. She stated we do not know when they were built but we can say they were not built recently.

Mr. McDonough agreed with the Borough Planner, Ms. Leheny.

Ms. Leheny stated we do not know if they were built with permitted use or received use variances prior to 1995.

Mr. McDonough agreed with Ms. Leheny, as he stated "we do not know according to OPRA" and there was no record of variances for those courts.

Ms. Leheny asked Mr. McDonough if any of the properties provided were identifiable primarily as a basketball court.

Mr. McDonough stated he did not perform that reconnaissance.

Ms. Leheny stated she had no further questions for the applicant's planner, McDonough.

Ms. Hembree stated she had played on the courts of 36 Mill Road Extension, and 55 Fairview. Ms. Hembree also stated she played on the court on Brookview drive that was missed by the applicant's planner.

Ms. Leheny questioned if any of the courts he provided as examples at were in the front yards.

Mr. McDonough stated he did not study if any courts were in the front yards. He stated he testified the proposed court is in the technical front yard it is in the effective backyard.

Mr. Princiotta wanted to clarify with Mr. McDonough that he stated one court in particular was constructed in 2019, but based off of the Borough Planner's findings, the court was most likely built in the 1990s and his statement was inaccurate.

Mr. McDonough was unsure of when the court was built. He stated he does not know when the courts were constructed and that another witness would know.

Mr. Princiotta questioned Mr. McDonough if he knew of any basketball courts within the A-6 exhibit. Mr. McDonough stated there was one basketball court and five tennis courts. Mr. McDonough stated he did not create exhibit A-6.

Another witness, Ruben Twerksy created the exhibit A-6.

Mr. Stamos stated the A-6 exhibit was purposely used to show that recreational courts are not atypical to the municipality. One of the courts does show a basketball court on a portion of the court. There is a basketball court on 299 Werimus, on the bottom of the court show in the photo, indicated by the extension of the blue coloring on the court.

Mr. Princiotta stated his question to Mr. McDonough was does he consider the court to be a basketball court located at 299 Werimus Road.

Chairwoman Malley questioned if the courts provided were in the rear yard or the side yard.

Mr. Stamos stated all the courts provided as example are in the rear yard.

Mr. McDonough stated the courts are striped as a tennis court but these courts can have more than one purpose. He stated you could put up a basketball hoop and bounce a ball there. He states he has not physically been on the property to determine the type of court.

Ms. Hembree stated she would like to know when the courts provided were built.

Mr. Stamos stated he submitted an OPRA request for all permits and approvals related to basketball/ tennis courts for the addresses provided in the power point exhibit. He stated there was no information from the town related the courts. He reiterated the reason for the exhibit is to show the board these courts are not uncommon in the municipality.

Mr. Princiotta stated there may not be permitting for these courts because they were built a long time ago.

Mr. Stamos asked to bring up Mr. Ruben Twerksy to testify as his next witness.

Mr. Princiotta swore in Mr. Twerksy.

Mr. Stamos stated Mr. Twerksy is a factual witness who put together the power point exhibit.

Mr. Twerksy stated he used “Historical Aerials Viewer” a website that allows viewers to see the range of years when different structures have been built. He states the aerial view of the court in particular at 299 Werimus does show a basketball court component to it, and he zoomed in to the photos to show the extension of the court from the street.

Mr. Stamos stated the foliage makes it harder for the court to be seen.

Mr. Twerksy confirmed this statement. Mr. Twerksy also stated the court is not striped for a basketball court and it is toward the back of the fence. He stated majority of the driveways in Woodcliff Lake has a basketball hoop. Lastly, he stated the court located at 36 Mill Road Extension is located in the side yard of the property.

Vice Chairman Dhawan questioned if Mr. Twerksy was listed as the owner of 24 Hunter Ridge.

Mr. Stamos stated Mr. Twerksy is a factual witness regarding the construction of the court at 24 Hunter Ridge.

Borough Planner Liz Leheny stated the court at 36 Mill Road Extension is clearly not in the front yard of the property from looking at google maps.

Chairwoman Malley stated she is confused on Mr. Twersky’s role in this application based off the plans submitted before the board.

Mr. Twerksy stated he is the owner's representative. He stated he is not under contract to construct this basketball court. He stated he is in the real estate/ construction development business and he has no financial or business relationship with the owner of the applicant. He is a friend of the owner of 24 Hunter Ridge and he was helping to get the court built.

Mr. Princiotta stated the questions Mr. Twerksy was getting are relevant for the board to understand his positions with the owner and the application.

Chairwoman Malley asked to determine what the basketball hoops Mr. Twersky was referring to are on wheels or if they are mounted in the ground.

