

**MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
January 28, 2020
Regular Meeting**

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:37 p.m. The Board Secretary read the Legal Notice. The Pledge of Allegiance was recited.

Roll Call

Present: Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, Jo Ann Blom, and Robert Brady

Also present: Deidre Ellis, Board Secretary, Stephen Glatt, Board Attorney and Ken Ochab, Board Planner

Absent: Patrick McClellan, Board Engineer, Russell Curving, and Steven Castronova

The Chairman greeted the Board and the public. Mr. Brady explained the Zoning Board and Open Public Meetings Act. The meetings are advertised in the Herald News. The Board operates in accordance with the Open Meeting Act of the State of New Jersey, which means discussions and decisions are made in public. Under normal circumstances the Board follows a printed agenda. There are no new applications after 10:30 pm and no new testimony after 11:00 pm, after the applicant speaks then anyone can speak for or against that application. If it is needed there will be a break at approximately 9:00 pm. The appeals of this Board go directly to the Superior Court of the State of New Jersey.

MEMORIALIZATIONS

**BATTINELLI ENTERPRISES
RESOLUTION 20-2019**

**USE & BULK VARIANCE & PREL. &
FINAL SITE PLAN ZBo8-18-10**
Block 3907; Lot 1.01, 1.02 & 2
1611 Greenwood Lake Tpke; LMI Zone

Decided: Preliminary and final site plan and use and bulk variance approval. Approval for D2 variance for Lot 2 to expand the garden center on Lot 2. Lot 2 is to be used only for accessory storage in connection with the garden center. Bulk variance for existing non-conformities, total area, Lot width and depth, front, rear and side yard setback, and street, side, rear, residential line buffers and 17 parking spaces, not 35.

Approved: November 26, 2019

Eligible to vote: Russell Curving, Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Michael Gerst, Jo Ann Blom and Robert Brady

A motion by Michael Gerst to Memorialize Resolution 20-2019. Second by Arthur McQuaid.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Michael Gerst, Jo Ann Blom, and Robert Brady

No: None

Abstain: Linda Connolly

GREENWOOD LAKE SERVICES APPEAL RESOLUTION 14-2019 (AMENDED)

Appeal Application No. ZB 01-19-01
Block 3107; Lot 1
322 Lakeside Road, LR Zone

(Appeal of Zoning Officer Determination Denying Zoning Permit)

Decided: August 27, 2019
Memorialized: October 22, 2019

The Board Attorney indicated that there was an amendment to Resolution 14-2019 because it was treated as if it was an appeal to a site plan application and actually it was an appeal of the Zoning Officer's determination that denied the zoning permit and some of the conditions that were imposed was not within the Board's jurisdiction to add to the resolution, so it was corrected and amended. The amended conditions will supersede the ones on the original resolution.

**A motion by Daniel Jurkovic to Memorialize the Amended Resolution 14-2019.
Second by Robert Brady.**

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Michael Gerst,
and Robert Brady

No: None

Abstain: Linda Connolly and Jo Ann Blom

**GREEN MEADOW ORGANICS
USE & BULK VARIANCE & PREL. &
FINAL SITE PLAN ZB10-17-13**

Block 4601; Lot 17
960 Burnt Meadow Road; LMI Zone

Complete: 7/17/19

Deadline: 3/31/20

The applicant has requested to withdraw the application in writing, (December 18, 2019). This application is on the agenda for the purpose of officially recording the withdrawal of the application only.

Mr. Robert Landel Esq. spoke on behalf of the applicant, (Mr. Tafuri Esq., who had also represented the applicant was also present), and wanted to let the Board know that although the application was a difficult one, with special meetings needed, and there was a lot of opposition to the application, they felt they were always treated fairly and professionally by the Board and staff. The Board Attorney indicated that the applicant was there to withdraw the application without prejudice. The Board Attorney thanked the applicant for their cooperation. The application was withdrawn without prejudice.

CARRIED APPLICATIONS

**JOSEPH BARDI
USE & BULK VARIANCE ZB01-19-02**

Block 507; lot 2
11 Laramie Trail; LR Zone

Complete: 6/10/2019

Deadline: 2/5/2020

Use variance approval requested for a garage where there is no primary structure. Bulk variance requested for a front yard setback where 40 feet is required, 15.4 feet is existing and 25 feet is proposed.

