

# Township of West Milford

## Zoning Board of Adjustment

### MINUTES

November 22, 2005

The meeting opened at 7:50 p.m. with the reading of the legal notice.

#### Roll Call

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

**Absent:** Thomas Bigger 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 errors that he needed to correct and requested the memorialization be carried to the next meeting. No Board members objected to this request.

The Board Chairman advised of the following requests for carries:

#### APPLICATIONS CARRIED FROM PREVIOUS MEETING

<b>VINCENT LANZA</b>	Complete	01-28-05
<b><i>De Minimis Exception</i></b>	DEADLINE	12-24-05
<b>Bulk Variance #0430-0673</b>		
Block 2708; Lots 1,5 & 6		
27 Flanders Road; LR Zone		

Applicant, Vincent Lanza, was present and asked the Board Attorney if his application would need to be re-advertised if he returns to his original variances requested. He felt his application could proceed without the road vacation.

The Board Attorney advised Mr. Lanza he must re-advertise if he wishes to proceed with the previous plan.

Mr. Lanza agreed to grant the Board a 30-day extension and his application was carried to the December 20, 2005 meeting.

<b>ROBERT DiBELLA</b>	COMPLETE	09-27-05
<b>Use Variance #0540-0712</b>	DEADLINE	01-25-06
<b>Bulk Variance #0530-0722</b>		
Block 2403; Lot 11		
Upper Greenwood Lake Rd; LR Zone		

Applicant, Robert DiBella, was present to request a carry to the December 20, 2005 meeting because his Planner had an unexpected conflict and could not be present for this meeting.

The Board Attorney advised applicant's attorney, John Barbarula, Esq., had also faxed a letter stating applicant would be present to request the carry.

The Chairman advised the application for Robert DiBella was being carried to the December 20, 2005 meeting with no further notice necessary.

At this time, the following application was called:

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

The Board Secretary advised that Board member, Ed Spirko, had read the transcript from the October 25, 2005 meeting; therefore, there were six eligible voting Board members present for the application.

Judith Babinski, Esq., appeared on behalf of New Cingular and advised the tree pole proposed could be extended to accommodate co-locators.

Ron Igneri, Site Engineer of Innovative Engineering, previously sworn, testified the tree pole could be extendable.

Board members had some questions.

Ramon Zamora, of Fairlawn, New Jersey, previously sworn as Radio Frequency Engineer, testified this location would provide quite an overlap in coverage to the west because of the UGL Fire House site.

Linda Lutz, Principal Planner, answered Board questions regarding the Township's Telecommunications Ordinance.

Charles Latini, Jr., Planner, was sworn and testified regarding Exhibit A-4, an aerial view of the proposed site, Exhibit A-5, generated photos from aerial sites, and A-5 (2), an alternative tree photo.

Ron Igneri felt the site was well suited for a tree pole and explained pages Z01 and Z02 of the site plan.

Board members had questions and the Principal Planner reiterated comments from the Board Report written in March of 2005 and asked if applicant could meet the Township's Telecommunications Ordinance for the height of the pole.

Judith Babinski, Esq., advised applicant must have 90 feet to provide coverage down Warwick Turnpike to connect with another site.

Board members had further questions and Mrs. Lutz asked about the maintenance plan for the tree pole.

Ms. Babinski advised on the maintenance plan for the site.

Ramon Zamora testified further regarding coverage and the equipment cabinets.



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

The following application was called:

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

Applicant, David Bell of 69 Forest Lake Drive, Hewitt, was sworn together with his Engineer and Planner, Douglas McKittrick of 2024 Macopin Road.

Mr. Bell pointed out according to a 1969 ordinance having to do with lot development, it was his understanding under those regulations, he would not need to come before the Zoning Board of Adjustment because he would be conforming. He received a letter from the Zoning Officer saying he must appear before the Board.

The Board Attorney explained to Mr. Bell that he could request an appeal and still file this application. If the appeal was lost, he could proceed with the application. If he won the appeal, the issue would be moot. He advised Mr. Bell that, if the Board denied his application, he may be prejudicing himself because there may be an issue of whether he was waiving his right to an appeal.

Mr. Bell understood and decided to proceed with his application before the Board and not appeal the Zoning Officer's decision. He is seeking variances for rear yard setback and lot coverage. He will still have one of the smallest percentages of lot coverage in his community after his proposed addition. His nearest neighbor to his rear yard is approximately one mile away. The approximately 700 square foot addition proposed is mostly being built on a paved area. The runoff is directed to a pipe in the driveway and is then fed into the lake, eliminating erosion. This is a raised ranch and the proposed deck will be at the level of the main living area of the home and covers the well. The access to the well to the deck will have over 8 feet of clearance and will be no problem. The proposed garage floor will be at the same elevation as the basement. They will be modernizing their home and the existing kitchen will become an entrance foyer. The objection by the Health Department has to do with the position of the deck over the well. This is not being built at ground level but will be at the height of the main living area.

Douglas McKittrick, testified that there is a requirement that new drilled wells be 20 feet away from a framed structure. The existing well is already less than 20 feet from the existing structure and the addition will not encroach any closer on the well than the home already does. The Health Department thought the deck was being installed at ground level and would, therefore, be covering the well. The deck will be 8 feet or 9 feet up in the air and access to the well is very easy to get to and will not impede on the well. Based on the FEMA maps, part of this property is in the flood hazard area and Mr. Bell will be required to obtain a Stream Encroachment Permit for the section of the building located in this area.

Mr. Bell confirmed the actual addition is 768 square feet with 68 square feet of it currently a pervious surface that would become impervious coverage. The rest of the addition, or 700 square feet, will be over existing pavement.

The meeting was open to the public at which time no one wished to speak.

**MOTION** was made by Ada Erik to close the public portion, seconded by Arthur McQuaid, with all in favor.





**MOTION** was made by Ada Erik for Linda Lutz, Principal Planner, to prepare the Wright resolution, seconded by Anthony DeSenzo, with all in favor.

## **Minutes**

**MOTION** was made by Daniel Jurkovic to approve the Minutes of the October 25, 2005 Regular Meeting, seconded by Ed Spirko, with all in favor.

## **Miscellaneous**

Linda Lutz advised the Board on some matters.

## **Adjournment**

The meeting was adjourned by unanimous vote at 10:22 p.m.

Respectfully submitted,

Carol DenHeyer, Secretary