

**BOROUGH OF WOODCLIFF LAKE
ZONING BOARD OF ADJUSTMENT
JANUARY 23, 2018
MINUTES**

Call to Order:

The meeting was called to order at 7:30 p.m. at Borough Hall by Chairman Christina Hembree.

Adequate Notice Statement:

The Chairwoman announced this meeting, in accordance with the Open Public Meetings Law, P.L. 1975, Chapter 231, at the Reorganization Meeting of January 24, 2017, in the Municipal Building. Notice of this meeting was posted, and two newspapers, The Record and The Ridgewood News, were notified. The public was advised of the Zoning Board's rule that the meeting will conclude at 10:30 p.m.

PLEDGE OF ALLEGIANCE

2018 REORGANIZATION

SWEARING IN OF NEW APPOINTMENTS AND REAPPOINTMENTS

The following members were sworn in by Attorney Princiotto:

Member: Emilia Fendian (term ending December 31, 2020)

The following members were not present to be sworn in. They will be sworn in at the next Zoning Board meeting.

Member: Robin Malley (term ending December 31, 2021)

Member: Robert Hayes (term ending December 31, 2021)

Alternate 2: James Vercelli (term ending December 31, 2019)

Roll Call:

Victor Bongard, Vice Chairman	Present
Sanjeev Dhawan	Present
Emilia Fendian	Present
Gary Newman, Alternate 1	Present
John Spirig	Present
Christina Hembree, Chairwoman	Present
S. Robert Princiotto, Esq.	Present
Tonya Tardibuono, Secretary	Present

Chairwoman of the Zoning Board: Mrs. Hembree was nominated for the position of Chairwoman of the Zoning Board for the year 2018 by Mr. Spirig, and seconded by Mr. Newman, and carried by all.

Vice Chairman of the Zoning Board: Mr. Bongard was nominated for the position of Vice Chairman of the Zoning Board for the year 2018 by Mr. Newman, and seconded by Mr. Spirig, and carried by all.

Board Attorney for the Zoning Board: Mr. Princiotto was nominated for the position of Board Attorney for the Zoning Board for the year 2018 by Mr. Spirig, and seconded by Mr. Newman, and carried by all.

Board Engineer for the Zoning Board: Mike Neglia of Neglia Engineering was nominated for the position of Board Engineer for the Zoning Board for the year 2018 by Mr. Spirig, and seconded by Mr. Bongard, and carried by all.

Board Planner for the Zoning Board: Richard Preiss of Phillips Preiss Gryciel LLC was nominated for the position of Board Planner for the Zoning Board for the year 2018 by Mr. Dhawan, and seconded by Mr. Bongard, and carried by all.

Board Traffic Engineer for the Zoning Board: John Pavlovich of Jacobs Engineering Group was nominated for the position of Board Traffic Engineer for the Zoning Board for the year 2018 by Mr. Spirig, and seconded by Mr. Bongard, and carried by all.

Board Secretary for the Zoning Board: Tonya Tardibuono was nominated for the position of Board Secretary for the Zoning Board for the year 2018 by Mr. Bongard, and seconded by Mr. Newman, and carried by all.

Resolution:

**No. 18-01
2018 Dates**

1. Approval of 2018 Zoning Board Meeting Dates

A motion to approve the 2018 schedule of the Zoning Board meetings was made by Mr. Newman, seconded by Mr. Spirig, and carried by all.

Minutes:

The minutes of December 19, 2017 were approved as amended on a motion from Mr. Bongard, seconded by Mr. Dhawan, and carried by all.

NEW APPLICATION

Theresa Gudín
27 Lincoln Ave
Block 2704 / Lot 14
Construction of attached 2 car garage
Building Coverage, Minimum side yard, minimum both side yards

The applicant, Ms. Theresa Gudín, was sworn in by the Board Attorney Mr. Princiotto.

Notice and proof of publication were submitted and found not to be sufficient. The property owners within 200 feet in Hillsdale were not noticed.

Mr. Princiotto announced that this application will be heard at the next Zoning Board of Adjustment meeting scheduled for February 27, 2018. The Hillsdale residents within 200 feet will need to be noticed.

Mr. Newman disclosed that he knows the applicants ex-husband and offered to recuse himself from the application. Ms. Gudín commented that it wouldn't be necessary for Mr. Newman to recuse himself.

BOARD DISCUSSION

A Board discussion on the Shade Tree ordinance 16-13 (attached) was had by all present members.

Mr. Clay Bosch a member of the Woodcliff Lake Shade Tree Committee was present to answer any questions the Board may have.

Mr. Spirig questioned the tree removal process. Mr. Bosch answered his questions.

Mr. Spirig questioned the tree removal at 50 Tice Blvd. Mr. Bosch assured him the tree removals were all done with a permit and the applicant has a tree replanting plan.