The Board Attorney swore in Joseph Bardi, 11 Laramie Trail, Hewitt, NJ. Douglas McKittrick was sworn in and gave credentials, Offices at 2024 Macopin Road, a licensed NJ Engineer since 1982, a licensed Planner since 1983, has been qualified in front of the West Milford Board of Adjustment several times, and also the Planning Board, most of the Boards in Passaic and Sussex County, and Bergen County and a couple in Morris County, in Hackensack and the Development Commission in the New York and New Jersey Port Authority and Passaic, Bergen, Morris and Sussex County Superior Court.

The Board Attorney indicated that Linda Connolly (new to the Board) would not be allowed to vote, not having heard previous testimony to date, but would be allowed to participate. There was discussion to whether Mr. McKittrick could go over the application and repeat prior testimony. The Board Attorney indicated that without a transcript we would have no way of knowing if details were added or omitted. Ms. Connolly could listen to the application's previous recording, but is not obligated to do so. There are 6 Board Members, the application is a D Variance and therefor would need 5 votes, the majority. Daniel Jurkovic indicated that Board Members are volunteers and are not required to listen to past testimony. Douglas

McKittrick indicated that he would like to request an adjournment to the next meeting February 25, 2020.

**A motion by Daniel Jurkovic to carry the application (due to applicant's request and to allow time for Board Members to potentially listen to the application).
Second by Michael Gerst.**

Roll call vote:

Yes: Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, Jo Ann Blom and Robert Brady

No: None

Abstain: None

The Board Attorney indicated that because the applicant had a use variance, enhanced proofs must be provided and 5 votes must be in favor for the application to succeed. With a bulk variance you only need the majority of the Board's approval to succeed. The odds would be better if there were 7 Board Members present so the Board is granting the applicant the opportunity to come back, and Board members who choose to listen to the recording will be eligible to participate and vote the next time. The applicant will not be required to notice the people on the 200' list or in the newspaper. Anyone interested should return for the February 25, 2020 meeting.

**JOANNE & RAY WARD
BULK VARIANCE ZBo8-19-16**

Block 4002; Lot 7
234 Long Pond Rd; LR Zone

**Complete: 10/31/2019
Deadline: 2/28/2020**

Bulk Variance approval for the prior construction of a garage and deck with roof encroaching on property that is not owned by the applicant, with a rear yard setback requirement of 60 ft, and 1 ft is proposed, a side yard setback where 30 ft is required and 2.1 ft is proposed, and an attached garage where 30 ft is required and 1.9 ft is proposed.

Robert Moshman Esq. spoke on behalf of the applicants and requested to carry the application to the next meeting date of February 25, 2020, as the applicant is gathering measurement information that was requested at the last meeting, and the Wards were not available for this meeting. An extension of 60 days was agreed upon. The applicant will be required to advertise and the resubmissions will have to be submitted 10 days prior to the meeting date. The Board Attorney suggest Mr. Barbarula be sent a copy of any new material.

A motion by Daniel Jurkovic to carry the application. Second by Frank Curcio.

Roll call vote:

Yes: Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, Jo Ann Blom and Robert Brady

No: None

Abstain: None

**GARY & ANGELA BERGH
BULK VARIANCE ZB10-19-18**

Block 4301; Lot 36
36 Forest Lake Dr.; LR Zone

**Complete: 12/6/2020
Deadline: 4/4/2020**

Bulk variance requested for lot coverage where 10% is required, 10% is existing and 14+/- % is proposed for the construction of a proposed 7 foot by 30 foot addition and 5 foot by 40 foot covered porch.

Vincent Lanza spoke on behalf of Gary and Angela Bergh, ZB10-19-18 and requested to carry the application to the next scheduled meeting, as the client Mr. Bergh, could not be in attendance. Mr. Lanza signed a 30 day extension.

A motion was made by Michael Gerst to carry the application. Second by Daniel Jurkovic.

Roll call vote:

Yes: Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, Jo Ann Blom and Robert Brady

No: None
Abstain: None

KAYLAN VAN HOOK
USE VARIANCE ZB03-19-05
Block 14605; Lot 7
Rt 23 South; R-4 Zone

Complete: 9/13/2019
Deadline: 2/10/2020

Use variance requested for a food vending truck on Route 23 South for a use that is not permitted by ordinance.

