

Adolph Galluccio, Esq., appeared on behalf of applicant.

Douglas McKittrick, P.E., of 2024 Macopin Road, West Milford, NJ, was sworn.

Applicant, Ronald Sherry, of 64 Victor Place, Hawthorne, NJ, was sworn and testified his property at 31 Forest Lake Drive has been in his family between 57 and 60 years and he is before the Board in order to build a garage on the property.

Douglas McKittrick, P.E., and P.P., qualified as an expert Engineer and Planner. As a Licensed Engineer, he testified he prepared the variance map for applicant and reviewed the plans previously submitted by applicant. He also met with applicant's previous engineer who prepared his original plans. The existing dwelling will be torn down and reconstructed with a new dwelling and zoning permits have been obtained. This application is for the construction of a detached garage located in the front yard between the road and the principal structure. A small, existing shed will be removed. Drainage issues have been addressed. A driveway made from pavers, between the garage and existing edge of pavement, will be installed. The lots in the area are long and thin and no additional land can be purchased.

Mr. Sherry confirmed the proposed new home is to be built in the exact footprint of the existing dwelling but one part will be squared off.

Linda Lutz, P.P., confirmed the Zoning Officer was present at a previous meeting and he confirmed an existing setback of 5.1 feet on the side yard and the new home will be 5.0 feet. The Zoning Officer testified it was such a small difference that he did not feel it was necessary to be included in the variances requested and the Board agreed.

Exhibit A-1, a sketch of the proposed home was submitted.

After discussing the elevations, Mr. Sherry agreed to lower the height of the garage by four feet.

Mr. McKittrick testified this was one of the last homes in the neighborhood to be reconstructed and the combination home and garage would enhance property values and be consistent with the Township's Master Plan. He felt there was no negative criteria. Sight distance will be added to the site plan to satisfy the Township Engineer. There is no objection to changing the roof drain and applicant will comply with the Township Engineer's memos.

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 Arthur McQuaid, with all in favor.

MOTION was made by Anthony DeSenzo to approve the bulk variance because of the hardship due to the nature of the property being long and narrow. The garage will be consistent with others in the area and the side setback has been reduced in order to leave 19 feet to allow construction related vehicles to access to construct the new home and give better access for emergency vehicles. No other property can be purchased and the applicant has agreed to lower the size of the garage from 22 feet in height to 18 feet. Applicant has agreed to comply with the Township Engineer's April 12, 2005 memo and to build in a sequential nature in terms of a linear build-out, building the home, septic and the garage lastly. There is no negative criteria and redeveloping the property will have an inherent benefit to the site and the neighborhood. This approval is conditioned upon reducing the height of the garaged to 18 feet and the sequential building of the home, septic and then the garage, seconded by Arthur McQuaid.

On roll call vote: **Yes** Thomas Bigger, Anthony De Senzo, Daniel Jurkovic, Arthur McQuaid, Ed Spirko and Robert Brady
No Thomas Lemanowicz

MOTION was made by Thomas Bigger to have Linda Lutz, Principal Planner, prepare the resolution for the Sherry application, seconded by Anthony De Senzo, with all in favor.

APPLICATIONS CARRIED FROM PREVIOUS MEETING

JOHN PANARIELLO	COMPLETE	12-27-04
Use Variance #0440-0694	DEADLINE	06-25-05
Block 11103; Lot 5.02		
602 Snake Den Road; R-4 Zone		

Linda Herlihy, Esq., appeared on behalf of applicant, John Panariello. The application is for a variance to permit an accessory structure on lot 5.02 that does not have a principal structure. Applicant has constructed a storage/shed on the property that is otherwise vacant. He also owns the adjoining property, lot 5.03, known as 608 Snake Den Road, where he resides. He has no intention of merging the lots and there is one driveway to access both lots.

Linda Lutz, Principal Planner, stated lot 5.03 did not have the proper frontage. She advised lot 5.03 was in the name of John Panariello and lot 5.02 was in the name of John J. Panariello.

Ms. Herlihy did not know whether the creation of these residential lots was a subdivision application that took into account lot 5.03 to have insufficient lot frontage.

John J. Panariello, 608 Snake Den Road, West Milford, was sworn.

The Board Attorney advised the Tax Collector takes the lot numbers from the Deed. After the recording of the Deed, a copy is sent to the Tax Department. The certified list for the two lots does not list Mrs. Panariello's name.