Mr. Bosch spoke about 300 Chestnut Ridge Road and how they just took down several trees with no permit.

Mr. Bosch spoke about his concerns with construction and trees in the town.

Mr. Princiotto spoke about 62 Broadway.

Mr. Evan Jacobs from Neglia Engineering, the Boards Engineer introduced himself to the Board. Mr. Jacobs spoke about what happens when he is given an application that has trees on the plans. Mr. Jacobs also spoke about a tree grading system that is used by other towns.

Mr. Bosch spoke about the Woodcliff Lake tree replanting program.

The Board thanked Mr. Bosch for attending the meeting and for his volunteer service to the Borough of Woodcliff Lake.

Mrs. Fendian left the meeting at 8:36 p.m.

Resolution:

No. 18-02

Price Meese Shulman & D'Arminio

Mack-Cali Chestnut Ridge

New York SMSA Limited Partnership d/b/a Verizon Wireless

50 Tice Blvd

Block 301 / Lot 3.01

Height Variance for Antennas & Equipment

The resolution was introduced and read by Attorney Princiotto. A motion to approve the resolution was made by Mr. Newman, seconded by Mr. Dhawan, and carried by a roll call vote as follows:

Victor Bongard	Yes
Sanjeev Dhawan	Yes
Gary Newman	Yes
John Spirig	Yes
Christina Hembree	Yes

The meeting was adjourned on a motion from Mr. Bongard, seconded by Mr. Newman, and carried by all.

Respectfully Submitted,



Tonya Tardibuono

**ANNUAL MEETING NOTICE
WOODCLIFF LAKE ZONING BOARD**

NOTICE IS HEREBY GIVEN, in accordance with the Open Public Meetings Act, that the following resolution 18-01 was adopted at the Reorganization Meeting of the Woodcliff Zoning Board on Tuesday, January 23, 2018.

BOROUGH OF WOODCLIFF LAKE ZONING BOARD
RESOLUTION – SCHEDULE OF MEETINGS 2018

Be it resolved, that pursuant to Section 13 of Public Law 1975, Chapter 231 of the Laws of the State of New Jersey, the meetings of the Woodcliff Lake Zoning Board shall normally be held on the fourth Tuesday of each month and on any other days specified during the year, at Woodcliff Lake Borough Hall, 188 Pascack Road, Woodcliff Lake, NJ, at the hour of **7:30 p.m.** Such meetings shall be held on the following dates:

2018:

January 23 Reorganization
February 27
March 27
April 24
May 22
June 26
July 24
August 28
September 25
October 23
November 27
December 18
January 22, 2019 Reorganization



Tonya Tardibuono, Secretary
Secretary, Planning Board

BOROUGH OF WOODCLIFF LAKE
ZONING BOARD OF ADJUSTMENT
RESOLUTION

MATTER OF: NEW YORK SMSA LIMITED PARTNERSHIP
d/b/a VERIZON WIRELESS
BLOCK 301, LOT 3.01
EAO ZONE

APPLICATION NO: #18-02

DECIDED: DECEMBER 19, 2017

WHEREAS, application was made by New York SMSA Limited Partnership d/b/a Verizon Wireless, with the consent of Mack Cali Realty, L.P., with respect to the premises known and designated as Block 301, Lot 3.01 on the Tax Map of the Borough of Woodcliff Lake for site plan approval, conditional use approval and variances to permit the installation of six (6) antennas mounted on 3 sectors (2 per sector) and an equipment cabinet with canopy; and

WHEREAS, hearings were held before the Board on October 24, 2017, December 19, 2017 before members Christina Hembree, Victor Bongard, Robin Malley, John Spirig, Gary Newman, Sanjeev Dhawan and James Vercelli; and

WHEREAS, Applicant has filed an affidavit showing compliance with all the statutory requirements as to the giving of notice as well as all requirements of the Zoning Ordinance of this Borough.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Woodcliff Lake as follows:

1. The applicant requested site plan approval, conditional use approval and the following variances:

(a) a variance from the requirements of §380-96-(B)(1)(a)(1) to permit six antennas that extend 10 feet from the building height where the limit is 4 feet for a variance of 6 feet and an overall height of 58 feet.