Mr. Twerksy stated it should not matter if they are movable or in the ground. He stated back to Liz Leheny's statement of the court at 299 Werimus there was a court there at one point but it was newly redone in 2019.

Liz Leheny stated she brought that up before because it could have been considered a non-conforming use it may have been allowed to re-constructed on the site of the former court. She stated the court has existed but it may not be that particular court.

Mr. Stamos asked the owner, Mr. Yoskowitz to say a few words about the proposed court before the board opened to the public for questioning.

Mr. Yoskowitz is sworn in by Mr. Princiotta.

Mr. Yoskowitz stated the basketball court is for the sole purpose of his children to use, just as his indoor batting cage. He also stated he was informed by his engineer's he cannot build in the rear yard of his property because of the wetlands. He informed the board he has an inground pool in the rear yard with the pool equipment enclosed and the batting cage in the side yard, with no other improvements to the backyard.

Public Session

The meeting was opened to the public for questions of Mr. Sewald, Mr. McDonough, Mr. Twerksy and Mr. Yoskowitz on a motion from Ms. Hembree, seconded by Vice Chairman Dhawan, and carried by all.

The phone number was provided to the public to call in with any questions or concerns. The public was also advised that if they were participating via Zoom that they could raise their hand to ask a question or make a comment.

Mr. Glen Shorr, 5 Maria Road called in to ask if based off of the previous testimony stating the court is half the size of a regulation court, will there be one hoop or two hoops for the basketball court proposed?

Mr. Stamos stated the previous testimony stated there would only be one hoop.

Mr. Shorr questioned if there would be landscaping for the neighboring properties in the back to prevent them from hearing or seeing the court.

Mr. Sewald stated the proposed court is will be located behind the house. His testimony was that the court will be screened by the existing house with no additional screening.

Mr. Shorr asked if lighting would be allowed or just security lighting.

Mr. Sewald stated there is a specific ordinance to lighting, and there is no proposal of lighting at this time.

Mr. Shorr had no further questions.

The meeting was closed to the public with a motion by Mr. Kaufman, seconded by Ms. Cereijo, and carried by all.

Elizabeth Leheny, Borough Planner is asked to give her background by Mr. Princiotto, before explaining her report for the proposed court for 24 Hunter Ridge. She stated she utilized Google Earth Pro, that provides the years of improvements to properties. She stated the earliest photos she was able to find were from 1995 that helped her make the determination of the tennis courts being built in 1995 or sometime before that. She described 299 Werimus Road in particular. Ms. Leheny stated the variances needed, D-1 use variance, and a C Variance/ bulk variance. Ms. Leheny stated she did not believe there is any hardship for this application. The applicant needs to provide the negative criteria for the proposed court and the detriment it could have on the neighborhood. She mentioned if the proposed court is permitted by the board, there are some conditions to consider such as landscaping, buffering, prohibiting lighting, and limiting hours of operation. She mentioned the Master Plan was adopted in early 2022 and there are some recommendations in the land use section to clean up the zoning ordinance specifically the sports courts because they are not addressed. She stated the governing body has not undertaken this recommendation of the Master Plan.

Mr. Princiotto questioned Ms. Leheny if the court requires the C Variance because it is proposed in the front yard, and are there conditions that could be proposed by the board if the application is granted.

Ms. Leheny stated this is correct, the board could set conditions upon the application being granted.

Mr. Princiotto question Ms. Leheny if the board can impose restrictions on the types of uses for the proposed court.

Ms. Leheny stated the board can set restrictions to the type of uses for the proposed court, noise/sound, lighting, and hours of operation but there are different restrictions for the different types of courts.

Mr. Princiotto questioned Ms. Leheny as to who has the burden of proof to provide the types of variances need.

Ms. Leheny stated the applicant has the burden.

Mr. Princiotto asked Ms. Leheny if it is the board's discretion or determination to approval or deny the variance(s).

Ms. Leheny stated that is correct.

Chairwoman Malley questioned Ms. Leheny as to who will police the restrictions if they should be set.

Ms. Leheny stated it could be put into the resolution that would have to be referred to but ultimately it is the neighbors that would have to call or speak with the owner of the court.

Vice Chairman Dhawan questioned why there are so many questions focused on the lighting and the noise of this court when it is similar to a 1500 sq. ft. patio that residents have in their backyard with no restrictions of what they can and cannot do.

Ms. Leheny stated the thought with patios is it's a place to sit down/ have a meal, where as a sports court, the intention is to play sports. Ms. Leheny brought up the point the owner could install this court and then move in a few years leaving the new owner to not be aware of the conditions or have a different attitude.

