

# Township of West Milford

## Zoning Board of Adjustment

### MINUTES

March 22, 2005

The meeting opened at 7:35 p.m. with the reading of the legal notice.

#### Roll Call

**Present:** Thomas Bigger, Robert Brady, Anthony DeSenzo, Joseph Giannini, Daniel Jurkovic, Arthur McQuaid, Thomas Lemanowicz and Ada Erik; Linda Lutz, Principal Planner, Stephen Glatt, Board Attorney; Richard McFadden, Township Engineer (*late*).

**Absent:** Ed Spirko

The Chairman appointed alternate, Thomas Lemanowicz, as a voting member. There were no memorializations and the Chairman advised of the following requests for carries:

<b>RONALD &amp; PATRICIA SHERRY</b>	COMPLETE	09-20-04
<b>Bulk Variance #0430-0686</b>	DEADLINE	04-18-05
Block 4301; Lot 38		
31 Forest Lake Drive; LR Zone		

Mr. Sherry was present and explained his revised plans were not ready on time for submission to the Planning Department. The Board Attorney confirmed he had spoken with applicant's attorney and Mr. McKittrick had now been retained as applicant's new Engineer. Mr. Sherry requested a carry to the April 26, 2005 meeting and granted the Board a 30-day extension.

**MOTION** was made by Anthony DeSenzo to carry the Sherry application to the April 26, 2005 meeting, seconded by Thomas Bigger, with all in favor. No further notice is necessary.

*Township Engineer, Richard McFadden, was now present.*

<b>JOHN PANARIELLO</b>	COMPLETE	12-27-04
<b>Use Variance #0440-0694</b>	DEADLINE	05-26-05
Block 11103; Lot 5.02		
602 Snake Den Road; R-4 Zone		

John Panariello was present to request a carry to the April 26, 2005 meeting because his planner had a conflict and was unable to attend tonight's meeting. A letter had been received from his attorney, Linda Herlihy, requesting same. Applicant granted the Board a 30 day extension.

**MOTION** was made by Thomas Bigger to carry the Panariello application to the April 26, 2005 meeting, seconded by Daniel Jurkovic, with all in favor. No further notice is necessary.

<b>GREGORY THOMASES</b>	COMPLETE	01-06-05
<b>Bulk Variance #0430-0666</b>	DEADLINE	06-05-05
Block 4101; Lot 6		
166 Long Pond Road; LR Zone		

Daniel Thomases, was present on behalf of his brother, Gregory Thomases, to request a carry because applicant was out of town. Applicant's attorney, Henry Larner, Esq., sent a letter requesting the application be carried to the April 26, 2005. Mr. Larner will contact the Board Attorney regarding a time extension.

**MOTION** was made by Thomas Bigger to carry the Thomases application to the April 26, 2005 meeting, seconded by Joseph Giannini, with all in favor. No further notice is necessary.

<b>OMNIPOINT COMMUNICATIONS, INC.</b>	COMPLETE	01-24-05
<b>Water Treatment Plant</b>	DEADLINE	05-24-05
<b>Use Variance #0440-0681</b>		
<b>Preliminary &amp; Final Site Plan</b>		
Block 14102; Lot 1		
Center Island, Route 23; R-4 Zone		

The Chairman advised Omnipoint Communications, Inc., was withdrawing the application. The Board Attorney advised applicant's attorney, Gregory Czura, Esq., was unable to resolve a Highlands issue; therefore, the application is being withdrawn without prejudice.

<b>VINCENT LANZA</b>	COMPLETE	01-28-05
<b>De Minimis Exception</b>	DEADLINE	05-28-05
<b>Bulk Variance #0430-0673</b>		
Block 2708; Lots 1,5 & 6		
27 Flanders Road; LR Zone		

Applicant, Vincent Lanza, was present to request a carry and sent a letter requesting same. He advised several concerns may be alleviated if Linden Court, a road abutting Flanders Road, can be vacated. He stated his request was directed to the Planning Board and he is awaiting an outcome.