(b) a variance from the requirements of §380-60D to permit an equipment area and canopy extending to 60 feet in lieu of the maximum of 48 feet for a limited variance request of 12 feet; and

(c) a variance from the requirements of §380-98A(1) to permit an equipment cabinet and canopy at a height of 12 feet where the limit is 10 feet for a variance of 2 feet limited to an area of 161 square feet; and

(d) a variance from the requirements of §380-98A(1) to permit an equipment cabinet of 161 square feet where the limit is 100 square feet for a variance of 61 square feet; and

2. Whereas, there currently exists nonconforming antennas on the roof of the existing commercial building located on the lot, and

WHEREAS, the applicant, through their legal counsel, Jennifer Knarich, attorney with the firm of Price, Meese, Shulman & D'Arminio, P.C., made application pursuant to N.J.S.A. 40:55D-70c(1) and d(3) conditional use and d(6) height, and

WHEREAS, the Zoning Board of Adjustment held public hearings on October 24, 2017 and December 19, 2017 at which time it heard testimony from Ronald Lukach and Richard Conroy, radio frequency engineers, Charles Whelan, a licensed architect and David Karlebach, a licensed New Jersey Planner and the Board considered the following exhibits:

- R-1 - Diagram presented by Mr. Whelan
- S-1 - Survey
- RF-1 - Report by PierCon Solutions dated February 10, 2017
- RF-2 - Site map depicting existing coverage
- RF-3 - Site map depicting existing coverage and proposed coverage
- RF-4 - Evaluation of the radio frequency environment with the proposed roof

facility

Photo simulations P1, P1A, P2, P2A, P3, P3A, P4 and P4A

Additional photo simulations without screening of antennas 2P1, 2P1A, 2P2, 2P2A,

2P3 and 2P3A

Z-1, Z-2, Z-3, Z-4 drawings dated 8/1/2017

2RF2 - Revised coverage map

2RF3 - Existing and proposed coverage map

2Z-2 - Revised plans.

WHEREAS, after hearing the testimony and the evidence presented by the applicant and after due consideration and deliberation, the Board has made the following findings of fact and conclusions:

1. The application for the variance was duly made to the Zoning Board of Adjustment and that all owners of property situated within 200 feet of the premises to be affected were duly notified in accordance with law.
2. The applicant presented satisfactory proof to the Zoning Board of Adjustment that notice of said hearing was duly published.
3. All findings of fact set forth above and below and the exhibits are made a part hereof as if set forth herein at length. The proceedings in this matter were voice recorded and transcripts of same were provided to the Board by the applicant. The facts as found herein in this Resolution are not intended to be all inclusive but a summary of the complete record before the Board. All stipulations and conditions set forth on the record shall be binding.
4. The applicant's architect Charles Whelan described the design which includes one equipment platform of 161 square feet, three (3) sectors and six (6) antennas.
5. Based upon the testimony, the only hook-ups are for electrical and telephone. There will be no impact on noise or storm water.
6. The testimony further indicated that the equipment does not emit light and that light is only used when a technician is working on the equipment and a

timer is used and these facts shall be deemed a condition.

7. Based upon the testimony of Ronald Lukach, the FCC has established standards for safe exposure from the antennas. Mr. Lukach testified that federal law is the national consensus used and the federal standards are five (5) times more stringent than the New Jersey standards. His calculations indicate that the exposure is four times below the maximum allowable limit for the general public. Under worst case conditions, the compliance is by a factor of four. The calculations were done with Verizon antennas installed, the current T-Mobile, Sirius XM antennas and also considering the Sprint and AT&T equipment from the monopole near the Garden State Parkway which had a minor contribution. Calculations were done within a 2000 foot radius.
8. Based upon the testimony of David Karlebach, a professional planner, the site already operates as a telecommunication antenna and equipment site for T-Mobile. There are retail stores in the area and a hotel. There shall be three equipment cabinets and one battery cabinet located on a 161 square foot platform which is enclosed by screen walls. The idea is that the structure is supposed to resemble something like an elevator bulkhead.
9. David Karlebach testified that the 161 square foot equipment area is typical for this type of installation and represents industry standards. The additional height does not interfere with the penetration of air or light and doesn't disrupt any important views.
10. Mr. Karlebach testified that the application advances several goals of the wireless ordinance including protecting residential areas from potential adverse impacts of towers and antennas, encouraging towers in non-residential areas, minimizing towers throughout the community and configuring antennas in a way that minimizes adverse visual impacts.

11. Residents John Glaser, 52 Woodmont Drive and Joseph LaPaglia, 17 Hillcrest Road Various made comments and asked questions at the meeting.
12. The comments and questions of the residents pertained to the visual impact of the antennas, and if they will be enclosed and who owned them. Questions were asked about interference between radio frequencies and Mr. Conroy stated there would be no interference.
13. Antennas are permitted as a conditional use in all EAO and S-0 Zones and the B-2 Chestnut Ridge Zone pursuant to the Woodcliff Lake Code §380-96. The Woodcliff Lake Code does not limit the number of antennas permitted on a building.
14. The FCC, pursuant to 47CFR §25.104, has determined that any regulation that affects the installation of a satellite earth station antenna that is two meters or less shall be presumed to be unreasonable. 47 U.S.C.A. also provides that regulations shall not prohibit or have the effect of prohibiting the Provision of Personal Wireless Services §332(c)(7)(B)(i)(II)
15. Bruce Eisenstein, Ph.D. was retained by the Board at the applicant's expense and provided responses to Board questions. With regard to the equipment height variance he stated that no one could notice a two (2) foot difference in height at a distance of 500 feet. With regard to using one large pole with the antennas, Dr. Eisenstein testified about the difference between a broadcast system and a cellular system. For broadcast, you get as high as possible. For cellular it is a two way system, a hand held phone has to reach the antenna. Duplicative coverage can also knock off the signal. The design can't be too high or too low. The height is tailored to the terrain.

