

TOWNSHIP OF WEST MILFORD ZONING BOARD OF ADJUSTMENT

MINUTES OCTOBER 26, 2004

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

ROLL CALL

Present: Thomas Bigger, Robert Brady, Anthony DeSenzo, Joseph Giannini, Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Ed Spirko and Thomas Lemanowicz; Stephen Glatt, Board Attorney; Linda Lutz, Staff Planner; Richard McFadden, Township Engineer.

Absent: Robert Kirkpatrick, Consulting Engineer

Memorializations

The following memorializations were carried:

**CEFES FINANCIAL, INC.
Resolution #19-2004**

Bulk Variance #0230-0614
Block 1806; Lot 4
Magnolia Rd; LR Zone

GRANTED: Bulk variance for lot area, frontage, width, front yard setback and side yard setbacks.

**CEFES FINANCIAL, INC.
Resolution #20-2004**

De Minimis Exception
Block 1806; Lot 4
Magnolia Rd; LR Zone

DENIED

The following application was called:

**CEFES FINANCIAL, INC.
De Minimis Exception**

Bulk Variance #0430-0670

Block 16504; Lot 4
Apple Tree Lane/Dan Jennings Rd; R-4

COMPLETE 09-29-04
DEADLINE 01-27-05

The Cefes Financial, Inc., application was carried to the November 23, 2004 meeting to allow applicant to advertise and give notification.

Continued Public Hearings

This application was carried from the August 24, 2004, June 22, 2004 and May 25, 2004 public hearings. Members who listened to the recording or were present to hear testimony at all meetings were Thomas Bigger, Anthony DeSenzo, Daniel Jurkovic, Arthur McQuaid, Ed Spirko and Robert Brady.

**1855 GLT, LLC
Preliminary & Final Site Plan #0320-0139AB
Bulk Variance #0330-0639**

COMPLETE 10-31-03
DEADLINE 11-23-04

Block 3703; Lot 14
1855 Greenwood Lake Tpke; LC Zone

Allen Hantman, Esq., appeared on behalf of applicant, 1855 GLT, LLC, and gave the reason for the request for a carry. He explained that the project falls within the jurisdiction of the new Highlands Legislation (effective August 10, 2004). He stated that the applicant's expert, Mr. Vreeland, was going to meet with the DEP to get an indication of whether this is a DEP-approvable application.

The Board discussed the matter and felt the members of the public had attended several meetings, which has become burdensome on them.

Mr. Hantman agreed that the Board's expert, Robert Kirkpatrick, would have access to review any information received by applicant's expert before the December 16, 2004 hearing.

A Board member requested the site be made safe in the meantime.

MOTION was made by Thomas Bigger to grant the extension and carry the application to the December 16, 2004 meeting and applicant agreed to an extension through the February 28, 2005 meeting if necessary, and to supply to the Board's expert, Robert Kirkpatrick, any information obtained the applicant's expert from the DEP, seconded by Arthur McQuaid.

On roll call vote: Yes Thomas Bigger, Anthony DeSenzo, Joseph Giannini,
Daniel Jurkovic, Arthur McQuaid and Ed Spirko
No Robert Brady

The Board Attorney clarified for the public the application for 1855 GLT, LLC, was being carried to the December 16, 2004 meeting. The Board would proceed on December 16, 2004 or the applicant would withdraw the application. If the applicant does not have an answer from the DEP by December 16, 2004, the Board will do what it has to do at that time.

Applications Carried From Previous Meeting

GREG RYAN	COMPLETE	08-24-04
<i>De Minimis Exception</i>	DEADLINE	12-22-04
BULK VARIANCE #0430-0677		
Block 12501; Lot 20		
Van Cleef Road; R-3 Zone		

At this time, Francis Hannan returned to the Board and Ed Spirko was no longer a voting member.