Mr. Panariello testified the title owner of lot 5.02 with the accessory structure is Martine Panariello and John James Panariello. The owner of lot 5.03, the adjacent property, is owned by applicant, John J. Panariello, and was a pre-marital asset.

The Board Attorney advised there is no indication of a lot 5.02.

Mr. Panariello testified lot 5.02 is a farm with a storage shed and is used with lot 5.01 where his house is located. He applied for a permit, submitted building plans, received a permit, built the structure and received his certificate of occupancy for the structure. Several months later, he received a violation advising the permit was issued in error. He chose this location for various reasons.

Ms. Lutz questioned Mr. Panariello as to what lot number he put on his application.

Mr. Panariello thought he put the lot number on the application that the building is on. The timeframe between getting the building permit and the violation was about three years.

Ms. Herlihy stated the applicant was not ignoring the ordinance but mistakenly thought he had done the correct thing. The summons issued has been carried in order to give applicant an opportunity to rectify the situation.

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

The Chairman advised the following applications would be carried:

Vincent Lanza	Complete	01-28-05
<i>De Minimis</i> Exception	DEADLINE	07-27-05
Bulk Variance #0430-0673		
Block 2708; Lots 1,5 & 6		
27 Flanders Road; LR Zone		

The Lanza application will be carried to the May 24, 2005 meeting and applicant granted the Board a 30-day extension with no further notice necessary.

NEW CINGULAR WIRELESS PCS, LLC	COMPLETE	01-31-05
D/B/A AT&T WIRELESS	DEADLINE	06-30-05
Use Variance #0440-0691		
Preliminary & Final Site Plan #0420-0197AB		
Block 2802; Lot 3		
333 Warwick Turnpike; NC Zone		

Judith Babinski, Esq., agreed to carry the New Cingular Wireless PCS, LLC, application to the May 24, 2005 meeting and granted the Board a 30-day extension with no further notice necessary.

DAVID M. BELL	COMPLETE	04-07-05
Bulk Variance #0530-0697	DEADLINE	08-05-05
Block 4301; Lot 20		
69 Forest Lake Drive; LR Zone		

David Bell agreed to carry his application to the May 24, 2005 meeting, with no further notice necessary.

The Panariello application continued.

Ms. Herlihy submitted various documents as exhibits. The application for engineering approval completed by applicant states lot 5.02 (it appears to be written over 5.03). However, the actual construction permit issued was issued for lot 5.03. The certificate of occupancy issued upon completion is for 5.02. The notice of violation is unclear as to the lot. A letter dated August 5, 2004 from Kurt Wagner, Construction Official, to Jim Jaworski, Esq., another attorney in her office, indicated the Zoning Permit was issued in error. The site plan for 5.02 was also submitted as an exhibit.

The Board Attorney clarified the certificate of occupancy was for lot 5.02 and an address of 608 Snake Den Road. The notice of violation says 5.03, possibly written over 5.02. He advised the Zoning Officer was not present and the application would need to be carried in order to have him testify.

Boyce L. McGeoch, L.S. and P.P., was sworn and testified as a Surveyor. He prepared the survey submitted for the application. An As-Built plan showing the finished construction on the lot was submitted as an exhibit.

Ms. Herlihy agreed to look into the resolutions subdividing the original lots.

Mr. McGeoch agreed there was level area on lot 5.03 where the garage could be located but the lot was purchased separately and is being used for farm income.

Kenneth Ochab, P.P., was sworn and testified as a Planner for applicant. The lot with the accessory structure is 12 acres in size and the structure is within the primary or principal building envelope, exceeding the accessory building envelope. Access is through Snake Den Road through lot 5.03 because the frontage on lot 5.02 is constrained by slopes and probably rock. The primary use of lot 5.02 is under a wood lot management plan and is taxed as Farmland Assessment. The accessory building is used as part of applicant's wood lot compound. The surrounding properties are all residential with a camp to the rear and within the Wanaque Watershed. All of applicant's property together is a unified residential and accessory use. The properties are tied together by the topography, access, and how the owner conducts the wood lot operation as part of his residence and business. The topographic conditions prohibit the location of the accessory structure on lot 5.03. This is a unique situation and lot 5.02 is suited for the use. There is no visibility of the accessory structure from Snake Den Road but there is a view from lot 5.01 in the wintertime. If a house were built on lot 5.02, the accessory building could legally stay in its current location.

