

Township of West Milford

Zoning Board of Adjustment

MINUTES

May 24, 2005

The meeting opened at 7:40 p.m. with the reading of the legal notice.

Roll Call

Present: Thomas Bigger, Robert Brady, Daniel Jurkovic and Ada Erik; Linda Lutz, Principal Planner, Stephen Glatt, Board Attorney; Richard McFadden, Township Engineer.

Absent: Anthony DeSenzo, Joseph Giannini, Arthur McQuaid, Ed Spirko and Thomas Lemanowicz

Alternate, Ada Erik, was a voting member.

The Chairman advised of the following requests for carries:

JOHN PANARIELLO	COMPLETE	12-27-04
Use Variance #0440-0694	DEADLINE	07-25-05
Block 11103; Lot 5.02		
602 Snake Den Road; R-4 Zone		

Linda Herlihy, Esq., appeared on behalf of applicant, John Panariello, and requested a carry in order to have a full Board. Also, one of her witnesses has an ongoing conflict and will be available for the next meeting.

MOTION was made by Thomas Bigger to carry the application to the June 28, 2005 meeting, seconded by Daniel Jurkovic, with all in favor. Ms. Herlihy granted the Board a 30-day extension.

Vincent Lanza	Complete	01-28-05
De Minimis Exception	DEADLINE	08-26-05
Bulk Variance #0430-0673		
Block 2708; Lots 1,5 & 6		
27 Flanders Road; LR Zone		

Mark Jakubek, an employee of Vincent Lanza, appeared on behalf of applicant and requested the Lanza application be carried to the June 28, 2005 meeting. Mr. Lanza sent a letter requesting the carry.

MOTION was made by Thomas Bigger to carry the application to the June 28, 2005 meeting, seconded by Ada Erik, with all in favor. There will be no need for further notice.

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 appeared to request a carry to the June 28, 2005 meeting because he has hired new professionals and will be submitting revised plans.

MOTION was made by Thomas Bigger to carry the application to the June 28, 2005 meeting, seconded by Ada Erik, with all in favor. Applicant granted the Board a 30-day extension. New advertisement will be required for the new plans being submitted.

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., appeared on behalf of applicant to request a carry of the New Cingular Wireless PCS, LLC, application to the June 28, 2005 meeting since there are not enough Board members present to hear the use variance application. She granted the Board an extension through the end of August and no further notice will be necessary.

MOTION was made by Daniel Jurkovic to carry the New Cingular Wireless PCS, LLC, application for lack of sufficient Board members, seconded by Ada Erik, with all in favor. A 30-day extension was granted.

MEMORIALIZATIONS

RONALD & PATRICIA SHERRY
Resolution 12-2005

Bulk Variance #0430-0686
Block 4301; Lot 38
31 Forest Lake Drive; LR Zone

GRANTED: Accessory structure location, side yard setback and lot coverage.

MOTION was made by Thomas Bigger to memorialize the action, seconded by Daniel Jurkovic.

On roll call vote: **Yes** Thomas Bigger, Daniel Jurkovic and Robert Brady
No None

CONTINUED PUBLIC HEARINGS

MIKE DONADIO	COMPLETE	12-01-04
Bulk Variance #0430-0688	DEADLINE	07-29-05
Block 9901; Lot 38		
33 Wooley Road; R-4 Zone		

John Barbarula, Esq., appeared on behalf of the applicant. He did not previously represent applicant but was present for his application.

Applicant, Michael John Donadio, of 33 Wooley Road, was sworn.

Applicant's Engineer and Planner, Douglas McKittrick, of 2024 Macopin Road, was previously sworn.

Mr. Barbarula stated the application was now amended to eliminate the variances other than the accessory structure; the other garage and shed are also eliminated. The only variance being discussed will be to allow the accessory structure in the front yard. A proposal of a restriction for the accessory structure to run with the land was submitted as Exhibit A-2. Exhibit A-3, a large board with 11 photos taken by applicant, shows various views of the property. Exhibit A-4, 12 photos taken by applicant, shows various views taken from the property.

Mr. Donadio testified he plans to secure the accessory structure by installing roll-up doors on the exterior and an alarm .

Exhibits A-5, A-6, A-7 and A-8, photos taken by applicant, shows various homes in town with auxiliary structures near the road.

Board member, Daniel Jurkovic, noted some of the structures in the exhibit photos were not in the immediate vicinity of applicant's property.

Mr. McKittrick testified he made revisions to the plans and relocated the pole barn structure. Variances are not required for the new principal structure nor the pole barn. Pre-existing variance conditions are for lot area, lot frontage and lot width. Wooley Road has a variety of uses on it with the bulk being residential. It was his opinion this application would have no impact on the adjacent properties and would be consistent with the neighborhood.

Board member, Daniel Jurkovic, had a problem with applicant withdrawing the pole barn that could provide adequate storage and be built in a conforming area. Applicant wants to utilize a structure that is not in a desirable location as a storage area. He had concerns with the existing home continuing to be expanded even though it will be used as an accessory structure in the future with a new home built.

Linda Lutz, Principal Planner, informed the Board that the applicant in the photo of Exhibit A-8 went before the Board for the height of a wall variance and was not a comparable site because it was a farm and was allowed to develop differently than applicant's property. She was not sure a hardship was presented and previously submitted plans showed an accessory structure could be built elsewhere on the property.

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 Ada Erik, with all in favor

Mr. Barbarula summarized applicant received building permits to expand the existing structure in order to live in it while building a new home. All other variances have been eliminated other than the accessory structure and there is no negative impact. Applicant has agreed to a deed restriction in order to remove the potential utilization of the accessory structure as a secondary living structure. The existing structure will be completed to look better, fulfill its present function, and for the next four years as a home. There is a difference of 53 feet from the proposed site of the new dwelling to the road and will not stand out. Accessory structures in this zone are allowed to be much larger than this one.