Applicants, Greg Ryan and Helen Ryan, his wife, of 84 Weaver Road, West Milford, appeared and testified they would like to build a single-family dwelling on this property they purchased from the Township. The property has no road frontage and lies on a vacated road, Van Cleef Road off of Weaver Road. Mr. Ryan produced an Agreement between West Milford Township, West Milford Auto Recyclers and Apshawa Land Company, previously submitted with the application.

The Township Engineer clarified the Township did vacate this road in the past and granted access to the lot. He felt it would not be in the Township's interest to see the road improved to RSIS standards and taken over.

Mr. Ryan agreed to the Fire Marshal's memo.

The meeting was opened to the public again 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.

The Board of Adjustment made the following findings of fact:

1. The applicants purchased the property from the Township of West Milford.
2. The property does not have sufficient lot coverage.
3. The property does not meet the requirements of MLUL C.40:55D-35.
4. The applicant has proven a hardship based upon the fact that there is no other available land and the land was purchased from the Township.
5. Additionally, an easement was granted to the Township by the prior abutting property owner.

MOTION was made by Daniel Jurkovic to approve the bulk variance for the construction of a single-family dwelling where the application does not comply with the Land Use Development Ordinance for lot frontage and relief is needed from MLUL C:40:55D-35 requiring no permit for an erection of a building or structure shall be issued unless the lot abuts a public street giving access to that building. Van Cleef Road was previously owned by the Township, vacated and sold as an access easement to this property to the applicant for purposes of accessing this particular piece of property. It is a remote area and the Township Engineer has testified to the vacation of the street by the Township and did not see any benefit to the Township in having the road developed and brought to standards and then have the Township take it back over again when they chose to vacate. Access is not available to a public street because the Township vacated the street that provided access to the property. The approval is subject to the Township Engineer's memo of October 18, 2004, seconded by Joseph Giannini.

On roll call vote: Yes Thomas Bigger, Anthony DeSenzo, Joseph Giannini, Francis Hannan, Daniel Jurkovic, Arthur McQuaid, and Robert Brady

No None

The Board of Adjustment made the following findings of fact:

Adequate improvements will be made at the direction of the Township Engineer. Allowing the applicant to develop within the existing residential neighborhood without improving the entire road network to the standards of the RSIS will remain consistent with the intent of said act. It would not be in the Township interest to require applicant to meet the RSIS since the Township previously vacated the roadway. If it was brought up to RSIS standards the Township would be required to take over the road.

MOTION was made by Daniel Jurkovic to approve the *de minimis* exception for block 12501, lot 20, Van Cleef Road, R-3 Zone, for *de minimis* exception to the Residential Site Improvement Standards. This is a remote area and the Township has already vacated the street and did not improve it according to the testimony of the Township Engineer. It will serve as access to this single-family dwelling and there is no reason the road should be brought up to the RSIS Standards. The approval is subject to the Fire Marshal's memo and the confirmation of the easement, Joseph Giannini, seconded.

On roll call vote: Yes Thomas Bigger, Anthony DeSenzo, Joseph Giannini, Francis Hannan, Daniel Jurkovic, Arthur McQuaid, and Robert Brady

No None

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

New Applications

THOMAS J. VITTOR
Bulk Variance #0430-0550

COMPLETE 09-20-04
DEADLINE 01-18-05

Block 4201; Lot 8
57 Lake Park Terrace; LR Zone

Steven Greco, Esq., appeared on behalf of applicant, Thomas Vittor, and confirmed a minimal variance for maximum lot coverage is being requested and the accessory building will be torn down. The neighborhood will not adversely be affected.

Glen Vittor, of 1863 Southwest 17th Street, Boca Raton, Florida, son of applicant, appeared and testified this was a second residence belonging to his parents. He submitted Exhibit A-1, pictures of the existing home, that they intend to square-off in the rear footprint of the home and add a second level.

Timothy Gulla, of One Morningside Drive, Ramsey, New Jersey, testified as builder for the project. The existing one-story dwelling is on concrete piers and is approximately 900 square feet. He intends to shift the new dwelling approximately 10 feet forward towards the roadside of the property.