WHEREAS, the Board also finds as follows:

1. This application is for four variances as set forth in paragraph one of this Resolution.

2. At the public portion of the meeting, residents had questions about the application as set forth herein.
3. By reason of physical features uniquely affecting the antenna use on the property and extraordinary and exceptional conditions uniquely affecting the height of the equipment and the structures thereon, a strict application of the regulation would result in peculiar and exceptional practical difficulties and/or exceptional and undue hardship upon the tenants of the property. Due to technical reasons and for safety reasons, the antennas must be at the height requested by the applicant. If the antennas were moved further back on the roof, they would have to be installed at a higher height. Based upon Board members comments, the applicant revised its plans to eliminate the screening of antennas and reduced the height of the antennas by two feet to match the height of existing antennas. The applicant also seeks a d-3 variance pertaining to a conditional use and the Board finds that the site will accommodate the problems associated with the use and the site continues to be appropriate for the use. The applicant also seeks a d-6 height variance. Here the height is necessary to effectuate the use and constitutes a special reason.

WHEREAS, the Board determined that the variances, site plan approval, and limited height variances and conditional use approval can be granted without substantial detriment to the public good and it will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance, based upon the testimony, current development in the area which includes variances granted to 2 other carriers at the site and based upon photographs of the neighboring area submitted by the applicant.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF WOODCLIFF LAKE THAT THE APPLICATION FOR PERMISSION TO DEVIATE FROM THE AFOREMENTIONED ZONING REQUIREMENTS SET FORTH

ABOVE IN THIS RESOLUTION IS HEREBY GRANTED AND APPROVED, UPON THE FOLLOWING TERMS AND CONDITIONS:

1. Compliance with the findings of this Resolution set forth above and conformance with the drawings and plans submitted to the Board by the applicants as noted herein.
2. The variances, including the height variances granted herein are limited to the antennas and equipment cabinet and canopy as set forth on the Plans and not for any other construction or equipment.
3. The applicant shall comply with all stipulations made during the hearing on this application as set forth herein and on the record before the Board. The color of the antennas as well as the screening of the equipment cabinet and canopy shall match the building and be the least visible. The antennas shall not be screened. There shall be no roof top lighting except as noted in paragraph 6 on page 3.
4. Applicant shall comply with the requirements of all structural, fire and sanitary safety as provided in the current edition of the New Jersey Uniform Construction Code.
5. The applicant shall obtain approval of the Construction Code Official for its plan and all necessary permits and comply with all local, county and state ordinances and statutes. Prior to the issuing of any permit, the applicant shall obtain a written consent from Capstone, the new owners of the property and submit same to the Borough.
6. The applicant shall obtain all such other governmental approvals as may be required by law.
7. The applicant shall commence the construction and complete all of the intended alterations and improvements no later than 12 months from the date of adoption of this Resolution or this variance shall expire automatically,

unless otherwise extended by the Board.

8. Execution of a Developers' Agreement as approved by the Borough Attorney.
9. A copy of the Resolution shall be forwarded to the applicant and to the Construction Code Official of the Borough of Woodcliff Lake and the secretary to publish the required notice.
10. Prior to the issuance of a permit and/or C.O., all professional fees due to the Borough of Woodcliff Lake shall be paid, including engineering fees and legal fees.

MOTION TO APPROVE INTRODUCED BY: VICTOR BONGARD

SECONDED BY: JOHN SPIRIG

IN FAVOR OF GRANTING: CHRISTINA HEMBREE, VICTOR BONGARD, JAMES VERCELLI, ROBIN EFFRON-MALLEY, JOHN SPIRIG, GARY NEWMAN and SANJEEV DHAWAN

OPPOSED BY: NONE

MOTION APPROVED

MOTION TO APPROVE FORM OF RESOLUTION:

INTRODUCED BY: Gary Newman

SECONDED BY: Sanjeev Dhawan

IN FAVOR OF APPROVING: CHRISTINA HEMBREE, VICTOR BONGARD, JOHN SPIRIG, GARY NEWMAN and SANJEEV DHAWAN

OPPOSED BY: NONE

Certified to be a true copy of the Resolution duly adopted by the Zoning Board of Adjustment of the Borough of Woodcliff Lake at its regular meeting on January 23, 2018.



