

V. PUBLIC HEARING(S):

**1. DOCKET #1443-16 – IOPPOLO, LLC
17 MILLER ROAD, BLOCK 71, LOT 16**

Application for a “D” Variance to allow a Personal Trainer Training Center.

Mr. Ben Cascio stated that the notice was in order.

Mr. Bruce Whitaker, Esq. of McDonnell & Whitaker approached on behalf of the Applicant and stated that 17 Miller Road is in the B10 Zone (Neighborhood Business). He commented that in 2002 the Board approved a Use Variance for a one-on-one personal training center with four personal trainers, which was not listed in the B10 Zone, as well as other uses not listed that have been approved in the past. Mr. Whitaker stated that the Applicant is proposing to lease a 1,381 square foot, second floor space with two personal trainers, having business hours of 6:00 a.m. – 10:00 p.m. He noted that mid-day is not very busy due to work hours of the clients. Mr. Whitaker commented that the use of this space is as relevant and pertinent today as it was in May of 2002; being of modest size, double insulated, no heavy duty equipment, and located in the downtown zone, all make it appropriate.

Mr. Michael Donofrio of 43 5th Avenue, Haskell, NJ approached as the Applicant’s prospective Tenant, to confirm and affirm what had been stated by Mr. Whitaker. Mr. Donofrio added that free weights would be used as well as body training done. He corrected the hours of operation to be 5:00 a.m. – 9:00 p.m. Monday thru Friday, and 6:00 a.m. to 9:00 p.m. on Saturday. No additional witnesses were called.

A motion was made by Mr. Straffin, seconded by Mr. Whiteman to close the Public Hearing of the meeting for this docket and move into Work Session. All voted in favor.

Mr. Rabolli summarized and referring to the 2002 Use Variance, stated that Mr. Cascio would incorporate the 2002 Resolution as it is practical for commercial use.

A motion to go out of Work Session was made by Mr. DeSilva, seconded by Mr. Larson. All voted in favor.

Mr. Rabolli called Docket #1440-18 and moved back into the Public Hearing portion of the meeting.

**2. DOCKET #1440-18 – REAL DOG RESCUE, INC.
818 WYCKOFF AVENUE, BLOCK 179, LOTS 6, 7, 8, 9-11**

Application for a D Variance to allow Commercial/Business/Professional Office use.

Ms. Sophy Sedarat, of the Law Office of Sophy Sedarat, 684 Route 208, Franklin Lakes, NJ approached on behalf of the Applicant. She stated that she has been on the Board as covering Attorney for Mr. Ben Cascio on several occasions. Mr. Rabolli asked the Members of the Board if there were any concerns with Ms. Sedarat representing. None were received. Mr. Cascio stated that he and Ms. Sedarat have offices in the same building but he would not have a conflict in writing the Resolution for this Docket.

Ms. Sedarat continued, stating that the Applicant is seeking a Use Variance to permit professional business use in an R10 Zone where residential dwellings, farms, churches, public parks, and firehouses are permitted. She made reference to a 1977 Resolution of Approval for business use and then the 1979 re-zoning approval specifically as a Real Estate office and stated that those resolutions were helpful and equally applicable to this application. Ms. Sedarat informed the Board that she had purchased the property over a year ago with the intention to utilize it for professional business use. Due to a misrepresentation, about a month later it was discovered that it was not zoned for professional use. Ms. Sedarat stated that she had also contacted Brandywine, the newly constructed Senior Housing Facility regarding purchasing the L-shaped property; they are not interested. Mr. Rabolli clarified at this point that Ms. Sedarat is the owner of the property. Ms. Sedarat was then sworn in by Mr. Rabolli as a witness. She had been unable to sell or lease the property for over a year until Real Dog Rescue approached her to lease the space. Real Dog Rescue is a fully insured 501C3 non-profit, established in December of 2016. They rescue and rehabilitate dogs to be placed in foster homes which are then adopted into prospective families. As Real Dog Rescue continues to grow, they need space to conduct the administrative business side of the organization. Real Dog Rescue is foster based; it is not a shelter or kennel. The dogs are met at community outreach programs such as pet stores, etc. Dog Rescues are insured in two separate ways; as foster based and shelter based. The by-laws speak to the dynamics of the two different types of rescues. It was represented that Real Dog Rescue will not morph into a shelter.