Chairwoman Malley stated the concern is the typical courts/ swimming pools that groups of kids gather around at are sheltered by being in the rear of the property, not in the front yard.

Vice Chairman Dhawan stated the proposed address is on a Cul- Da Sac. The court proposed is not a public court but there could be a row of cars outside the house for the use of this court or for a birthday party. He stated he believes these situations are being attached to the court unfairly.

Chairwoman Malley stated it is the location for her that is the issue with this court.

Mr. Kaufman stated the existing driveway can used to play basketball by putting up a hoop. He stated it should not matter what side of the house its on, but they are both still street exposed. He stated no one wants to be discouraged as a neighbor and agreed with Vice Chairman Dhawan's statement.

Vice Chairman Dhawan double checked with Ms. Leheny for how many variances are needed for this application.

Ms. Leheny states there are three variances, the d variance and two c variances for this application.

Mr. Stamos questioned Ms. Leheny if the court is an accessory use to the home. He also questioned her if the act of playing basketball typically happens in the front yard. He asked Ms. Leheny if the structure she is referring to is the hoop or the court itself. Mr. Stamos asked if Ms. Leheny would agree that the wetlands restriction limits to location in the rear yard.

Ms. Leheny responded stating the court is an accessory principal use, or a D-1 Variance. A hoop in the front yard is not the question that is at stake here, it's the hoop and the court together that is in question of being allowed in the front yard based off of the Borough's ordinance. She stated the act of playing basketball is not being discussed. She stated the structure in the front yard is being discussed. Ms. Leheny stated the wetlands would restrict the rear yard position of the court. She stated the potential adverse impacts may be noise or lighting.

Mr. Stamos asked if there was to be a portable hoop in the driveway, would there still be the noise?

Ms. Leheny stated she believes there would still be the same amount of noise. She noted, the structure goes beyond the noise, but there is a visual impact as well.

Mr. Princiotto objected to Mr. Stamos' statement that the average home has a basketball hoop in the front yard.

Mr. Stamos asked what is the negative aspect created by the different surface?

Ms. Leheny stated it is a structure and Mr. Stamos makes the distinction that court is going to be a recreational court.

Mr. Stamos stated its going to be a basketball court, after Mr. Princiotto asked him to confirm the use of the court. He asked Ms. Leheny if the basketball court is different from someone playing basketball in the driveway.

Ms. Leheny determined in terms of use it is not different.

Mr. Stamos questioned Ms. Leheny if she agrees the location of the court creates the greatest nearby distance to the houses in the rear of the property.

Ms. Leheny agreed to Mr. Stamos' statement for the rear house of the property but stated it would be different for the neighbors across the street. She stated a fence and bushes would buffer some of the sound.

Mr. Stamos stated the owner is agreeable to reasonable conditions.

Mr. Stamos questioned Ms. Leheny is she can find distinctions between a court and playing basketball in the yard.

Ms. Leheny stated there are distinctions between the two, with terms of noise.

Public Session

The meeting was opened to the public for questions Elizabeth Leheny, Brough Planner on a motion from Mr. Kaufman, seconded by Ms. Picinic, and carried by all.

The phone number was provided to the public to call in with any questions or concerns. The public was also advised that if they were participating via Zoom that they could raise their hand to ask a question or make a comment.

The meeting was closed to the public with a motion by Ms. Cereijo, seconded by, Mr. Maniscalco and carried by all.

Two email letters of objection were listed on the exhibit list as O-1 and O-2. They were read into the record by the Board Secretary.

Mr. Princiotto asked the board to please ignore any reference to the notice of this application in the objection letter listed as O-2.

Public Session

The meeting was opened to the public for public comment on a motion from Mr. Kaufman, seconded by Mr. Maniscalco, and carried by all.

The phone number was provided to the public to call in with any questions or concerns. The public was also advised that if they were participating via Zoom that they could raise their hand to ask a question or make a comment.

The meeting was closed to the public with a motion by Mr. Maniscalco, seconded by, Vice Chairman Dhawan and carried by all.

Mr. Stamos questioned how many members are able to vote.

Board Secretary, Claisses stated there are seven board members on the panel of the meeting but only 6 were eligible to vote.

Mr. Stamos asked to have a 5-minute break to discuss with his client their decision to carry the application to the meeting on December 13th, as there was question if there would be a quorum for the meeting on November 22nd.

The applicant has requested that the application be carried to the Zoning Board meeting on December 13th, 2022.

Mr. Princiotta stated that the application would be carried to the December 13th meeting and that no further notice or publication would be required.

The meeting was adjourned on a motion from Mr. Maniscalco, seconded by Ms. Hembree, and carried by all.

Respectfully submitted,

Claisses Neumann