TONYA TARDIBUONO, Secretary

BOROUGH OF WOODCLIFF LAKE
Bergen County, New Jersey

ORDINANCE 16-13

**REVISING VARIOUS CODES TO THE CODE OF THE BOROUGH OF WOODCLIFF LAKE RELATING
TO THE SHADE TREE COMMITTEE AND TO SHADE TREES WITHIN THE BOROUGH**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WOODCLIFF LAKE, IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:

WHEREAS , the Mayor and Council of the Borough of Woodcliff Lake has recognized a need to update the rules and regulations governing the planting, maintenance, and removal of the trees within the Borough in order to protect and control the tree canopy of the Borough; and

WHEREAS, the Mayor and Council of the Borough of Woodcliff Lake also recognize a need to update the rules and regulation governing the Shade Tree Committee in order to provide for a more efficient governance to protect and control the tree canopy of the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Woodcliff Lake, County of Bergen, State of New Jersey, as follows:

Section 1: That Chapter § 70-5 entitled "Powers and Duties" subsection (g) is stricken and replaced with the following language and shall read as:

- G. Partner with the appropriate experts and advise the governing body as to the administration of treatment to, or the removal of any tree situated upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the municipality and enter upon private property for that purpose.

Section 2: That Chapter § 70-10 entitled "Liability" is stricken and replaced with the following language and shall read as:

§ 70-10 Liability.

Nothing contained in this chapter shall be construed to make the Committee or any member thereof responsible for the death or injury of any person or for any injury to any property or highway, tree or shrub.

Section 3: That Chapter § 70-11 entitled "Tree planting in subdivisions, and all new construction" is stricken and replaced with the following language and shall read as:

§ 70-11 Tree planting in subdivisions, and all new construction

All shade trees required of developers as a Condition for final approval of a subdivision shall be planted pursuant to the requirements of the Shade Tree Committee by the Developer, or its agents, during regular spring and fall programs, and the cost of the same shall be charged to said developers in an amount and in the manner determined by the Shade Tree Committee.

The tree planting contractor shall supply and plant the trees in accordance with the specifications provide by the Shade Tree Committee. The developer shall provide a 2 yr guarantee of all trees and workmanship to the borough of Woodcliff Lake. The Shade Tree Committee shall determine the acceptance date for all tree planting to start and final acceptance.

Section 4: That Chapter § 355-1 entitled "Definitions" shall be amended to replace the definition of the term "Shade Tree" and shall now be read as:

SHADE TREE

Shade and ornamental trees and shrubbery now located or which may hereafter be planted in any public highway, park or parkway in the Borough

Section 5: That Chapter § 355-2 entitled "Prohibited acts; exception" is stricken and replaced with the following language and shall read as:

§ 355-2. Prohibited acts; exception.

- A. No person, firm, corporation or individual connected with such firm or corporation shall do or cause to be done by others to any tree, shrub or plant on a public highway or place, either purposely, carelessly or negligently, without the permission of the Shade Tree Committee, any of the following acts:
- i. Cut, prune, climb with spikes, break, damage or remove.
 - ii. Cut, disturb or interfere in any way with any root.
 - iii. Spray with any chemical, including pesticides.
 - iv. Fasten any rope, wire, sign or other device.
 - v. Remove or damage any guard or device placed to protect any tree or shrub.
 - vi. Plant any tree contrary to the requirements of the Shade Tree Committee and approval of the governing body.
 - vii. Remove any living woody perennial plant having a diameter at breast height (DBH) greater than six inches without first receiving a permit in accordance with the provisions of this article.
- B. Nothing herein shall prevent any governmental agency from tying a public notice upon a tree in connection with administering governmental affairs.

Section 6: That Chapter § 355-5 entitled "Excavations" is stricken and replaced with the following language and shall read as:

§ 355-6. Excavations.

- A. In the erection, altering or repairing of any building or structure, the owner or contractor thereof shall place such guards around all nearby trees in public highways or places as will effectually prevent injury to such trees.
- B. No person, firm or corporation shall do any excavating within the drip-line of any tree or shrub without the permission of the Shade Tree Committee.
- C. Shovels and all other implements, machines and tools shall be used or operated in such a manner as not to damage or destroy any tree, shrub or plant in any public highway place.
- D. Where in authorized excavations it becomes necessary to expose or cut roots more than one inch in diameter, it shall be the duty of the contractor to protect such roots (i.e. air spade tool) under advice from the Shade Tree Committee.

Section 7: That Chapter § 355-9 entitled "Enforcement" is stricken and replaced with the following language and shall read as:

§ 355-9. Enforcement.