John Barbarula Esq. spoke on behalf of the applicant. Mr. Barbarula indicated that the property had a hot dog truck located on it in the days when he was in high school. Mr. Barbarula indicated that it was a pre-existing non-conforming use, that in New Jersey abandonment has to be a direct and intentional act, and the mere cessation of activity is not abandonment. The port-a-john was never there in the past and would be an additional structure on site. The site has been used in the past for a food truck.

Tyler VanderValk of Houser Engineering was sworn in and gave his credentials. 1141 Greenwood Lake Turnpike, Ringwood, a licensed Professional Engineer in the State of New Jersey for five years, graduated with a Bachelor's Degree in Civil Engineering from the New Jersey Institute of Technology, has testified in front of this Board, the West Milford Planning Board as well as other Boards throughout the State. Mr. VanderValk indicated that he was familiar with the site, living in the area. The property is approximately one acre located on the South bound side of Route 23, about a half mile North of Union Valley Road. The site contains a gravel lot, approximately 120 square feet, dating back to the 1970's as indicated on historical aerial photographs. Mr. VanderValk indicated that the site had been historically used for the purposes of a food truck. The site plan shows no improvements to the site but shows where the Food Truck is to be located, which leaves adequate space for 4 cars to park as well as a port-a-john. The parking has adequate space for backing up, 24 feet between an 18 foot parking stall, and the traveled way of the highway, which is a standard 2 way isle in a parking lot, allowing a vehicle to back out of a spot and orient itself to continue down 23 south without encroaching on the highway itself. Mr. VanderValk has submitted for and obtained a letter of no interest from the New Jersey Department of Transportation stating that they are not placing any commitment nor obligation on the owner for the use of the food truck. In a second letter from the DOT they indicate that they do not believe it will create a significant increase in traffic. At the Health Departments request the port-a-john was added primarily for the use of the food truck operator. Discussion about the Zoning Officer's memo and February 26, 2019 letter from Mr. Menz regarding changes to the property. The Zoning Officer's memo indicates that parking has been changed and Mr. VanderValk indicated that it has not been changed and they are not proposing any changes, parking has not been delineated on the lot in the proposal, and never has been historically. Daniel Jurkovic indicated that perhaps the Zoning Officer needed to testify, on one hand it appears the State has no interest and on the other hand a change has been implied. Mr. Barbarula indicated that he had no idea what Mr. Lupo was referring to in his memo. Mr. Barbarula indicated that other than a few rocks being moved, the site has not been changed.

Mr. VanderValk indicated that he had a second letter of no interest that he could submit to the Board that could help clarify things. Discussion of where the author of the letter actually works. Not in Trenton but in a local office.

The Board Attorney asked for a timeline, when did the use of the original food truck cease?

Mr. Joseph Van Hook was sworn in, 460 Snake Den Road, West Milford. Mr. Van Hook indicated that Orlando Cardacci had the property and had a hot dog truck there, and believed there was a truck there up until 2015 or 2016. A member of his family owns the property and Mr. Van Hook plans to lease it, and place a food truck on the property.

The Board Attorney asked if Mr. Van Hook was aware of any violations that were outstanding in connection with the property? Mr. Van Hook indicated that his daughter closed on the property on September 9, 2018 and the violations were issued April 2018. (Township data base indicates it was April 25, 2019.) Mr. Van Hook indicated that in April he filled in some pot holes and moved some rocks on the property on a Friday and received a violation for an illegal soil fill operation on Monday of the following week.

The Board Attorney asked if Mr. Hook had appeared in Municipal Court. After discussion, it was determined that Mr. Van Hook had spoken with the Zoning Officer but had not been to

Court. The Board Attorney indicated that the applicant received a letter dated February 26, 2019 from the State, the Department of Transportation saying they have no interest. Mr. VanderValk indicated that his letter was dated August 26, 2019 and that was entered into evidence as A-1. There was discussion about the memos and the violations. The Board Attorney indicated that the Zoning Officer could come to the next meeting if the Board were to have questions, and that the Board could implement conditions on the application to prevent future violations. There was discussion to whether the Board should proceed at this point and it was agreed upon that they should. Mr. Jurkovic indicated that if there were zoning violations issued that they should be signed. (The copies the Board had in the form of a memo had not been signed. The originals that were sent to the applicant had, in fact, been signed.)