**MOTION** was made by Joseph Giannini to carry the Lanza application to the April 26, 2005 meeting, seconded by Anthony DeSenzo, with all in favor. No further notice is necessary and applicant agreed to a 60-day extension.

Mr. Partington addressed the Board from the audience regarding the Panariello application and had concerns regarding a default approval. The Chairman advised Mr. Partington he would be able to speak when that application is opened to the public and the application would not receive an approval by default.

<b>SHILOH BIBLE CAMP, INC.</b>	COMPLETE	10-01-04
<b>Use Variance #0440-0663</b>	DEADLINE	06-28-05
<b>Preliminary &amp; Final Site Plan #0420-0180AB</b>		
<b>Bulk Variance #0430-0664</b>		
Block 6002; Lot 47		
753 Burnt Meadow Road; R-4 Zone		

The Chairman advised there were six voting members for the application.

E. David Becker, Esq., appeared on behalf of applicant, Shiloh Bible Camp, Inc., and advised applicant is proposing to construct a new building on the 11 plus-acre site. The property is used as a family-run retreat center. Revised plans dated March 7, 2005 have been submitted to address some issues from the previous hearing. The new building is proposed in two phases. Phase 1 would be a gym and phase 2 would be wing consisting of a meeting room, bathrooms and two staff apartments. Some additional State approval is necessary for phase 2 but phase 1 could stand alone if State approvals are not granted.

Brian E. Smith, P.E., was again sworn and previously qualified as an expert engineer. For the record, the previous site plans testified to were ***not*** marked as exhibits at the December 16, 2004 meeting. Exhibit A-1, the site plan with a revision date of 3/7/05, was submitted. Mr. Smith testified with regard to the site plan and addressed each of the Township Engineer's comments in his memo dated 3/21/05.

Board member, Thomas Lemanowicz, questioned what applicant would do regarding the 300- foot buffer required in the Stormwater Management Act.

The Township Engineer advised the buffer was only needed for major developments and applicant has stated he does not qualify as a major development.

Mr. Smith testified the buffer only applies if there is one acre of disturbance or one-quarter acre of impervious coverage is proposed.

Board member, Thomas Lemanowicz, had many questions, which Mr. Smith addressed. He confirmed the slope disturbance. The topography dictates the location of the building.

Mr. Becker confirmed applicant was requesting three variances besides the use variance. Variances are being requested for the disturbance of slopes in excess of 35%, the outdoor storage of cars, and the gravel road.

Linda Lutz, Principal Planner, advised she had some problems with the consistency of the plans regarding the emergency access lane shown on Sheet 3 but not shown on Sheets 2 or 4.

Mr. Smith testified this was a temporary access for fire and emergency vehicles. The permanent lane will be shifted south and become a paved driveway.

Mrs. Lutz advised she was confused as to what was temporary vs. permanent on the plans and asked Mr. Smith to state from which plan he calculated the impervious disturbance.

Mr. Smith testified the impervious disturbance was based on the build-out, being the worst case scenario.

Mrs. Lutz questioned the handicap access to the bathroom facilities.

Mr. Smith explained handicap people would need to be assisted and transported to the bathroom facilities from the gym.

Board member, Thomas Lemanowicz, questioned the location of the disposal beds. Mr. Smith testified there was a drafting error on the plan and advised the proper location.

It was confirmed that the facility could also be used by the Township children.

The meeting was opened to the public at which time no one wished to speak.

**MOTION** was made by Thomas Bigger to close the public portion, seconded by Anthony DeSenzo, with all in favor.

Mr. Becker gave his closing statements.

The Board Attorney questioned Mr. Becker regarding his term *conditional approval*.

Mr. Becker clarified applicant wanted to proceed with phase 1 upon Board approval and apply for building permits while waiting for State approvals for phase 2.

