

Township of West Milford

Zoning Board of Adjustment

MINUTES

October 25, 2005

The meeting opened at 7:47 p.m. with the reading of the legal notice.

Roll Call

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

Absent: Thomas Bigger, Joseph Giannini, Ed Spirko and Thomas Lemanowicz

The Chairman appointed alternate, Ada Erik, as a voting member.

MEMORIALIZATIONS

MIKE DONADIO
Resolution 13-2005
Bulk Variance #0430-0688
Block 9901; Lot 38
33 Wooley Road; R-4 Zone
DENIED

The Board Attorney advised the resolution for Mike Donadio had been prepared but had not been given to the Board in time to review but should be memorialized at the next meeting.

Robert Mazzocchi
Resolution 17-2005
De Minimis Exception
Block 504; Lot 1
Clubhouse Trail; LR Zone
GRANTED: *De Minimis* exception from the Residential Site Improvement Standards – New Jersey Administrative Code; Title 5; Chapter 21 (5:21-3.1) for: pavement, drainage and graded area.

MOTION was made by Daniel Jurkovic to memorialize the action, seconded by Anthony DeSenzo.

On roll call vote: **Yes** Anthony DeSenzo, Arthur McQuaid, Ada Erik and Daniel Jurkovic,
No None

Robert Mazzocchi
Resolution 18-2005
Bulk Variance #0430-0689
Block 504; Lot 1
Clubhouse Trail; LR Zone
GRANTED: Bulk variance for lot frontage, lot width, lot depth, side yard setback, rear setback and relief from Section 35 of the Municipal Land Use Law.

MOTION was made by Arthur McQuaid to memorialize the action, seconded by Ada Erik.

On roll call vote: **Yes** Anthony DeSenzo, Arthur McQuaid, Ada Erik and Daniel Jurkovic,
No None

HIGH CREST LAKE LODGE, INC.,

Resolution 19-2005

Preliminary & Final Site Plan #0120-0096AB

Block 13002; Lot 9

High Crest Drive/Hearthstone Drive; R-2 Zone.

GRANTED: One year time extension for preliminary and final site plan.

MOTION was made by Daniel Jurkovic to memorialize the action, seconded by Arthur McQuaid .

On roll call vote: **Yes** Anthony DeSenzo, Arthur McQuaid, Ada Erik
and Daniel Jurkovic,
No None

JOHN PANARIELLO

Resolution 25-2005

Use Variance #0440-0694

Block 11103; Lot 5.02

602 Snake Den Road; R-4 Zone

DENIED

MOTION was made by Robert Brady to memorialize the action, seconded by Anthony DeSenzo.

On roll call vote: **Yes** Anthony DeSenzo and Robert Brady
No None

MARCELL & PATRICIA MONTALBANO

Resolution 28-2005

Bulk Variance #0530-0707

Block 7306; Lot 4

94 Bearfort Road; LR Zone

Decided: September 27, 2005

GRANTED: Bulk variance for accessory structure: maximum coverage

MOTION was made by Anthony DeSenzo to memorialize the action, seconded by Arthur McQuaid.

On roll call vote: **Yes** Anthony DeSenzo, Daniel Jurkovic, Arthur
McQuaid and Robert Brady
No None

GEORGE & CHRISTINA STEPHENS

Resolution 29-2005

Bulk Variance 0530-0716

Block 17201; Lot 4

131 Cherry Ridge Road; R-4 Zone

Decided: September 27, 2005

GRANTED: Bulk variance for fence height

MOTION was made by Daniel Jurkovic to memorialize the action, seconded by Anthony DeSenzo.

On roll call vote: **Yes** Anthony DeSenzo, Daniel Jurkovic, Arthur
McQuaid and Robert Brady
No None

The Board Attorney advised Judith Babinski, attorney for New Cingular Wireless PCS, LLC, that there were only five Board members present to hear the application. Ms. Babinski chose to go ahead with the application and agreed to provide absent Board members with a transcript of this application.

ROBERT DiBELLA

Use Variance #0540-0712

Bulk Variance #0530-0722

Block 2403; Lot 11

Upper Greenwood Lake Rd; LR Zone

COMPLETE 09-27-05

DEADLINE 01-25-06

The Board Chairman advised Douglas McKittrick, P.E., was present to request a carry for the DiBella application because Mr. Di'Bella's father had passed away yesterday.