Mr. VanderValk indicated that though the area was gravel he had laid out a schematic for the parking, with plenty of space available to be able to turn without encroaching on the highway, and to be able to face the correct direction to merge back on to the highway. There would be no need for anyone to back out onto the highway. Mr. VanderValk indicated that he was able to put 4 parking spaces on the site without violating any setbacks of the environmental conditions. Mr. Barbarula indicated that there would be no additional impervious surface, no damage and no changes to the site and the topography would remain as is. Mr. VanderValk indicated that the port-a-john would be sufficiently away from the travelled way as to not cause any type of problem with the travelling public and it would be placed where it would not be in the way of the parking. The Food truck would be parking in a spot at an angle where it would be very visible from the highway, which is also where it has been historically parked. The historic aerial (1979) photo from Google Aerial from 2002 was entered into evidence as exhibit A-2. The Board Attorney clarified that the Food truck would be leaving the site each day. Mr. Barbarula indicated that there would be no curbing to navigate and none was required. Mr. VanderValk indicated that the site was in the condition it was in, due to the fact that a food truck had been placed there for so many years in the past.

Jo Ann Blom asked if there was going to be any type of sign associated with the site. Mr. VanderValk indicated no, and that the local travelers would be aware of the truck, which itself will function as a sign itself. Mr. VanderValk indicated that the improvements to the site would be the Truck coming and going each day and the addition of the port-a-john. Daniel Jurkovic indicated there was a memo November 25, 2019 letter from the Environmental Commission, questioning electricity and waste water and bathroom facilities. Mr. VanderValk indicated that the port-a-john had been added to satisfy the Health Department and the waste water would be handled by the Food Truck itself. The Truck will move each night but the port-a-john would stay. Mr. Van Hook indicated that he would secure the port-a-john as per the instructions of the Building Department, maybe chain it to a tree, so no one steals it. It would also be located where it would not be easily seen. Mr. Van Hook agreed to collect recycling and garbage and remove it from the site daily as a condition of approval. The potable water and waste water would be stored in holding tanks with proper written verification and also be a condition of approval as mentioned in a memo dated September 27, 2019 written by Kathryn Coyman of the West Milford Health Department.

There was discussion regarding the Building Department's memo and the possibility of paving the parking lot and the area around the port-a-john. Mr. VanderValk indicated that the American Disabilities Act applies only when you are making changes to a site and they are not proposing to pave the site but have it remain gravel. There was discussion about the port-a-john being ADA accessible, and Mr. Van Hook indicated that the port-a-john was for the employees working in the Food truck, not the general public, though he certainly would not mind customers using the facility if need be. There was discussion about one paved space being located where everything else is gravel, potential for tripping and potential damage and disruption by snow plows. Arthur McQuaid indicated that one paved area would not help a person in a wheelchair, without a paved walkway of some type, this not being a building site it is impractical.

Chairman Brady asked what was to be done otherwise to delineate the parking spots and Mr. VanderValk indicated that wheel stops could be used. The average time a person would be there would be approximately 10 minutes. The Health Department will not allow picnic tables.

Lisa Phillips, 14 Route 4 West, River Edge, a Planner for over 30 years, Licensed since 1992, worked for Burgess Associates for 10 years, has worked for herself since 2002, was the Borough of Hohokus Zoning Officer for 3 years, was the Planner for Cliffside Park for 20 years and has represented numerous applicants throughout Bergen, Morris, Passaic and Essex Counties, was sworn in. Ms. Phillips indicated that she had the opportunity to review the application, and was familiar with West Milford and its Master Plan.

Ms. Phillips indicated that in terms of the Zoning, it is the R-4 Zone so the size is only one quarter of the size of a developable parcel. There is a pond in the middle of the parcel. The lot lacks developable potential due to size and environmental constraints. The frontage is also 50% less than the required 300 feet. There are two things that have to be proven for a Board to determine that something was abandoned, one is intent to abandon and second is the implementation of the abandonment. Ms. Phillips indicated that though the site has not been used since 2014, there was no redevelopment done with the intent to abandon the use. An OPRA was done and there were no records to prove otherwise. In terms of particular suitability, the site has been used for decades for a Food Truck, and there was nothing of record to indicate that it was of any particular nuisance. Ms. Phillips indicated that in terms of particular suitability it was a good use, the curb cut is already there, other factors limit development and it was a temporary use, and one that could be abandoned if necessary. Regarding the negative criteria, the Master Plan recommends residential use, that cannot be overcome but there is no impairment, and not substantial impairment. Ms. Phillip's indicated that in terms of the public good, there are no neighbors nearby, the site is self-limiting and there will be no nuisance.

