

MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
August 26, 2008
Regular Meeting

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:54p.m. The Board Secretary read the Legal Notice.

Pledge

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

Roll Call

Present: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Barry Wieser, Frank Curcio, Robert Brady

Also Present: Stephen Glatt, Board Attorney, William H. Drew, P.P., AICP, Planner, Richard McFadden, Board Engineer, and Denyse Todd, Board Secretary

Absent: Gian Severini

Mr. Brady asked Mr. Wieser to sit in for Mr. Severini. He also explained the Open Meetings Act. There is a 7 member Board with Mr. Wieser. Mr. Brady explained the procedure for the Zoning Board of Adjustment as well as the appeal process. He also introduced the Board Attorney and discussed the format for the meeting.

MEMORIALIZATIONS

RESOLUTION NO. 12-2008
SCOTT LEONESCU
Use Variance #0740-0789
187 LaRue Road
Block 15401; Lot 51; R4 Zone

Motion by Francis Hannan to memorialize Resolution No. 12-2008
Second by Ada Erik

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, Barry Wieser, Frank Curcio,
Robert Brady
No: none

RESOLUTION 18-2008
GARY GALLUCCI
Bulk Variance #0830-0800
Block 2701; Lot 18
117 Lakeshore Drive, LR Zone

Motion by Ada Erik to memorialize Resolution No-18-2008
Second by Francis Hannan

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Arthur McQuaid, Barry Wieser,
Robert Brady
No: none

RESOLUTION 19-2008
PETER ESPOSITO D/B/A
MOUNTAIN LAKES CARWASH
APPEAL #0880-0811
Block 6701; Lot 12; CC Zone
1946 Union Valley Road

Resolution No. 19-2008 was not prepared for this evening.

RESOLUTION 20-2008
ANTHONY ESOLA
Bulk Variance #0830-0808
Block 17201; Lot 5; R-4 Zone
109 Cherry Ridge Road

Motion by Francis Hannan to memorialize Resolution No. 20-2008
Second by Ada Erik

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Barry Wieser,
Robert Brady
No: none

RESOLUTION 21-2008
1952 UNION VALLEY ROAD
Use Variance #0540-0698
Preliminary & Final Site Plan No. 0420-0167AB
Bulk Variance #0430-0647
De Minimis Exception
Block 3601; Lots 1 & 3
1952 Union Valley Road; CC Zone

Resolution No. 21-2008 was not prepared for this evening.

ROCCO AND ROSANNE RICCARDI
Bulk Variance #0530-0719
Block 3401; Lots 23 and 24
Lakeside Road; R-2 Zone

The applicants were present to request a carry. Mrs. Riccardi explained that they needed to wait for their Engineer to speak with the fire marshal and there wasn't enough time to get new plans within the 10 day period requested by the Planning Department. Mr. & Mrs. Riccardi were asked to sign a time extension which will extend the application deadline through October 31, 2008. Carried September 23, 2008.

Motion by Ada Erik to approve the carry.
Second by Francis Hannan

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Arthur McQuaid, Barry Wieser, Frank Curcio,
Robert Brady
No: none

MICHELLE SCHLETTE-HARDING
Bulk Variance #0830-0797
Block 6101; Lot 21 R1 zone
1 George Street

Mr. Jesse Harding appeared on behalf his wife, the applicant and explained that their planner was not available for the August 26, 2008 meeting but would be available for the September 23, 2008 meeting.

**Motion by Ada Erik to approve the carry
Second by Arthur McQuaid**

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Barry Wieser,
Robert Brady
No: none

**KENNETH KLOSZ
BULK VARIANCE #0830-0806
Block 9711; Lot 8, R-1 Zone
84 Bergen Drive**

The Board Attorney, Mr. Glatt, swore in Kevin and Nicole Klosz of 84 Bergen Drive, West Milford. Mr. Curcio took Mr. Lynch's place because Mr. Lynch wasn't present at the meeting where testimony was taken.

Mr. Klosz explained that the variance that was applied for was for a side yard variance. There was no zoning analysis chart on the plans. They supplied additional plans within the 10 days as requested by the Planning Department. The house already exceeds the 10% lot coverage so the addition would be an even larger percentage. They are requesting the variance because they want a second garage and a master bedroom will be built above that, also, they need more space and would prefer to have their cars in a garage. Mr. Brady asked if the Board had any questions.