The Board Attorney wanted clarification that phase 1 could stand on its own if applicant did not receive approval for phase 2.

Mr. Becker confirmed it would be necessary to confer with the ADA official to come up with alternatives to satisfy the situation.

The Board Attorney clarified that the approval to obtain building permits for phase 1 would be conditioned upon applicant satisfying any requirement regarding bathroom facilities and ADA accessibilities. Mr. Becker agreed.

Board member, Thomas Lemanowicz, felt what was being done at Shiloh Bible Camp deserved praise but had issues with the plans regarding site design, grading, drainage and septic.

Township Engineer, Richard McFadden, agreed to review revised plans addressing conditions of approvals.

The meeting was opened to the public at which time no one wished to speak.

**MOTION** was made by Thomas Bigger to close the public portion, seconded by Anthony DeSenzo, with all in favor.

**MOTION** was made by Arthur McQuaid to approve the use variance to allow recreation for children. The variance for steep slopes are actually outcroppings and will allow the building to appear smaller and more aesthetically pleasing. Applicant's Engineer feels the property is suitable and has provided for emergency access. The property is surrounded by State park land which is also planned to be used for recreation. The gymnasium is phase 1. All Township, DEP and Highlands permits will be obtained. Applicant has complied with the Board's requests. They will continue to work with the Township Engineer so the project is acceptable. The gravel driveway will keep the water in the soil and reduce the runoff. The project fits into the area, Joseph Giannini seconded the motion. Building permits for phase 1 can be obtained as long as the sanitary facilities and ADA requirements are satisfied.

**On roll call vote: Yes** Thomas Bigger, Joseph Giannini, Daniel Jurkovic Arthur McQuaid, Thomas Lemanowicz and Robert Brady  
**No** None

**MOTION** was made by Arthur McQuaid to approve the preliminary and final site plan with bulk variances for the same reasons as above in order to provide additional recreation area for children, both locally and from other towns. It will provide a safe place for children to congregate and be involved in activities. The applicant will provide for the Engineering and Board concerns. Applicant is awaiting approvals for wetlands, Highlands and DEP. The slopes being disturbed are outcroppings and the topography dictates the location of the building. Applicant has tried to ameliorate as many of the variances as possible, Thomas Bigger seconded the motion.

**On roll call vote: Yes** Thomas Bigger, Joseph Giannini, Daniel Jurkovic Arthur McQuaid, Thomas Lemanowicz and Robert Brady  
**No** None

The Board recessed and upon reconvening, all Board members were present.

**MIKE DONADIO**  
**Bulk Variance #0430-0688**  
Block 9901; Lot 38  
33 Wooley Road; R-4 Zone

COMPLETE 12-01-04  
DEADLINE 06-29-05

Applicant, Michael John Donadio, of 33 Wooley Road, and his Engineer, Douglas McKittrick, P.E., were sworn. Mr. Donadio called Mr. McKittrick as his witness (previously sworn as engineer and planner).

Mr. McKittrick testified the construction sequence had now been added to the plan. A new dwelling will be constructed on the hill of the property with a detached garage, a 20 foot x 20 foot shed closer to the road, and a pole barn to the rear of the property. The plans have been revised to incorporate the changes in the Township Engineer's previous memos. The comments in the Township Engineer's March 21, 2005 memo will be addressed.

Mr. Donadio confirmed there was a 3 foot x 10 foot lean-to covering his oil tank. He agreed to either move it against the existing house or remove it. He plans to leave the electric, heat and bathroom in the existing home that is to become a recreation/gym/workshop.

The work on the existing home will be finished first then a 20 foot x 20 foot shed will be built. Then the new driveway and septic will be installed and any tree removal and rough grading to get to the new home will be done. He will then get the permits for the new home and run the water and electric line. The construction of the new home and garage will commence. The kitchen will be removed from the existing home, the 20 foot x 20 foot temporary shed will be removed, and then the pole barn will be built in the rear of the property. Exhibit A-1, pictures of the 10 foot x 10 foot existing shed he would like to keep on the property but was willing to remove if necessary. Mr. Donadio testified he would be willing to have a deed restriction preventing the existing home from remaining a home after the new home is built.