MOTION was made by Daniel Jurkovic to carry the DiBella application to the November 22, 2005 meeting, seconded by Arthur McQuaid, with all in favor.

APPLICATIONS CARRIED FROM PREVIOUS MEETING

VINCENT LANZA	Complete	01-28-05
<i>De Minimis Exception</i>	DEADLINE	11-24-05
Bulk Variance #0430-0673		
Block 2708; Lots 1,5 & 6		
27 Flanders Road; LR Zone		

The Board Secretary advised that Robert Brady listened to the recording of the July 26, 2005 meeting and was eligible to vote on this application.

Applicant, Vincent Lanza, was willing to proceed with the five Board members present. He is proposing to construct a single-family dwelling on Flanders Road and three lots have been combined to satisfy the lot coverage. The irregular shape of the lot and the topography necessitates a side yard variance on the north side of the lot together with variances for lot width and lot frontage. The home will conform to the neighborhood in size. Relief from Section 35 of the MLUL is also required because the lot does not abut a public street. At the recommendation of the Engineering Department, he applied to have Linden Court vacated. The vacation of Linden Court was discussed at the last Council meeting but the Council wants to hold its decision until the outcome of the Board of Adjustment's decision regarding this application.

The Board Attorney suggested the Board of Adjustment make a decision *not* contingent on the Council's decision.

Board member, Arthur McQuaid, advised he attended the last Council meeting and Councilman Elcavage was opposed to the vacation of the road.

Linda Lutz, Principal Planner, stated her understanding of the Council's thought process is that they want to make sure the *drainage* is addressed.

The Board had discussion and the Board Attorney advised if the plan is proposed as if the road was vacated, the Board would only be voting on the plan. If there is a condition that still has to be met, then it would have to be met. If the condition was not met, then the applicant would have to go forward.

Linda Lutz was of the understanding from the last meeting that this Board would vote on the plans received in June and if road is not vacated, then it would null and voids this.

Board member, Daniel Jurkovic, felt the Board did not know the parameters of the property in order to vote on the application.

Mr. Lanza testified he had spoken with the Township Engineer about alleviating the run-off problem from the driveway to the road and would be willing to have the drainage issues a condition of approval. He felt the only way to alleviate the drainage situation would be to install a catch basin in the road with a seepage pit.

The Board Attorney advised the Board to make a decision based upon the merits as if the road is being vacated and the Council can then decide whether they want to vacate the road or not.

Richard McFadden, Township Engineer, did not recommend approving the application and working out the drainage details at a later point because the neighborhood residents want to hear what the Board may or may not approve.

Mr. Lanza's Engineer was not present at the meeting so he agreed to carry the application to the November 22, 2005 meeting in order to have his engineer testify.

MOTION was made by Ada Erik to carry the Vincent Lanza application to the November 22, 2005 meeting, seconded by Daniel, with all in favor and applicant granted the Board a 30-day extension.

NEW CINGULAR WIRELESS PCS, LLC	COMPLETE	01-31-05
D/B/A AT&T WIRELESS	DEADLINE	12-29-05
Use Variance #0440-0691		
Preliminary & Final Site Plan #0420-0197AB		
Block 2802; Lot 3		
333 Warwick Turnpike; NC Zone		

The Board Attorney advised again that there were only five Board members present to hear the application. The transcript can be provided to the absent Board members but they cannot be forced to read it.

Judith Babinski, Esq., appeared on behalf of New Cingular. They are proposing to construct a tree pole.

Ramon Zamora, of Fairlawn, New Jersey, was sworn and testified as a Radio Frequency Engineer. He submitted Exhibit A-1, a propagation map showing coverage with overlays. Exhibit A-2, a smaller version of Exhibit A-1, was handed out to the Board members. He prepared the map and explained it to the Board to show existing sites and coverage. They are proposing 90 feet for the height of the tower and 85 feet for the center for the antennas. He has shown what the coverage would look like if the height of the tower was reduced. The extra 20 feet of tower proposed would provide approximately a 10% increase in coverage compared to a 65-foot tower.

Ms. Babinski stated New Cingular has master co-location agreements with other carriers. If the Board wants this tower to support other carriers, they could make it a condition of approval. The Police and Fire Departments are always welcome on their towers.

