

**MINUTES  
Of the Township of West Milford  
ZONING BOARD OF ADJUSTMENT  
December 15, 2020  
Regular Meeting via Zoom**

(Due to COVID-19 social distancing requirements this virtual meeting was held on Zoom.) Robert Brady, Board Chairman, opened the Zoom Meeting of the Zoning Board of Adjustment at 7:41 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, and Robert Brady

**Also present:** Deidre Ellis, Board Secretary, Stephen Glatt, Board Attorney, Ken Ochab, Board Planner and Patrick McClellan, Board Engineer

**Absent:** Russell Curving, Jo Ann Blom and Steven Castronova

The Chairman greeted the Board, the applicants and any members of the public. Mr. Brady explained the Zoning Board and Open Public Meetings Act, the social distancing requirements as a result of Covid-19, and the reason that the meeting was being conducted by electronic means via ZOOM. The meetings are advertised in the Herald News and on the Township website. 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**

**JOANNE & RAY WARD  
BULK VARIANCE ZBo8-19-16  
RESOLUTION 16-2020**

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

**Decided:** Approval of bulk variances for two side yard setbacks, rear yard setback and lot coverage for a deck with covered roof and attached garage.

**Approved:** November 24, 2020

**Eligible to vote:** Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady

**A motion was made by Arthur McQuaid to memorialize Resolution 16-2020.**

**Second by Robert Brady.**

**Roll call vote:**

**Yes:** Linda Connolly, Frank Curcio, Arthur McQuaid, and Robert Brady

**No:** None

**Abstain:** None

(Michael Gerst was having some technical issues and missed this vote, but was present for the new application.)

Chairman Brady indicated that there would be a 6 member Board this evening. The Board Attorney indicated that with there being 6 members there would need to be a majority vote for approval and a 3-3 tie vote would result in a denial, not an approval, and the application would need to be changed because the same application could not come before the Board again.

**NEW APPLICATIONS**

**GEORGE ENGLISH III**

**Complete: 7/24/2020**

**BULK VARIANCE ZB06-19-10**

**Deadline: 1/20/2021**

Block 5901; Lot 28

111 Mountain Circle South; R-3 Zone

Bulk variance requested for side yard setback where 50' is required, 39' exists and 9' is proposed, rear yard setback where 100' is required, 53.8' exists and 46' is proposed, lot coverage where 10% is permitted 8.97% is existing and 15.23% is proposed, distance to other structures where 20' is required 50.1' is existing and 17.6' is proposed for the construction of a 32' by 28' two story garage. A one-story breezeway will attach the existing home to the new garage.

The Board Attorney swore in applicant Molly English of 111 Mountain Circle, West Milford and Douglas McKittrick, offices 2024, Suite B, Macopin Road, West Milford. Douglas McKittrick gave his credentials, 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. Mr. McKittrick was accepted as an expert for the applicants.

Mrs. English indicated that since 2005 items have been accumulating and the garage was needed for storage. Mr. McKittrick indicated that the parcel of property was located at 111 Mountain Circle, where there are mostly single family dwellings, and the lots are usually 100'-120' wide, with depths varying from 120' to 150'. Block 5901, lot 28 is 111 Mountain Circle South and is 16,539 sq ft, 0.3797 acres, in R-3 Zone which was previously known as the R-20 Zone. The uses surrounding the property are single family dwellings, surrounded by a large tract of land known as the old Jungle Habitat property. The property has an individual well and septic. There is a single car garage on the Eastern side of the building. Mr. McKittrick indicated that the applicant proposes to expand the footprint by building a structure on the South Easterly side of the existing structure with first floor use primarily for indoor storage of vehicles and personal property, and the second floor would be used for residential use and there would be no additional bedroom and no need for expansion of the existing septic system.