Ms. Herlihy advised there was minimal disturbance in the area the accessory structure was located and an existing road.

Mr. Ochab agreed the current location of the accessory structure is the most optimal location.

Ms. Herlihy stated applicant would agree to a condition of approval that in the event one or the other of his lots was ever sold, lot 5.02 would need to comply. Either the structure would need to be removed or the-then owner of lot 5.02 would need to construct a principal structure in the appropriate location.

The Board Attorney clarified the condition would be that if the applicant sold his property, the building on lot 5.02 would be removed unless the contract purchaser of the property agreed to build a residence.

Mr. Ochab agreed it would be possible to add undergrowth along the property line to further shield the building from the neighbor.

Mrs. Lutz questioned Mr. Ochab as to what his special reasons were.

Mr. Ochab testified the special reasons included the set of unique circumstances as well as his argument on the particular suitability of the site as well as supporting the Municipal Land Use Law and Master Plan and zoning.

Ms. Lutz felt a case could be made under a hardship application but not necessarily under a use variance application. She felt it was important for the Board to get a proper analysis on the record in order to make the resolution clear. If the lot line separating lots 5.02 and 5.03 were removed, it would be a hardship variance. If the Board grants a use variance based on testimony not addressing a use variance, it would not be a good position to put the Board in.

Mr. Ochab testified this is a "d" variance by virtue of the fact it has been deemed a "d" variance and is not a typical use variance where the use is not permitted. There are unusual physical circumstances in connection with it.

Board member, Thomas Lemanowicz, felt moving the lot line would be a key to solving the issue.

Mr. Ochab agreed, with the exception that the application before the Board is to establish an accessory use on a lot without a principal structure.

Ms. Herlihy stated applicant was not required to move the lot line but if he was to do that, he would lose some options in the ability to sell one or the other lots and

he has some valid personal and business reasons for that. She clarified one of the other flat areas is located on lot 5.03, close to the residences on lot 6 and 7. In addition to the disturbance and roadway clearing, the structure would be located closer to the rear yards of those properties and perhaps more visible to those neighbors.

Mrs. Lutz advised the Board there are exemptions within the law regarding the Highlands legislation for individual lots.

The Chairman advised the following applications would not be heard:

Robert Mazzocchi
De Minimis Exception
Bulk Variance #0430-0689
Block 504; Lot 1
Clubhouse Trail; LR Zone

Robert Mazzocchi agreed to carry his application to the May 24, 2005 meeting with no further notice necessary and granted the Board a 30-day extension.

GREGORY THOMASES
Bulk Variance #0430-0666
Block 4101; Lot 6
166 Long Pond Road; LR Zone

Henry Lerner, Esq., appeared on behalf of applicant and agreed to carry the application to the May 24, 2005 meeting with no further notice necessary and granted the Board an extension through July 31, 2005.

The Panariello application continued.

The meeting was opened to the public at which time the following people spoke:

Donald Partington and Siobhan Partington, 572 Snake Den Road, lot 5.01, were sworn but requested to carry their testimony to the next meeting because of the time limit since the Board cannot hear testimony after 11:00.

Since no one else wished to be heard, the public portion is carried to the May 24, 2005 meeting, with no further notice necessary.

Minutes

MOTION was made by Thomas Bigger to approve the Minutes of the March 22, 2005 regular meeting, seconded by Anthony DeSenzo, with all in favor.

MOTION was made by Thomas Bigger to approve the Minutes of the February 22, 2005 regular meeting, seconded by Ed Spirko, with all in favor.

MOTION was made by Arthur McQuaid to approve the Minutes of the February 25, 2003 Closed Session, seconded by Thomas Bigger, with all in favor.

The Board Attorney advised the Closed Session Minutes regarding the High Crest Lake Lodge application cannot be released until the matter is resolved.

Some Board members advised they would not be present for the May meeting.

Miscellaneous

Mrs. Lutz advised the Board was still operating without an Attorney Contract.

The Board Attorney advised he needed to make a change to the contract and did not have it with him. The Contract will be forwarded for the next meeting.

The Chairman advised the Board may need to look into dates for a special meeting in the near future.

The Chairman advised there were discrepancies in applications from the Zoning Official and other departments and discussion of sending a letter to William Drew to clear up some issues may be necessary in the near future.

Adjournment

The meeting was adjourned by unanimous vote at 11:13 p.m.

Respectfully submitted,

Carol DenHeyer, Secretary