Ms. Phillips indicated that the use criteria of the site has been met, and it is her belief that there was never any intent to abandon the use. The Board Planner indicated that what the Board was faced with here from a Zoning perspective was the continued establishment of a non-conforming use. Ms. Phillips agreed. This use may have predated the Zoning Ordinance.

The Board Planner summarized the application adding the use runs with the land. There had been a Hot Dog Truck on the property, and it went away for a while, the property was purchased, the Zoning permit was denied, and rightly so, it was not a permitted use, then one has to go before the Board of Adjustment in order for them to make the determination if the use had been abandoned. There appeared to be no material changes to the property or intent by a new owner to change the use. The Board Planner indicated that if the pre-existing use was not abandoned then there would be no need for a use variance. Discussion about a pre-existing non-conforming use, and the zoning violations. The violations would be Mr. Lupo's purview, not the purview of the Board of Adjustment.

Mr. Barbarula indicated that it was a pre-existing non-conforming use, but the applicant has still met the use variance criteria because the applicant is agreeing to conditions put on by the Board.

Arthur McQuaid clarified that just a single parking spot for the handicapped seemed to be a waste of money but indicated he was in favor of some type of handicapped accessibility to the truck itself.

A motion was made to take a short break by Michael Gerst. Second by Robert Brady. All were in favor. (Approximately 9:10 pm)

The meeting resumed at approximately 9:30 pm.

The public portion of application ZB03-19-05 was opened.

Seeing no one, a motion was made to close the public portion by Michael Gerst. Second by Arthur McQuaid. All were in favor.

Mr. Barbarula summarized the application, indicating that the site had been used for a food truck for many years, the application is to recognize the pre-existing condition but also with the testimony heard by Ms. Phillips and Mr. VanderValk; the appropriateness of the use variance. The applicant agrees with adding in the wheel stops for the purposes of demarcation of the parking spaces. The site is not appropriate for housing, there are concerns environmentally, there are buffers. Based on all of the circumstances the application should be approved.

Daniel Jurkovic indicated that he did not think that a paved parking spot was necessary for a handicapped accessible van but that he thought there should be a pad of some sort that a van could pull up along side of to be used as a platform. Mr. Van Hook indicated he could easily do that with paving stones and it would not be a problem if the Building Department approved. Mr. Barbarula indicated that it would be a condition of the resolution and that he would not need further approval.

A motion by Daniel Jurkovic to approve Use Variance ZB03-19-05.

Daniel Jurkovic indicated the utility of the property was pretty much nil. Not much else could work in that spot and it brings some utility to the land. The addition of a paver platform to

provide a pad for a handicapped person in an area where they can easily order food would be a condition of approval. **Second by Arthur McQuaid.**

Roll call vote:

Yes: Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, Jo Ann Blom and Robert Brady

No: None

Abstain: None

Mr. Barbarula agreed to inform his client the details of the appeal period.

JONATHAN BRETT
USE VARIANCE & MINOR
SITE PLAN ZBo8-19-17
Block 5308; Lot 2
Cahill Cross Rd.; R-2 Zone

Complete: 10/31/2019
Deadline: 2/28/2020

Use variance and minor site plan requested for the outdoor storage of RV's, boats and trailers, and the use of three small unapproved existing storage units for indoor storage.

Jonathan Brett, 1 Charles Ave., and Douglas McKittrick were sworn in and gave credentials, Offices at 2024 Macopin Road, a licensed NJ Engineer since 1982, a licensed Planner since 1983, has been qualified in front of the West Milford Board of Adjustment several times, and also the Planning Board, most of the Boards in Passaic and Sussex County, and Bergen County and a couple in Morris County, in Hackensack and the Development Commission in the New York and New Jersey Port Authority and Passaic, Bergen, Morris and Sussex County Superior Court. Jonathan Brett indicated that he was the applicant and that his brother Matthew was also present and was the owner of the property. The property has been owned for a year and the applicant is seeking a use variance in order to be able to store RV's, boats and pool equipment on the site. Mr. Brett indicated that the things stored there will stay there, the site will not be used for transient vehicles.