The Construction Code Official or duly appointed designee, are the enforcing agents for this article and shall seek inspectors as deemed necessary in connection with said enforcement. Any reference to the term "Code Official" in this or any other section of the Borough Code shall also mean the duly appointed designee where so designated

Section 8: That Chapter § 355-10 entitled "Violations and penalties" is stricken and replaced with the following language and shall read as:

§ 355-10 Violations and penalties.

- A. Any person, firm, or corporation retained or otherwise engaged to undertake any acts that are regulated by the provisions of this article shall assure that the proper permits have been secured before commencing any work. Any person, firm, or corporation that fails to do so shall be jointly and severally liable for violating the provision of this article.
- B. Any person found guilty of violating any of the provisions of this article shall, upon conviction by the Municipal Judge of the Borough of Woodcliff Lake, be subject to a fine of not more than \$1,000 or imprisonment for up to 90 days, or both, in the discretion of the court. In the event of violations involving more than one lot or more than one tree, a violation as to each such lot or tree shall be considered as a separate offense.

Section 9: That Chapter § 355-12 entitled "Definitions" shall be amended to strike the term "Heritage Tree" and its corresponding definition in its entirety.

Section 10: That Chapter § 355-12 entitled "Definitions" shall be amended to add the following terms and definitions:

TREE REMOVAL COMPANY

Every person, firm, association, partnership, corporation and individual that is engaged in the practice of removing any "tree" as defined by this article is deemed a tree removal company and must register as same with the Borough in compliance with the provisions of this article

DIAMETER AT BREAST HEIGHT (DBH)

The tree diameter measured at 4.5 feet above the ground.

DISEASED TREE

A tree with sustained and progressive impairment of the structure or function, caused by any variety of factors or agents related to non-living (abiotic) and living (biotic) sources.

HAZARDOUS TREE

Dead or dying trees, dead parts of live trees, or unstable live trees, due to structural defects or other factors, that are located within striking distance of people or property.

PROTECTED SPECIES

Any tree designated by the Shade Tree Committee due to its unique quality, including but not limited to, species, size, location, age, etc.

UNDESIRABLE SPECIES

Any tree that is not native to the area and can cause harm to the environment, can damage public and private lands, may grow quickly or reproduce abundantly, are difficult to eradicate or can negatively impact our native species.

CLEAR CUTTING

Any tree removal activity that will reduce the tree canopy to 20% or less is deemed to be clear cutting.

Section 11: That Chapter § 355-14 entitled "Restriction on Cutting Trees" is stricken and replaced with the following language and shall read as:

§ 355-14 Restriction on cutting trees.

Except as provided for herein, no person, firm, or corporation shall cut or remove trees without a first obtaining a permit. Excepted from this shall be:

- A. All land-clearing operations as authorized in accordance with a site plan approval or subdivision approval and conditions imposed with respect to tree removal and

planting, granted by the Planning Board, the Shade Tree Committee or Board of Adjustments of the Borough of Woodcliff Lake in accordance with the provisions of N.J.S.A. 40:55D-20 (exclusive authority of Planning Board and Board of Adjustment); provided, however, that all applications to the Planning Board or Board of Adjustment shall identify all heritage trees and shall specifically designate all trees to be removed on submitted plans and in the field. Under no circumstances shall clear-cutting be permitted on any property.

- B. Trees located on a commercial nursery or orchard.
- C. The cutting, pruning or trimming of trees in a manner which is not harmful to the health of the tree.
- D. Trees that represent an immediate danger to property or public safety.
- E. The cutting, removal or destruction of any tree pursuant to an order or directive of any municipal, county or state agency or court.
- F. Activities involving trees within the public highways, public rights-of-way or publicly owned properties.
- G. Cutting, pruning or trimming of trees by utility agency to keep high tension power lines clear.
- H. Protected species cannot be removed

Section 12: That Chapter § 355-15 entitled "Application for permit" is stricken and replaced with the following language and shall read as:

§ 355-15. Application for permit.

- A. Any person, firm or corporation desiring to cut or remove tree(s) shall apply to the Borough of Woodcliff Lake Shade Tree Committee for a permit to remove such tree(s). The applicant shall, on the application:
 - i. Description
 - a. Identify, by street, block and lot number, the land upon which the tree(s) is located.
 - b. Provide the name, address and telephone number of the owner or duly authorized agent of said owner, where applicable.
 - c. Identify and place on the site plan application the location of said tree(s) sought to be cut, removed or destroyed.
 - d. Mark said tree(s) on site by visible, weatherproof and reasonably tamperproof means; said tree(s) not to be sprayed with paint or chemicals or otherwise permanently marked, damaged or defaced.
- B. Permits shall be duly signed by the person or firm undertaking the tree removal work.
 - i. Contractor License, Crane Operator License
- C. In the event a tree is deemed hazardous, by a duly authorized agent of the borough, no permit is required

Section 13: That Chapter § 355-15.1 entitled "Fees" is added and shall read as:

§ 355-15.1. Fees

The permit fees established by this article are contained within the Borough Fee Ordinance.