Mr. McKittrick testified the non-conforming use, the Mountain Rest, located next to applicant's property creates certain situations which are not conducive to residential living such as noise issues, light issues and traffic issues. This the reason for the location of the new home and the new garage would help block the view of the cell tower on the property next door.

The Chairman advised the Board would not reach the following application because of time constraints:

**CELLULAR TELEPHONE CO.**  
**D/B/A AT&T WIRELESS**  
**Use Variance #0440-0691**  
**Preliminary & Final Site Plan #0420-0197AB**  
Block 2802; Lot 3  
333 Warwick Turnpike; NC Zone  
New, unmanned, wireless telecommunications facility.

COMPLETE 01-31-05  
DEADLINE 05-31-05

Judith Babinski, Esq., appeared on behalf of the applicant and confirmed that she agreed to the Board hiring a Radio Frequency Expert to review her application on behalf of the Board. She understood that the expert would be paid out of the escrow account for this application. She agreed to carry the application to the April 26, 2005 meeting and granted the Board a 30 day extension.

The application was carried to the April 26, 2005 meeting with no further notice necessary.

*The Board continued with the Donadio application.*

The Chairman advised the Board would not reach the following application because of time constraints:

**ROBERT MAZZOCCHI**  
**De Minimis Exception**  
**Bulk Variance #0430-0689**  
Block 504; Lot 1  
Clubhouse Trail; LR Zone

COMPLETE 01-14-05  
DEADLINE 05-14-05

Mr. Mazzocchi was present and the Board carried the application to the April 26, 2005 meeting with no further notice necessary.

*The Board again continued with the Donadio application.*

After various comments from Board members, Mr. Donadio requested his application be carried in order to obtain legal counsel. Mr. McKittrick agreed to change the first page of the plans requesting a variance for an accessory building in the front yard. Douglas McKittrick stated that he could not meet the time frame to submit materials in time for the April meeting. Therefore, the Board carried the application to the meeting of May 24, 2005. The applicant granted the Board a 30-day extension. No further notice or advertising is necessary.

## Minutes

**MOTION** was made by Thomas Bigger to approve the Minutes of the January 25, 2005 regular meeting, seconded by Arthur McQuaid, with all in favor.

## Miscellaneous

The Board Attorney advised the Board on the matter of *Carter vs. High Crest Lake Lodge*. Judge DeLuccia affirmed the determination of the Board in granting the use variance, bulk variances and site plan approval. An Order is being prepared by Mr. Murray on behalf of High Crest.

The Board Attorney advised the Board the majority of the Board's resolutions have been prepared by Linda Lutz, Principal Planner. Lately, however, it has been his responsibility, at the Chairman's request, to prepare the resolutions. The problem is, he has not been delivering them to the Principal Planner in time to meet her deadline, enabling her to edit them, copy them, and deliver them to the Board in their agenda packets. In an effort to resolve the problem, he is suggesting that, in the future, when a motion is made granting or denying an application, a motion should also be made directing either the Board Attorney or Principal Planner to prepare a specific resolution for an application, depending on the Board's desires.

Linda Lutz advised she had a recommendation in her staff report regarding the AT&T application for the Board to hire the same Radio Frequency Expert that helped prepared the ordinance.

**MOTION** was made by Robert Brady to hire Ross Sorci as the Radio Frequency Expert for the AT&T application, which will be paid by applicant.

The Board Chairman advised the Contract for the Board Attorney reflecting the information discussed at the Reorganization Meeting would be processed. It was not signed, however, because there were contextual errors that the Board attorney needs to fix.

## **Adjournment**

The meeting was adjourned by unanimous vote at 11:00 p.m.

Respectfully submitted,

Carol DenHeyer, Secretary