

MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
August 23, 2011
Regular Meeting

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:48 p.m. The Board Secretary read the Legal Notice.

Pledge

The Chairman asked all in attendance to join in the Pledge of Allegiance.

The Chairman asked Vivienne Erk and Russell Curving to take a seat at the dais so there would be a six-member Board for the meeting. The applicant can request to defer the application if this is a concern. Chairman Brady explained to the public about the Board of Adjustment and the publication of the dates in the Herald News Newspaper and posting in the Town Hall. He also explained the Open Public Meetings Act of the State of New Jersey. The Board Attorney was introduced. The meeting will follow a printed agenda that is on the podium in front of the dais and hanging on the bulletin board. Any appeals go to the Superior Court of the State of New Jersey. There are no new applications after 10:30 p.m. and no new testimony after 11:00 p.m. If it becomes necessary there will be a break at 9:00 p.m.

Roll Call

Present: Ada Erik, Frank Curcio, Russell Curving, Arthur McQuaid, Vivienne Erk, Robert Brady

Also Present: Stephen Glatt, Board Attorney, Robert C. Kirkpatrick, Substitute Board Planner, Denyse Todd, Board Secretary

Absent: Steven Castronova, James Olivo, Gian Severini, Michael Cristaldi, Board Engineer

MEMORIALIZATIONS

DAN & DANA PREZIOSI
RESOLUTION NO. 17-2011
BULK VARIANCE #ZB05-11-10
Block 12901; Lot 33
371 High Crest Drive; LR Zone

Motion by Ada Erik to memorialize Resolution No. 17-2011

Second by Vivienne Erk

Roll Call Vote:

Yes: Ada Erik, Frank Curcio, Russell Curving, Vivienne Erk, Robert Brady

No: none

FRANK HLA VATY
RESOLUTION NO. 18-2011
BULK VARIANCE #ZB04-11-07
Block 5904; Lot 7
450 Morsetown Road; R-3 Zone

Motion by Ada Erik to memorialize Resolution No. 18-2011

Second by Frank Curcio

Roll call Vote:

Yes: Ada Erik, Frank Curcio, Russell Curving, Vivienne Erk, Robert Brady

No: none

RONALD HEDDY
BULK VAR. ZB07-10-09
Bl. 7515; Lot 2
7 Ash Road, LR Zone

Mr. Heddy's Engineer was not available to attend the meeting tonight and the applicant requested an adjournment to the October 25, 2011 meeting. The Chairman asked the applicant if he would grant the Board a 30 day extension and explained that he did not have to however, it makes it more comfortable for the Board. The attorney explained the deadline date of 120 days and also that the applicant would have an approval if the Board could not get to the matter. Mr. Glatt also explained that he did not have to give the extension but to do so would be a courtesy to the Board. The date is extended to December 24, 2011.

Motion by Ada Erik to approve the request to carry the application to the October 25, 2011 meeting.

Second by Arthur McQuaid

Roll Call Vote:

Yes: Ada Erik, Frank Curcio, Arthur McQuaid, Russell Curving, Vivienne Erk, Robert Brady

No: none

Mr. Glatt explained that normally the applicant would have advertised. Since the applicant did not advertise knowing he was going to request an adjournment, he will need to advertise and notice for the October 25, 2011 date.

RICHARD & ROSEMARIE SONDERGARD
BULK VARIANCE NO ZB04-11-04

Block 11203; Lot 2
108 Larsen Road; LR Zone

The attorney swore in the applicant, Richard Sondergard of 108 Larsen Rd. Mr. Brady asked about the diagram that Mr. Sondergard was to provide to the Board.

Mr. Kirkpatrick explained that the previous submission did not establish the specific distance that the variance would grant them. The distance is 28.1 feet and that is the distance the variance will be up to.

Mr. Glatt marked the newest survey prepared by Arthur Schappel dated August 17, 2011 as Exhibit A-1.

The Chairman opened the meeting to the public.

Seeing nobody for or against the application, Ada Erik made a motion to close the public portion

Second by Vivienne Erk.

All in favor to close the public portion.

Motion by Ada Erik to approve application no. ZB04-11-04, Block 11203; Lot 2, 108 Larsen Road; in the LR Zone. This application was for a three-season room and the hold up was having the survey showing the measurement. He met all of the criteria; it will be a plus for the neighborhood.

Mr. McQuaid added that the applicant checked with the owners of the vacant lot and they were not interested in selling any portion of their property to Mr. Sondergard.