The Board Attorney asked for positive criteria for the Board to consider in order to allow the variance.

Mr., Barbarula stated this accessory structure was less than the permitted 1,500 square feet and it is an existing structure and is part of the uniqueness of the property.

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

Board member, Daniel Jurkovic, agreed with Ms. Lutz' opinion regarding the application and did not feel there were sufficient zoning reasons to justify having the original primary residence converted into an accessory structure, especially when it is being expanded.

Chairman, Robert Brady, agreed there were not enough proofs in the area of zoning. Enforcement by the Township to keep track of what the accessory structure was being used for was not a good idea. He did not feel this would conform to the neighborhood.

MOTION was made by Daniel Jurkovic to deny the variance requested for the construction of a single-family dwelling and conversion of an existing dwelling into an accessory structure for the reasons stated on the record, seconded by Thomas Bigger.

On roll call vote: **Yes** Thomas Bigger, Daniel Jurkovic and Robert Brady
No Ada Erik

MOTION was made by Thomas Bigger to have the Board Attorney prepare the resolution for the Donadio application, seconded by Ada Erik, with all in favor.

The Chairman advised the following applications would be carried:

ROBERT MAZZOCCHI	COMPLETE	01-14-05
<i>De Minimis Exception</i>	DEADLINE	07-13-05
Bulk Variance #0430-0689		
Block 504; Lot 1		
Clubhouse Trail; LR Zone		

Mr. Mazzocchi agreed to carry his application to the June 28, 2005 meeting with no further notice necessary and granted the Board a 30-day extension.

NEW APPLICATIONS

RICHARD SMITH	COMPLETE	04-14-05
Bulk Variance #0530-0699	DEADLINE	08-12-05
Block 10301; Lot 26		
11 Krattiger Court; R-4		

Mr. Smith agreed to carry his application to the June 28, 2005 meeting with no further notice necessary.

PAUL RYAN	COMPLETE	05-02-05
Bulk Variance #0430-0693	DEADLINE	08-30-05
Block 5708; Lot 22		
59 Belleau Gateway; LR Zone		

Mr. Ryan agreed to carry his application to the June 28, 2005 meeting with no further notice necessary.

APPLICATIONS CARRIED FROM PREVIOUS MEETING

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

Henry Larner, Esq., appeared on behalf of applicant who would like to construct a small addition to an existing structure on 166 Long Pond Road which requires a rear yard setback and lot coverage.

Applicant, Gregory Thomases, 166 Long Pond Road; Tom Evans, 470 Chamberlain Ave, Paterson; and Mathew Evans, 470 Chamberlain Avenue, Paterson, were all sworn.

Gregory Thomases testified his family has owned the home for 30 years and uses it as a summer home. Their families are growing and they would like to square off the back of the home in order to have a dining room and expand the living room for additional living space. The expansion is to the rear of the property towards the lake. There is a 100-foot right-of-way beyond the property line that is owned by the lake association and creates a buffer to the lake.

Mathew Evans, Licensed Architect and Planner, was accepted as an expert witness and testified as a Planner. They are proposing 12.99% lot coverage and the home will conform to the neighborhood. A rear yard setback of 40 feet currently exists and they are proposing to have 32.6 feet. They want to square off the home as it exists with a one-story addition, which will not affect the lake view from the other homes. Exhibits, photos showing views of the property, were submitted.

Mr. Thomases testified a variance for lot coverage would be necessary even if the expansion were on the other side of the home. This location was chosen to incorporate the layout of the home and the addition will not be seen from the front of the home. A wall in separating an existing enclosed porch from the main home will be removed and the area expanded as living area. The existing deck will become smaller and will be refurbished.

Mr. Lerner stated the applicant had no problems complying with the Township Engineer's requests.

The meeting was opened to the public at which time Algenett Elting, of 162 Long Pond Road, Hewitt, the neighbor to the north. The 100 feet of property to the rear of the Thomases is Awosting Association property and applicant has chosen not to clear the trees and clean-up the property. The Association can do this at any time because this area is to be used as a fire lane. She submitted Exhibit O-1, a photo showing her backyard is in the Thomases' backyard. The addition will leave only 18 feet between the living spaces of both homes and is not the standard side yard setback of the neighborhood. She is concerned with privacy, noise issues and safety issues. Exhibits O-2, photos of 162 and 166 Long Pond Road homes were submitted to show power lines and proximity of homes to bedrooms windows. Exhibit O-3, shows elevation ground to windows and height. Exhibit O-4 is a copy of the site plan marked-up to show inaccuracies. Exhibit O-5 is a copy of Ms. Elting's survey.

The public portion is carried to the June 28, 2005 meeting because of the lateness of the hour.

Minutes

MOTION was made by Thomas Bigger to approve the Minutes of the April 26, 2005 regular meeting, seconded by Daniel Jurkovic, with all in favor.

Communications

The Board Attorney advised he did not received any notice of appeal relating to the High Crest Lake Association court remand.

The Chairman advised because of the time all other applications would be carried to the June 28, 2005 meeting.

TARA & RAY GUARINO
Bulk Variance #0530-0701
Block 15502; Lot 13
30 Circle Boulevard; R-2

COMPLETE 04-12-05
DEADLINE 08-10-05

The Guarino application will be carried to the June 28, 2005 meeting with no further notice necessary.

Adjournment

The meeting was adjourned by unanimous vote at 11:06 p.m.

Respectfully submitted,

Carol DenHeyer, Secretary