A. Permit Fees.

- i. Applicants will submit the appropriate permit fee for a tree removal permit
- ii. No permit fees will be required for trees deemed by the Shade Tree Committee as an Undesirable, Unhealthy, Dead, Diseased, Dying, or Pest Infested.

B. Replacement trees and Replacement fees

- i. Trees removed should be replaced on the ground of the subject property with a species and type approved by the Shade Tree Committee.
- ii. The borough reserves the right to collect replacement fees when the requested tree removal is deemed by the Shade Tree Committee to create a deleterious impact to the tree canopy.
- iii. Replacement fees may be refunded to the applicant when evidence is presented that replacement trees were planted on the ground of the subject property with a species and type pre-approved by the Shade Tree Committee.
- iv. Replacement fees are forfeited after 6 months, and deposited into the borough treasury and shall thereafter be appropriated to the Shade Tree Trust Fund.
- v. Replacement fees shall be in addition to the permit fees

Section 14: That Chapter § 355-16 entitled "Permit required" is stricken and replaced with the following language and shall read as:

§ 355-16 Permit Required.

Any person firm, or corporation shall apply for and receive a permit before removing any tree, as defined as in this article. The Construction Code Official, except in accordance with the provisions of N.J.S.A. 40:55D-20 (exclusive authority of Planning Board and Board of Adjustments), shall not issue a certificate of occupancy until a tree removal permit has been issued and approved in accordance with the provisions of this article.

Section 15: That Chapter § 355-17 entitled "Protection of existing trees during construction" is stricken and replaced with the following language and shall read as:

§ 355-17. Protection of existing trees during construction

All persons subject to the provisions of this article shall comply with the following precautions.

- A. Prior to the commencement of construction, install protection at the dripline of any tree which is designated to be saved and prohibit any construction materials or other materials inside the barrier. The dripline shall not be altered in any way so as to increase the encroachment or the constructions.
- B. Prohibit excavation, grading, drainage and leveling within the driplines of the tree unless approved by the Construction Code Official, with the advice of the Shade Tree Committee.
- C. Prohibit disposal or depositing of oil, gasoline, chemicals or other harmful materials within the dripline or in drainage channels, swales or areas that may lead to the dripline.
- D. Prohibit the nailing, screwing or other permanent attachment of wires, signs and ropes to any heritage tree or any tree in the municipal right-of-way.
- E. Design utility services (underground utilities) to be located outside of the dripline or tunnel under root line when possible to avoid trenching within driplines wherever possible.
- F. The Construction Code Official shall be notified of any damage that occurs to a tree during construction so that proper treatment may be administered by a certified Tree Expert, retained by the contractor.

Section 16: That Chapter § 355-18 entitled "Application review by Shade Tree Committee." is stricken and replaced with the following language and shall read as:

§ 355-18. Application review by Shade Tree Committee.

Upon the Shade Tree Committee receiving the application for the cutting or removal, it shall review the site to determine whether the removal or destruction of said tree(s) shall change the drainage conditions, cause soil erosion, increase the dust, decrease the fertility of the soil or deteriorate the property value and shall further determine the overall physical conditions of the land and the deleterious effect thereon. In reviewing the aforesaid items, the Shade Tree Committee may utilize the services of the Borough Engineer, or industry expert, and request and consider a report and recommendation from him with regard to same. In addition to the aforesaid items, the Shade Tree Committee shall also consider the following in making its determination to issue or deny the permit:

- A. Whether the area where the tree is located shall be used for a building or other structure or a sewerage line, said tree located within 12 feet of any of the foregoing; whether the area where the tree is located shall be used for a patio, a driveway, a recreation area, a roadway or a drainage right-of-way, said tree located within four feet of any of the foregoing.
- B. Whether the tree or trees are likely to cause a hardship upon the applicant or place the community in danger or affect deleteriously an adjacent property owner.
- C. Whether the cutting, removal and destruction of trees shall affect the drainage conditions, cause or contribute to soil erosion, increase the dust and decrease the fertility of the soil on the land under consideration.

D. Whether the application abides by the borough ordinances as defined herein.

Section 17: That Chapters § 355-22 entitled "Enforcement" is stricken in its entirety and replaced by a new chapter entitled "Replacement and treatment of trees." with the following language and shall read as:

§ 355-22. Replacement and treatment of trees.