Mr. McKittrick indicated that the site is serviced by municipal water and sewer and there would be no new well drilled. The property is not in a flood plain or in a riparian buffer, there are no water courses within 300 feet of it, no wetlands within 300 feet of it. There is currently no running water on site. A connection could be made in the future to facilitate that. The site is to be used for storage only, with no rest room as it is not a facility where people will be working or living or spending a lot of time, so there is no need for plumbing in the facility at all.

Mr. McKittrick indicated that the site was located on Cahill Cross Road, Block 5308 Lot 2, an R-2 Residential Zone requiring 2 acres minimum. The property is 2.03 acres, has 160 feet of frontage, approximately 300 feet in the back and about 200 feet at the setback line, accessible over a partially paved existing driveway. The site is characterized by steep slopes with massive rock outcropping. Mr. McKittrick indicated that a man made plateau was made a number of years ago. Currently there is no principal structure on the site, and none is proposed, there are currently 3 smaller structures being used for storage that were placed without permits, that the applicant is proposing to keep.

The Board Planner, Ken Ochab, indicated that he was around when Bald Eagle Manor was constructed, so he is familiar with the history of the site. The property had been used to store equipment for the developer at the time and Mr. McKittrick believes it was also used to quarry rock for walls for Bald Eagle Commons across the street. The aerial photography from 1998 shows the topography and some of the trucks and storage containers.

The Board Planner indicated that he recalls the Planning Board approving that particular site for use as a storage facility. (Though not RV storage.)

Mr. McKittrick indicated that the property was significantly altered during the construction of Bald Eagle and that is part of the reason the applicant does not feel it fit for residential use. The purpose of the application is to provide storage for RV's, boats and trailers. The applicant is also seeking to legitimize the sheds that are located on the property. The owner plans to put in fencing and lights and security cameras in an effort to prevent trespassing on the property. These uses are not permitted in the R-2 Residential Zone, so the applicant is seeking a D-1 Use Variance. There are spots for 28 vehicles on the plan. Daniel Jurkovic asked why not install some type of pole barn to house things and get rid of the 3 small sheds? The applicant indicated that in the future they would likely do that but for now they would just like to get approval and

put in the fencing and get the business up and running. There was discussion about the size of a new building to clean up the site, and a time period to build the pole barn, and if it can be applied to the application presently.

The Board Attorney indicated that specifics must be given, and it is always better to be able to store things inside rather than outside. Mr. McKittrick indicated that he did not think it would work from a cost perspective to house 28 large vehicles inside a pole barn. There would need to be a traffic pattern where you can get vehicles in and out without having to move other vehicles. Perhaps a more realistic plan would be to build a pole barn to house the materials being stored in the 3 sheds. Currently the sheds measure 24 feet by 12 feet, 32 feet by 11 feet, and 14 feet by 10 feet. Combined the area is less than 1500 square feet. Mr. McKittrick indicated that would be the number, 1500 sq ft, of a structure dimensionally 30 feet by 50 feet that the applicant would be looking to build in the future, if the Board needed a number to go on. The structure would be situated where the existing sheds are located. The plans indicate 33 total parking stalls 10 feet by 18 feet. Mr. McKittrick indicated that the property has a landscape buffer that runs up the driveway and across the entire front of the property by Blini's, mature 20 foot high pine trees camouflaging the property from view.

Mr. McKittrick continued, with reasons the property was not suited for residential use. Mr. McKittrick indicated that the steep slopes and massive outcropping make it a poor place to locate a home. The property has been blasted in the past. There is a view of the water tower from the property and Cahill Cross is a busy road that serves as an artery to Greenwood Lake Turnpike to get into and out of Town. Mr. McKittrick indicated that there is a significant amount of noise and dust associated with this traffic and that there are smells from the restaurant, cooking food, as the winds predominately blow North West along with significant noise and traffic and light from an outdoor summertime theatre, associated with that. The Bald Eagle area next to the site also has a high amount of vehicular traffic, cars, delivery vehicles, and ambulance. Mr. McKittrick indicated that another major reason the site was not suitable for residential use is that a least a portion of the site is located in the airport hazard zone. A large map of the Airport Hazard Zone was submitted and marked A-1. Mr. McKittrick indicated he was a licensed pilot and had experience with the matter. All airports have hazard zones around them where most airplane problems occur. The map he referred to showed the Hazard Zone for Greenwood Lake Turnpike Airport. Mr. McKittrick indicated that the Civil Aeronautics Board and the Township did not co-ordinate back when Bald Eagle was constructed, and as a result part of the runway had to be moved out toward Greenwood Lake to accommodate the Health Care Building facility that would have been in the middle of the runway. The map shows the original hazard zone and then the newer displaced threshold hazard zone which is an additional 300 feet down the runway and the property in question. Mr. McKittrick indicated that Greenwood Lake Airport was a fairly difficult airport due to variable and gusting cross winds from the lake and from the surrounding mountains. Student pilots are not allowed to fly as they do not have the experience for this difficult airport. A plane is most stressed mechanically when taking off and the pilot is most stressed upon landing and that is the reason for the hazard zone. This property is partially in that zone. It is not a particularly good place to build a house. There are buildings in Bald Eagle that are also in the hazard zone but the residential ones are outside of the zone.