Mr. McKittrick indicated that in the R-3 Zone, 3 acres was required, 0.3797 exists and 0.3797 is proposed, a pre-existing non-conforming use, lot frontage required is 250', 125' exists and 125' is proposed, lot width 250' is required, 100.65' exists and 100.65' is proposed. For lot depth 250' is required, 115.89' exists and 115.89' is proposed, side yards should be a minimum of 50' and 39' exists on one side and 42.3' exists (on the other) and 39' and 9' is proposed, requiring a variance. Front yard setback is 24.7' and will remain the same, a pre-existing non-conforming (condition). Rear yard setback 100' required 53.8' is existing and proposed is 46', which requires a variance. Accessory buildings, distance to side line, 50' is required 5.5' is existing and 5.5' is proposed. Rear line required is 50' and 14.8' is existing and proposed an existing non-conforming attribute. Distance to other buildings, 20' is required, 50.1' is existing and 17.6' is proposed requiring a variance. Maximum building coverage, principal building 10% required, 8.9% exists and 15.23% is proposed, requiring a variance and accessory buildings 1500 sq ft is required, 192 sq ft exists and 192 sq ft is proposed and that will not require a variance. Mr. McKittrick indicated that the development was constructed under the prior R-20 Zoning which had a minimum lot size of 20,000 sq ft and front yard frontage was 120' and lot depth was 135', with 40' front yard setbacks, 20' side yard setbacks, 50' rear yard setbacks, and a maximum lot coverage of 15%. Mr. McKittrick indicated that he would present the application as both a C-1 hardship and a C-2 equitable, with the conditions that exist on the site.

Mr. McKittrick indicated this development was included in the rezoning of the R-20 Zone to an R-3 Zone. Projects that meet the R-20 criteria can be constructed under those requirements, ones that do not must follow the R-3 criteria, due to that most major additions in this area require variance relief. Many of the lots do not meet the R-20 criteria in size. The old R-20 zoning allowed for 15% lot coverage total with no specific allocation for the principal or accessory structure. The principal dwelling is rather small and inconsistent with others in the neighborhood and does not have adequate room for personal storage or that of vehicles. The front yard setback is already being encroached upon, and right now the combined coverage of the principal and accessory structure is 10.13%. The applicant proposes to construct a 1036 sq ft addition to the existing dwelling, changing the lot coverage to 15.23%. The shed would remain the same bringing the combined total to 16.39%. Storm water runoff would not be a factor as the water would be diverted as it currently is to the existing street storm drain. There is a buffer area that would diminish the effect of the proposed addition. Mr. McKittrick indicated that many of the houses in the neighborhood have put on substantial additions.

Mr. McKittrick referred to a packet of photographs, the first being A-1 (Applicant one), which showed dwelling #101 with 125' lot frontage that has an addition, in A-2 the garage is an

addition about 118' deep, A-3 is dwelling #136, with 100' frontage and about 130-140' front to back, a substantial difference to those in the development, A-4 is dwelling #61 on a 100' lot with an addition, A-5 is dwelling #181 also on a 100' wide lot and has an addition on the entire left side, A-6 is dwelling #127, also on a 100' wide lot with a garage on the left and an addition on the right, which is in close proximity to the neighbor's house.

Discussion about the size of the proposed applicant's addition and the size of the ones shown in the photos, and whether the additions shown in the photographs required variances. Mr. McKittrick indicated that photo A-7, which is #115 right next door and it is a very large house to the right of the applicant. Discussion about buy/sell letters, the large vacant lot to the rear of the property, subdivisions on the land to the rear. The Board Attorney indicated that testimony could continue and that if the application were to be approved, a buy/sell letter could be sent out prior to the resolution being memorialized. The Board Planner indicated that the property to the rear was owned by the State of New Jersey and is 769 acres, the old Jungle Habitat.

The Board Planner clarified that the second floor of the garage was stated to be used for residential purposes, and that the architectural plan does not show a direct connection between the garage and the house except for the lower floor breezeway. Mr. McKittrick indicated that what was meant by residential purposes, was storage of personal belongings, not a bedroom or playroom. The Board Planner indicated that he would recommend that a condition of approval be that the upstairs not be used as living space. There was discussion about the deck and French doors to the rear, and the possibility of an apartment later on. Mrs. English indicated that the entryway, French doors and stairway to the back could be removed and the area inside was to have a stairway and the upstairs portion was going to be a loft with a wood burning stove downstairs.