Second by Arthur McQuaid

Roll Call Vote:

Yes: Ada Erik, Arthur McQuaid, Russell Curving, Vivienne Erk, Robert Brady

No: none

The Chairman explained about the appeal period and when the resolution should be memorialized. The appeal period is approximately 45 days from the memorialization date and if work is done before that time it is done at the applicant's own risk. The resolution will be mailed to the applicant. The Chairman thanked the applicant for the updated survey since it will be easier in the long run.

JAMES CAMPION
BULK VARIANCE #ZB05-11-09
Block 168.02; Lot 9
129 Doremus Road, R-4 Zone

Mr. Glatt swore in James Campion of 129 Doremus Road and his contractor, Leo Petrosillo of A Riteway Construction, 171 Washington Ave., Hawthorne, NJ. Mr. Brady asked the professional for additional credentials. He has done commercial and residential additions, demolition and re-builds. He has been in construction since high school.

Mr. Campion will present the case and if the need arises he can consult with his professional. The contractor explained they are asking to come out an additional 7 feet than the present deck. It will be a two story deck no living space, no electrical. A door from the bedroom will have access to the upper deck. Mr. Campion said the present deck is very narrow. They want to extend in the corner to put a table. There is a deck next to it. It is on footings not a solid foundation, not to disturb the soil.

Mr. Glatt asked if there was an existing porch and they said yes. The porch on the right is 4 foot 10 and to the left it is narrow and then becomes wider to 6 ½ foot porch with steps in front of it. Mr. Glatt asked if there were columns and there are front steps located in the center. The intention is to put a framed porch extension and it will be a two story gazebo. That is the only addition. However the upper porch has a separation and that will be extended to have an additional deck upstairs accessible from the bedroom. The attorney explained that the Board needed the exact dimensions. In order for the Board to grant the variance, the exact dimensions are needed as far as how far from the property line how far off the house. Before the Board can vote on it a revision will be needed for the engineer to examine it.

A hardship explanation for the variance is needed. A setback of 125 feet is required and they do not have it. The porch is narrower at the one end; it will improve the aesthetics of the house as well as be a place to relax. Presently not used. No additional living space, no additional electric nor plumbing. There is nobody else in the neighborhood with this that they know of. They have lived there since 2004. Mr. Glatt asked if it would be detrimental to the neighborhood, the applicant feels it will be beneficial, it will improve aesthetics and value of their house. Their house is the original 1850 farmhouse that you see when you pull into the neighborhood. They have tried to renovate as best as they can.

The measurement is needed from the setback not from the house. Someone other than the surveyor writing on the survey is hearsay. Nobody can certify it is accurate. There is an existing 20-foot setback and they are asking for a 13-foot setback. There are no other areas available for purchase that could alleviate the variance.

Mr. Brady asked if the Board had questions, a Board Member asked if would be closed in and the applicant responded no explaining they like the spindle look. They will take care of the Health Dept. memo. Mr. Glatt explained that the surveyor should contact Mr. Kikrpatrick because a statement is on the survey that was for title purposes but should be removed for zoning purposes. There is also an issue that his driveway is not on his property.

Mr. Campion will do everything the Board and Health Department need. Mr. Campion requested that the application be carried to the September 27, 2011 meeting.

Motion by Ada Erik to carry the application to September the September 27, 2011 meeting.

Second by Russell Curving

Roll Call Vote:

Yes: Ada Erik, Frank Curcio, Arthur McQuaid, Russell Curving, Vivienne Erk, Robert Brady

No: none

The Chairman asked if the applicant would give an additional 30-day extension to hear the application. The applicant agreed to sign the extension. The deadline date is extended to

December 23, 2011. There is no need for further notice. Anyone present to hear the application it will be carried.

ARVE DYVIK
BULK VARIANCE ZB04-11-05
Block 4201; Lot 16
41 Lake Park Terr.; LR Zone

The Board Attorney swore in Arve Dyvik, 41 Lake Park Terrace, Hewitt, NJ. His house is approximately 745 square feet. The porch is 7 foot 2 inches by 22 foot. It is in total disrepair, he has fixed the rest of the house but not the porch he would like to add 7 more feet for living room space. He would like to have a dining room. The applicant explained where the dining room would be and the renovated porch. There is discussion among the Board professionals.