Mr. McKittrick indicated that there are two lots across the street that have been for sale for 10 years at a price of \$175,000 initially, now listed at \$50,000 because no one wants to buy it because of the traffic issues and the commercial area there.

Mr. McKittrick indicated that the site is particularly suited for the proposed use, as it will require no further disturbance, has no significant increase in traffic flow, it is a passive use, people and traffic will not be there all the time, it has no impact on municipal services including schools and waste collection, there is minimal water consumption, generates minimal human waste, it consumes minimal utilities and pays a property tax with a minimal demand from municipal services, and already has a landscape buffer which includes the driveway and the plateau from the road view.

There was discussion as to whether the RV's parked at the site would have access to utilities, sewer etc. Mr. McKittrick indicated they will not, there will be lights and cameras. Daniel Jurkovic indicated that would be a condition of approval that no one would be living at the site. Mr. McKittrick indicated that it would be passive storage, as with boats, they are on the lake for a season and then taken out and stored elsewhere for a portion of the year.

Mr. McKittrick indicated that one of the requirements of a D Variance is that it provide some benefit to the public. It does this because it provides a facility to safely store recreational vehicles locally, eliminating the need to park them in residential areas, which detracts from the neighborhood. Mr. McKittrick indicated that the negative criteria deals with harming

surrounding property values and harming the intent of the Municipal Master Plan. Mr. McKittrick indicated that the project would not harm property values because there would be minimal impact with noise, dust, garbage generation, utility consumption, municipal services and has no impact on existing residential uses. Mr. McKittrick indicated that with respect to the Master Plan, it supports several of the goals and objectives. Goal number one is preserve the semi-rural character of the Township, this site is located in a developed section of Town and the project proposes no new disturbance. Objective 5 of goal one is to promote recreational opportunities, this application peripherally does that in that people have a safe place to store recreational vehicles out of sight. Goal number 2 is to preserve the pristine nature of the forest waterways and sensitive areas, one objective being to discourage growth and protect lands with major physical constraints. This project does not affect any wetlands, water courses, endangered species or historic features, and there is no more disturbance proposed. Goal 4 is to encourage a pattern of land use that will provide reasonable residential, commercial and industrial land use that is consistent with the character of the Township. Mr. McKittrick indicated that this project is a reasonable commercial project located next to an existing commercial uses, Blini's Restaurant and the Bald Eagle strip plaza. Goal number 5 is to promote active recreational opportunities on both public and private lands in the area of public lake areas. This project peripherally promotes that because it allows for storage of vehicles out of sight so perhaps someone hesitant to buy a boat or recreational vehicle now knows that they can store it away safely and not in the yard. Goal number 6 is to encourage energy conservation of scarce fossil fuels, the project proposes no heating so it will cause minimal consumption.

Mr. McKittrick indicated for the reasons stated it is his opinion that the project is beneficial to the community, it does provide a needed service and there is no substantial detriment to the Master Plan. The remaining issue of the pole barn, the projected size is to be 1500 square feet and when that is constructed the existing shed will be removed and disposed of.

There was discussion about the driveway. It is paved to a point and becomes gravel at the gate. The Fire Department had an issue with the width of the driveway and Mr. McKittrick indicated that they would comply with what was required and widen it to 20 feet so that fire equipment would have access. Arthur McQuaid mentioned the Environmental Commission's memo regarding the possibility of vehicles leaking. Mr. McKittrick indicated that the trailers do not leak, boats usually have removable fuel tanks, a condition could be that the fuel tanks are removed before the boats are stored. In regard to leakage from the RV's, absorbent pads will be located under the vehicles.