The Township Engineer clarified Mr. Berry neglected to take into account the minimum radiuses required from the existing septic system and wells and there was not any area left for the drywell.

Mr. Greco confirmed the lot coverage being requested was 11.34 percent.

The meeting was opened to the public again at which time Dale P. Mathews, of 55 Lake Park Terrace, had septic and environmental concerns and felt the proposed home was too large for the lot.

Linda Lutz, Principal Planner, clarified the 4 feet was a dimension to a 3-foot wall on the property and not part of the home.

Harvey Finkelstein, of 63 Lake Park Terrace, also had septic concerns.

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

The Board of Adjustment made the following findings of fact:

1. The applicant is seeking to construct a single-family dwelling.
2. There is no other available land that could be purchased to ameliorate the lot coverage variance.
3. The permitted lot coverage is 10% and 9.77% is existing. The applicant is proposing 11.34%.
4. The construction of the dwelling will be a benefit to the neighborhood since it will improve the overall condition of the property. The overall increase is only about 100 square feet that includes a porch.
5. There will not be any detrimental effect upon the neighborhood or zoning ordinance.

MOTION was made by Anthony DeSenzo to approve the bulk variance for lot coverage at 11.3%. Applicant has effectively given reasons why this is in keeping with the neighborhood as far as size is concerned and will be improving the property. There is no available land to purchase. The total additional square footage is about 100 square feet confined to an area of an enclosed porch and part of the calculation for the lot coverage. The Health Department has raised objection to the drywell being too close in proximity to the existing potable water well and any approval will be conditioned upon a satisfactory result of that issue with the Township Engineer. The Township Engineer's report of October 18, 2004 includes recommendations for applicant to comply with. Mr. Hannan clarified the drywell requested on the Township Engineer's memo of October 18, 2004 will not be included as a condition since the drywell will be eliminated, Thomas

Bigger seconded.

On roll call vote: Yes Thomas Bigger, Anthony DeSenzo, Joseph Giannini,
Francis Hannan, Daniel Jurkovic, Arthur McQuaid,
and Robert Brady
No None

ROBERT & MARINA SABO	COMPLETE	09-23-04
Bulk Variance #0430-0687	DEADLINE	01-21-05
Block 9707; Lot 15		
69 Bergen Drive; R-1 Zone		

Applicants, Marina and Robert Sabo, of 69 Bergen Drive, propose to put a two-story addition on their bi-level home to be used as a family room and enlarge the existing rooms. They are requesting a variance for a side yard setback since there is no other place to locate the addition to achieve the space they need. The plans will be revised to trim two feet off the front of the home on the site plan.

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.

The Board of Adjustment makes the following findings of fact:

1. The applicants are seeking to add a family room to their home.
2. There is no other available land that could be purchased to ameliorate the side yard variance.
3. The topography of the property and the present configuration of the dwelling limit the location of the proposed addition.
4. The amount of square footage being added to the dwelling is still in conformity with the Township Zoning Ordinance.
5. There will not be any detrimental effect upon the neighborhood or zoning ordinance.

MOTION was made by Thomas Bigger to approve the variance requested for a side yard setback since the applicant has shown the addition is in the only feasible place. The other side of home would not work because of the driveway. Applicant agrees to the Township Engineer's recommendations regarding a drywell and any other recommendations, seconded by Anthony DeSenzo.

On roll call vote: Yes Thomas Bigger, Anthony DeSenzo, Joseph Giannini,
Francis Hannan, Daniel Jurkovic, Arthur McQuaid,
and Robert Brady
No None

Miscellaneous

The Board Attorney advised Judge DeLuccia rendered a decision on the High Crest Lake Lodge application and has remanded the application back to the Board of Adjustment for the purpose of taking the testimony of James Carter. The transcripts will be given to Board members.

ADJOURNMENT

The meeting was adjourned by unanimous vote at 10:21 p.m.

Respectfully submitted,

Carol DenHeyer
Secretary