Mr. Brady indicated to the applicant that there was a similar problem as the previous application in such that a professional surveyor did not certify the measurements or dimensions. The applicant indicated that the surveyor put the porch on the survey and the surveyor put the measurements on for the setbacks. Mr. Kirkpatrick asked about the set back and it is 49.5 feet. Mr. Kirkpatrick explained it does not appear to be the shortest distance to the rear yard line because the lake does not go straight across the back it is at an angle. As the angle goes toward street the backyard distance is measured closest to the street. So it will be less than 49.5 feet. The issue could be a larger variance needed. Mr. Kirkpatrick explained how the measurement should be shown.

Mr. Glatt explained that technically the measurement is incorrect, which means that the variance that the applicant is asking for is a larger variance. It will be greater than 49.5 feet. That may not affect the merits of the application. Mr. Glatt suggested that that the applicant continue with his presentation.

Mr. Dyvik explained to the Board that there is no other available land for purchase to reduce the variance. His house does not comply with setbacks on any side, so if he extends beyond the footprint he will require a variance. It is not a porch it will be a living room, the existing porch would be combined with the addition. The room will be 14 foot 2 inches by 22 foot. He will not go beyond the side foot print it will only be the back of the house toward the lake. It is a one-story addition. He is not increasing bedrooms; he would like to add a bathroom. It is a long narrow lot. The stone patio will be pushed back. The suggestion by the Environmental Commission was seen by the applicant.

Mr. Glatt asked the applicant if it would in any way be detrimental to the neighborhood and the applicant responded that it would be an improvement. There is an additional house on the street that is in need of renovations but still nice. All of the other neighbors homes are two stories and his is one story. It is a small cabin between larger homes. He is no way over pricing the neighborhood.

Mr. Brady added that the only difference for zoning would be an additional 7 feet on the deck. Mr. Brady asked if there were any questions of the applicant. Based the previous applications and discussion for this application, Mr. Dyvik will need to ask for an adjournment for submission of new drawings. There will not be an extension required, as the deadline date of November 29, 2011 is plenty of time. However, he will need to ask for the application to be adjourned. Mr. Dyvik indicated that he will ask for a postponement but could a vote be done at this meeting contingent on the submission of the required plans. Mr. Brady explained that the way the other applications were handled was to open it to the public at the next meeting. Mr. Glatt added that he would be willing to prepare the resolutions for this applicant and the previous applicant for the September meeting so as not to hold up the applications if they are passed and to memorialize them at that meeting to expedite the process. Mr. Glatt indicated that he reason the Board would like to see the revised map before the decision is made. He will try to have the resolutions complete "as if" granted and if the Board approves the revision, then they can memorialize it the same night.

Mr. Dyvik asked for the postponement.

Motion by Russell Curving to adjourn the application until the September 27, 2011 meeting.

Second by Vivienne Erk

All in favor

Opposed: none

The attorney mentioned to the applicant that his surveyor should contact the Substitute Planner Robert C. Kirkpatrick regarding wording on the survey that needed to be removed. Mr. Brady announced to the audience that anyone with interest in the application it will be adjourned to September 27, 2011. No further notice is required.

Motion by Ada Erik to approve Mr. Glatt's invoices.

Second by Frank Curcio

All in favor to accept the invoices.

Motion by Ada Erik to approve Mr. Drew's invoices

Second by Frank Curcio

All in favor to accept the invoices

Motion by Ada Erik to approve Mr. Kirkpatrick's invoices

Second by Frank Curcio

All in favor to accept the invoices

COMMUNICATIONS

Mr. Drew responded to the Board's request regarding the Letter from the County.

LITIGATION

Mr. Glatt filed the answer regarding the litigation matter, it was also received back as filed and he is waiting to receive the notice from the court, what judge is assigned. Once it is assigned to a judge there will be case management order signed, briefs have to be in when the matter is going to be heard. It is a two-count complaint and only the first count applied to the Board. The second count is an action between the plaintiffs, Mr. Grawehr and the Luchinskyi where they are contending that there is a violation of the common driveway maintenance agreement. Which at the time of the meeting Mr. Glatt indicated it was not for the Board to deal with a property dispute only zoning matters and they would need an independent action regarding the maintenance agreement.

Motion by Ada Erik to approve the Regular Meeting Minutes of July 26, 2011

Second by Frank Curcio

All in favor to accept the minutes as written

Motion by Ada Erik to adjourn the meeting of August 23, 2011.

Second by Vivienne Erk

All in favor to adjourn

Meeting adjourned at 8:56 p.m.

Adopted: September 27, 2011

Respectfully submitted by,

Denyse L. Todd, Secretary
Zoning Board of Adjustment