Daniel Jurkovic questioned if the slope of the driveway was one that could accommodate the types of vehicles being stored. Mr. McKittrick indicated that he estimated the slope to be less than 15% and not a steep slope at all, it is long and follows the contours and does not go straight up the hill.

Jonathan Brett indicated that the sheds were being used to store equipment used on the property to cut the grass, and pool pumps, and heaters, no chemicals.

There was discussion about the time frame and size for the new storage building. Mr. McKittrick indicated that the maximum size would be 1500 square feet and the minimum size would be 750 square feet. As a condition of approval a site plan would be submitted showing the location and size of the proposed building, showing both sizes to show the impact either size would make. If the storage facility is not built within two years from the date of the approval, the applicant must cease the use of the storage facility or come back to the Board and explain why it has not been done.

Arthur McQuaid indicated that the Board was suggesting a change to the application to legitimize the 3 storage buildings that are there.

The Board Planner clarified that there would be 33 parking spaces as a condition of approval on site. The gate has a simple lock on it now and will be replaced with a card reader type of lock. The Board Planner suggested any gaps in the buffer be filled. The lighting is triggered by motion sensor and will not be on all night.

The public portion of the application was opened. Eric Hastings, 1541 Greenwood Lake Turnpike was sworn in. Mr. Hastings gave a stellar endorsement of Mr. Brett's storage facility in Hardyston and referred to both brothers as perfect, in everything they do, calling them a credit to the community.

Chairman Brady asked if anyone else would like to speak for or against the application.

Seeing no one, a motion was made to close the public portion by Michael Gerst. Second by Arthur McQuaid. All were in favor.

A motion was made by Daniel Jurkovic to approve ZBo8-19-17 for a use variance and minor site plan for the outdoor storage of RV's, boats and trailers, not to exceed 33 parking spaces and the temporary use of the 3 unapproved existing storage units on the property, conditioned on the fact that they would be replaced within a 24 month period by a single structure not to exceed 1500 square feet in side and not smaller than 750 square feet in size. The USE Variance also being conditioned on that structure being installed in the same 24 month time frame. If for some reason the shed cannot be erected, the continuation of the storage of vehicles must cease, unless the applicant comes back before the Board to request an extension of time for whatever reason. Second by Michael Gerst.

Roll call vote:

Yes: Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, Jo Ann Blom and Robert Brady

No: None

Abstain: None

The Board Attorney indicated that it is likely that the resolution for this application will be ready to be memorialized at the next meeting on February 25, 2020. At which time Mr. McKittrick will have to submit his revised site plan. After the resolution is memorialized it is published in the newspaper and there is a 45 day appeal period where any member of the public may appeal this matter to the Superior Court Law Division. Therefore be aware that during that 45 day period, if work is started if someone appeals it, they could get a judge to stop you until the appeal is decided.

A motion to approve all invoices for the Board Professionals by Michael Gerst. Second by Daniel Jurkovic.

Roll call vote:

Yes: Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, Jo Ann Blom and Robert Brady

No: None

Abstain: None

A motion was made to approve the November 26, 2019 Regular Meeting minutes by Daniel Jurkovic. Second by Robert Brady.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Michael Gerst, Jo Ann Blom and Robert Brady

No: None

Abstain: Linda Connolly

The Board Chairman, Robert Brady, proposed a change to the by-laws that in the case of special meetings the applicant pay for the Board Attorney out of escrow funds, rather than taking funds from the Board Attorney's contract at taxpayer's expense. Discussion of special meetings and possible compensation for Board Members and possible conflict of interest. Daniel Jurkovic indicated that one item may be addressed by the Town Council and the other may be a matter of Board policy. The Board Attorney indicated the matter would be researched and a letter may be written for the Township Attorney and the matter would be readdressed at the next meeting.

Motion for adjournment of the January 28, 2020 meeting by Michael Gerst. Second by Arthur McQuaid.

All in favor. None opposed.

ADJOURNMENT at 10:48 PM

Next regular meeting February 25, 2020 at 7:30 p.m.

Respectfully submitted by,

Deidre Ellis, Secretary
Zoning Board of Adjustment