The District Zone Map was introduced as Exhibit A1. Mr. Cascio asked Ms. Sedarat to confirm that she wanted the Board to grant the right for commercial business, generally, so that she would not have to come back for each tenant. Ms. Sedarat replied, that is correct. Mr. Dator commented that it should be limited to general and professional office use to avoid businesses such as deli's, gas stations, etc., which are permitted in the B10 Zone.

Making reference to Exhibit A1, Ms. Sedarat discussed the property outline showing R10 above and GI80 below. She described the abutting properties as Brandywine on the North and East, 4-laned Wyckoff Avenue and Parson's Pond Drive on the West, NY Sports Club on the South along with professional and commercial offices. There are two

residential dwellings on Fairmount, the next block over, that do not share a lot line with this property.

Ms. Sedarat presented the positive criteria – 1) the site is particularly suited for office use, 2) the undue hardship that nobody wants to buy or lease the property, 3) there is adequate development around the property such that it is almost impossible to revert to the residential use. The 1979 Resolution used the Medici Test in reaching their conclusion that a professional business office is an appropriate use. The site is particularly suited because it is on the corner of a very busy intersection on Wyckoff Avenue with high visibility, no obstruction of view, a wide entrance and exit to and from the parking lot, as well as safe ingress and egress. Over 20 years ago, the entire interior of the building was gutted and redesigned to be an office; it has a reception area, 3 offices, a fully finished basement, a fully finished upstairs office, a fully developed parking lot with 12 dedicated spots with big parking lights; it clearly cannot revert to residential.

Ms. Sedarat presented the negative criteria to show that it does not cause a substantial detriment to the public good and would not substantially impair the intents and purposes of the Master Plan and Zoning Ordinance. Quoting from the 1979 Resolution, page 3, item E.6, Ms. Sedarat read: “Due to the uses in the immediate area the proposed use would not be detrimental to the property value of residential property in the area and would not be detrimental to or substantially impair the zone plan or the zoning ordinance”. This finding by the Board in 1979 is even more applicable today, as there have been four developments of commercial and professional uses in the area.

Mr. Rabolli asked if there were any questions from members of the Board. Mr. DeSilva stated in the form of a question, unless you want to use the space as a Real Estate Agent or move your family to an industrial area, there is no other use for the property? Ms. Sedarat replied yes. Mr. Straffin asked if there would be dogs on the premises. Ms. Sedarat replied that the possibility of bringing your dog to work may arise from time to time, however, the facility would not be utilized for boarding or as a shelter. No other members of the Board or of the Public had further questions.

A motion was made by Mr. Whiteman, seconded by Mr. Dator to close the Public Hearing of the meeting for this docket and move into Work Session. All voted in favor.

Mr. Rabolli summarized and stated that the Applicant is seeking a Use Variance and has brought forth both the positive and negative criteria; positive - the structure should no longer be used as a residential home, it physically has been remodeled with office space and a parking lot, negative - there is no substantial detriment to the public good or the Zone Plan because all the surrounding buildings are already non-residential properties.

The Applicant has testified that although the name is Real Dog Rescue, there will be no kennels and it will not be used as a shelter.

VI. WORK SESSION:

**1. DOCKET #1443-18 – IOPOLO, LLC
17 MILLER ROAD, BLOCK 71, LOT 16**

Note: Work Session was held immediately after the Public Hearing for this docket.

Application for a “D” Variance to allow a Personal Trainer Training Center.

A motion to approve was made by Mr. Whiteman, seconded by Mr. Straffin. A roll call vote revealed 6 aye votes by Mr. Dator, Mr. DeSilva, Mr. Larson, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

**2. DOCKET #1440-18 – REAL DOG RESCUE, SOPHY SEDARAT
818 WYCKOFF AVENUE, BLOCK 179, LOTS 6, 7, 8, 9-11**

Note: Work Session was held immediately after the Public Hearing for this docket.

Application for a D Variance to allow Commercial/Business/Professional Office use.

A motion to approve was made by Mr. Straffin, seconded by Mr. DeSilva. A roll call vote revealed 6 aye votes by Mr. Dator, Mr. DeSilva, Mr. Larson, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

A motion to go out of Work Session was made by Mr. Straffin, seconded by Mr. Larson. All voted in favor.

VII. ADJOURNMENT:

A motion to adjourn was made by Mr. Straffin, seconded by Mr. DeSilva. All voted in favor.

The meeting adjourned at 8:03 pm.

These minutes were prepared by Sylvia Gerou, Zoning Board Recording Secretary. The minutes were provided to the Board of Adjustment on September 14, 2018 for approval at the Regular Meeting to be held on September 19, 2018.