- A. Any tree destroyed or removed in violation of this article shall be replaced by the owner with another four trees of the same species at least three inches in diameter measured at a point one foot above the ground. In the event that a tree which is not permitted to be removed is injured during building or other construction work, such tree(s) shall be promptly treated in an approved manner.
- B. The Construction Code Official of the Borough may order any tree work or other activity which is carried on in violation of any tree removal permit or any provision of this article to be stopped forthwith. The order shall be issued in writing and a copy served upon any person engaged in tree work upon the subject lot. If no such person is present upon the lot, then the order shall be served upon the applicant; but if no permit has been issued as to such lot, then the order shall be served upon the owner of the lot. Thereafter, except for such work as is necessary to remedy the violation, any further work shall comply with the terms and conditions of any permit and the provisions of this article.
- C. Any imposition of duties under this chapter shall be in addition to the penalties contained in § 355-23.

Section 17: That Chapters § 355-23 entitled "Replacement and treatment of trees" is stricken in its entirety and replaced by a new chapter entitled "Violations and penalties" with the following language and shall read as:

§ 355-23. Violations and penalties.

- A. Any person violating the provisions of this article shall be subject to a fine not exceeding \$1,000 or imprisonment for up to 90 days, or both, for each and every offense. In the event of violations involving more than one lot or more than one tree, a violation as to each such lot or tree shall be considered as a separate offense. The penalties herein may be levied against the property owner or any person, firm, or corporation retained or otherwise engaged to undertake any acts that are regulated by the provisions of this article. Any person, firm, or corporation that fails assure that the proper permits have been secured before commencing any work shall be jointly and severally liable from the property owner for violating the provisions of this article.
- B. If required replacement work is not completed within 30 days of written notification to do so, a municipal lien shall be placed upon all affected lots, and such lien shall not be discharged from such lots until such replacement work is completed.
- C. In addition to all other remedies set forth in this article or otherwise provided by law, the following remedies shall be available to the Borough for violation of this article:

stop work - temporary moratorium. If a violation occurs during development, the Borough in the discretion of the Construction Code Official, may issue a stop-work order suspending and prohibiting further activity on the property pursuant to the grading, demolition, and/or building permit(s) (including construction, inspection and issuance of certificated of occupancy) until a mitigation plan has been filed with, and approved by, the Construction Code Official, agreed to in writing by the property owner(s), and either implemented or guaranteed by the posting of adequate security. The mitigation plan shall include measures for protection of any remaining trees on the property, and shall provide for replacement of each tree removed on the property or at locations approved by the Shade Tree Committee and Construction Code Official. The replacement shall be in accordance with the standards set forth in this article, and shall be greater than that required where tree removal is permitted pursuant to the provisions of this article.

Section 18: That Chapters § 355-24 entitled "Obligation for New and added construction" is added with the following language and shall read as:

§ 355-24 Obligation for New and added construction

All new or added construction shall be subject to the above regulations. Upon receiving a building permit, it is understood that the builder or property owners will cooperate with the Shade Tree Committee of the Borough of Woodcliff Lake. Any new structure, home, business, industry or improvement to existing structures is not complete until properly planted, that is:

- A. Where advisable, shade trees are to be planted, but not closer than 40 feet, on center, with a minimum of two per lot, within property designated as reserved to the Borough of Woodcliff Lake by easement or other reservation.
- B. With a minimum of two per lot, shade trees shall be planted within 10 feet from the edge of the street curb as permitted and approved by the Shade Tree Committee.
- C. Parking lots must have areas set aside for shade trees and/or evergreens and shrubs, or both, and planting for screening where advisable.
- D. Trees shall be two inches or more in diameter and of the species designated by the Committee.
- E. Failure to comply with the provisions of this article shall be deemed a violation as defined in 355-10 and/or 355-24 of this chapter. No certificate of Occupancy will be issued until such provisions are met.
- F. Provide Tree Coverage to specifications dictated by the Shade Tree Committee
- G. Submit a landscaping plan identifying the trees to be removed from the property, and the proposed trees to be replanted, and expected canopy coverage after 10 years.

Section 19: That Chapters § 355-25 entitled "Obligations for Major Site Renovations" is added with the following language and shall read as:

§ 355-25 Obligations for Major Site Renovations

Any property renovations impacting trees to a degree deemed significant by the Shade Tree Committee will be considered a major site renovation, and subject to the provisions outlined in 355-24.

Section 20: That Chapters § 355-26 entitled "Tree Removal Company; registration." is added with the following language and shall read as:

§ 355-26 Tree Removal Company; registration.

Every person, firm, association, partnership, corporation and individual that is engaged in the practice of removing any "tree" as defined by this article must register annually with the Borough. Said annual registration fees re contained within the Borough Fee Ordinance.

Section 21: The terms of this ordinance shall not be deemed and are not intended to impair the provisions and enforcement of any other chapter of this Code, which shall remain in full force and effect.

Section 22: The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 23. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 24: This ordinance shall take effect upon passage and publication according to law.

Date: _____

Attest: _____

**DEBORAH DAKIN
BOROUGH CLERK**