There was more discussion about the breezeway being done away with and the garage being attached directly to the home, to alleviate variances, the woodstove and the variance applying to the land and the possibility of it becoming living space/(rental). The Board Attorney indicated that a condition of approval could be to get approval from the Fire (Marshall) Department in regard to the woodstove. Mr. McKittrick indicated that the reason for the breezeway was the substantial difference in elevation between the garage and the first floor of the house (approximately 2.5 feet). If the grade was raised in the garage that would adversely affect drainage. The Board Engineer indicated that he agreed the grade presented a bit of a challenge to the placement and function of the garage. Mr. McKittrick indicated that there were fire codes for garage pitch in case of fuel leaks, fuel leaks must not go into the house.

The Board Attorney showed 3 photos, marked B-1, B-2 & B-3 that may have been older pictures of the home submitted with the original application some time ago, in an effort to show the slope. Mrs. English indicated that it looked like her home only it was different. The Board Planner shared his screen and clarified that there was a small garage enclosed in the house seen from the left side as well as a car port located outside. Mrs. English indicated that yes that was a garage but it was so small it would not even fit a Mini Cooper. The State owned land is to the rear of the property but off to an angle and another neighbor owns property to the rear as well, and the land to the left is also owned by a neighbor. The Board Attorney indicated there were concerns if vacant property was available or not and also whether variances could be eliminated by placing the garage closer to the house, and it would be difficult to vote until some of these details are cleared up. Perhaps by the next meeting a buy/sell letter could be sent out and other clarifications made. There was discussion as to whether the second driveway would be removed.

Chairman Brady questioned the elevation of the new garage compared to the older garage that is located currently in the home. Mr. McKittrick indicated that that was the problem, that the first floor elevation of the home was another four feet above that ground level. The Board Attorney indicated that zoning reasons would have to be given for the proposed project, perhaps it could be confirmed that there was no property for sale, that the garage could or could not be reduced in size, that the other driveway could be removed.

There was more discussion about the level of the garage, the height of the second floor level, the possibility of the trailer going into the garage, the shed that is on the property, and the other shed which is not, and whether the other properties given as examples had variances, the factual relationship between those properties and the applicant's property. Mr. McQuaid indicated that to say that the buffer between the properties should remain, does not work if the buffer is located on the neighboring property. The Board Planner indicated that was correct, though from the photos it was difficult to tell it was all on the neighbor's property.

At this time the applicant, Mr. English, became frustrated and the Board Attorney indicated that the Board was not requiring anything more than what would be required of any applicant. It was agreed to end proceedings with this application at least for the time being.

**A motion was made by Arthur McQuaid to carry application ZBo6-19-10 to the January 26, 2021, meeting should the applicant choose to proceed. Second by Michael Gerst.**

**Roll call vote:**

**Yes:** Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady  
**No:** None  
**Abstain:** None

The Board Attorney indicated that should anyone be interested in the English matter, they should attend the January 26, 2021 meeting and that the applicant would not be required to notice further. (Also, the Board Attorney indicated that due to previous insufficient notices, there was no extension necessary and the deadline date would be determined from the November 24, 2020 meeting date.)

**A motion was made to approve invoices for the all Board Professionals, Attorney, Planner and Engineer by Michael Gerst. Second by Frank Curcio.**

**Roll call vote:**

**Yes:** Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady  
**No:** None  
**Abstain:** None

**A motion was made to approve 2021 Meeting dates by Robert Brady. Second by Arthur McQuaid.**

**Roll call vote:**

**Yes:** Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady  
**No:** None  
**Abstain:** None

**A motion was made to approve the November 24, 2020 Regular Meeting Minutes by Linda Connolly. Second by Arthur McQuaid.**

**Roll call vote:**

**Yes:** Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady  
**No:** None  
**Abstain:** Daniel Jurkovic

**Motion for adjournment of the December 15, 2020 meeting by Daniel Jurkovic. Second by Linda Connolly.**

All in favor. None opposed.

**ADJOURNMENT at 11:03 PM**

**Next Re-Org meeting January 26, 2021 at 7:00 p.m.**

**Next regular meeting January 26, 2021 at 7:30 p.m.**

Respectfully submitted by,



Deidre Ellis, Secretary  
Zoning Board of Adjustment