Ross Sorci, of Maryland, was sworn and testified as the Board's Radio Frequency Expert. His opinion was that they had a valid need to provide coverage on Warwick Turnpike and coverage must be provided from the ends of Warwick Turnpike. The model data was a little conservative and did not match the drive-test data exactly. A higher height would allow co-location in the future.

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

STRENGTHEN OUR SISTERS, INC.	COMPLETE	08-24-05
Use Variance #0440-0656	DEADLINE	12-22-05
Block 14701; Lot 53		
76 Old Route 23; NC Zone		
Use Variance per New Jersey Municipal Land Use Law C.40:55D-70d (1) for a homeless shelter.		

Lee Holtsman, Esq., appeared on behalf of Strengthen Our Sisters, Inc.

The Chairman advised the publication of notification for the application was turned in late to the Planning Department and was also incorrect so the application cannot be heard.

The Board Attorney advised the notice was defective because it referred to an Interpretation and not a Use Variance, the service of the notice was not done in a timely manner and an improper mailing list was used.

Lee Holtsman, Esq., advised the Board he was not aware of the deficiencies regarding the publication but had taken care of the deficiencies in 15-2005 Resolution.

Board member, Daniel Jurkovic, recused himself.

Linda Lutz, Principal Planner, reminded Mr. Holtsman he did not submit the correct survey for the property as requested at the previous meeting and the completeness letter states a new, updated Certification List must be obtained.

Mr. Holtsman requested a few minutes with his client in order to advise the Board which direction they would proceed in.

The Board returned to the New Cingular application at this time.

Mr. Sorci continued with his testimony and agreed with the results found by applicant. He is going to check on the expansion of tree poles and advise the Board.

Ron Igneri, Site Engineer of Innovative Engineering, prepared the plan with others and testified regarding the site plan. The location of the pole has been shifted approximately 130 feet in order to get Highlands's approval. A 30-foot x 12-foot compound is now proposed for the 90-foot tree pole. Exhibit A-3, a sample of a tree pole, was submitted. Two future co-locators are proposed at 75 feet and 65 feet.

The Chairman advised the following applications would not be reached:

MARK WRIGHT	COMPLETE	09-28-05
Bulk Variance # 9930-0402	DEADLINE	01-26-06
Block 1902; Lot 2		
30 Fairlawn Drive; LR Zone		

Mr. and Mrs. Wright were present and their application was carried to the November 22, 2005 meeting with no further notice necessary.

DAVID M. BELL	COMPLETE	04-07-05
Bulk Variance #0530-0697	DEADLINE	01-02-06
Block 4301; Lot 20		
69 Forest Lake Drive; LR Zone		

Mr. Bell was present and his application was carried to the November 22, 2005 meeting with no further notice necessary.

The Board returned to the Strengthen Our Sisters application at this time.

Lee Holtsman, Esq., advised the Board that applicant, Strengthen Our Sisters, Inc., was withdrawing the application and would resubmit the application in the future when everything was complete and they are ready to proceed.

The Board Attorney reminded Mr. Holtsman there would be no blanket of protection from the Board of Adjustment for applicant to rely upon regarding any

municipal proceedings. There is nothing pending before the Board of Adjustment once the application is withdrawn.

The Board again returned to the New Cingular application at this time.

Ron Igneri, Site Engineer, continued with his testimony and discussed land disturbance stating there would be more land disturbance in order to have additional monopoles.

Ms. Lutz asked for clarification regarding some items on the revised plans that were addressed by Mr. Igneri.

It was agreed that revised plans would be submitted to address some issues and Ms. Babinski and Mr. Igneri would check into whether or not the tree pole is expandable.

MOTION was made by Ada Erik to carry the New Cingular application to the November 22, 2005 meeting, seconded by Daniel Jurkovic.

Minutes

MOTION was made by Arthur McQuaid to approve the Minutes of the August 9, 2005 Special Meeting, seconded by Ada Erik, with all in favor.

MOTION was made by Daniel Jurkovic to approve the Minutes of the August 9, 2005 Special Meeting, seconded by Anthony DeSenzo, with all in favor.

Miscellaneous

Board Member, Daniel Jurkovic, spoke regarding the Board Attorney's contract.

Adjournment

The meeting was adjourned by unanimous vote at 11:01 p.m.

Respectfully submitted,

Carol DenHeyer, Secretary