Mr. Klosz said that the storm water information was added to the revised plans and the pavement detail as well, which were both items in the Township Engineer's memo. There is a 10 X 10 foot shed on the property also. Public water and sewer and storm drains. The applicant confirmed that the grading would be done for the runoff for storm drainage. A Board Member asked if all of the lots were basically the same size and the answer was yes. A Board Member asked if there was a house nearby similar to their home if improvements were done. The previous exhibits were shown to the Board. Mr. Klosz described the pictures. Their home would have dormers. Mr. Brady opened the meeting to the public. There was no one for or against. There was a motion and a second to close the public portion.

**Motion by Francis Hannan to approve the bulk variance with the engineer's memo conditions. The applicant's have shown that it is consistent with the neighborhood and other neighbors have done similar additions.
Second by Ada Erik**

Mr. McQuaid commented that normally he is not in favor of large increases in the lot coverage, but it does make a big difference that the neighborhood is serviced by sewer and water and he supports the application.

Roll Call Vote

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Barry Wieser,
Frank Curcio, Robert Brady
No: none

**CHARLES AIKEY
FINAL SUBDIVISION #0810-1950D (section II)
Block 9501; Lot 19.02
144 Wesley Drive; R-3 Zone**

Mr. Glatt swore in the applicant, Charles Aikey of 144 Wesley Drive. Mr. Aikey was asked to proceed. Mr. Aikey said he was requesting an amendment to his use variance approval from 2002 and also the approval of the final subdivision. The amendment is requested in response to Highlands requests with regard to what the MUA was allowed to do. He received approval for four (4) sewer hook ups originally. He also had preliminary subdivision approval from 2003. The Highlands Act was passed in 2004.

The first two (2) lots were hooked into the MUA system. The need to amend the use variance is because the MUA was not allowed to connect the other two (2) lots. He met with the Highlands Council and the solution was to install septic. A TWA was required by the DEP for all four lots, for two lots it wouldn't be required so it was done as Section I and Section II. The lots have been perced already.

A Board Member confirmed the information required by the DEP and what the MUA could and couldn't do. The water hook ups are still in tact as originally applied for. Mr. Aikey stated the Highlands/MUA requirements have held him up. Mr. Aikey spent a lot of money on this project. Mr. Aikey put the roads in already. There are no wetlands on the property. He is still working with the Highlands. Highlands does not have jurisdiction with regard to the MUA. He lost a subdivision due to the Highlands.

Mr. Drew said he has been involved with the application during the long process and that the DEP was granting subdivisions for two (2) lots regardless of the lot sizes. The DEP was using the threshold of 2,000 gallons a day for septic. The two lots wouldn't hit it. The first two lots are with the sewer system and now the sewer main cannot be extended. He ran into the ultimate Catch 22. Mr. Aikey said the DEP was arrogant and when he attempted to contact someone by telephone was told he couldn't speak to anyone at the DEP.

The Chairman asked for any comments or questions of the Board Members. Mr. Jurkovic commented that he wasn't sure what we were being asked to do as a Board. Mr. Glatt told him we were being asked to amend the original use variance approval for two septsics instead of the sewer lines originally approved. There is a final subdivision plan on file. Mr. Jurkovic asked if the Health Department should be involved and Mr. Drew said that the Health Department would need to approve the septic design. The lots are one acre plus lots, clustered because originally sewer was to be servicing the area.

Mr. McQuaid said originally when it was approved, the Homestead lot would remain large and it still remains a thirteen acre parcel. Mr. Aikey could have made other lots larger and not run into any problems but chose not to. Mr. Jurkovic said it was nicely designed and a lot of trouble went into the sewer design. Mr. Drew asked how the improvements were coming and Mr. Aikey said when the rest of the subdivision is paved his area on Wesley and Leslie will be done also. The performance bond is still on file. Mr. Brady asked if the applicant or Board members had anything to add. Mr. Brady opened the meeting to the public.

Motion by Ada Eric to close the public portion
Second by Arthur McQuaid

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Barry Wieser, Robert Brady
No: none

Motion by Arthur McQuaid to approve the amended use variance and final subdivision. Mr. McQuaid was on the Board when the original approvals were given. He has no choice regarding the septic and the sewer and recalls all that went into the original application and wanting to keep the large piece of property for his family instead of condominiums or other things he could have done with the additional land.

Second by Ada Erik

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Barry Wieser, Robert Brady
No: none

Mr. Hannan asked to add for discussion to send a letter to the DEP and Highlands Council telling them of the absurdity of installing sanitary sewers instead of septsics.

The Board was apologetic to Mr. Aikey regarding the Highlands Council and also DEP.

ANDREW MALKO
BULK VARIANCE #0830-0813
Block 206; Lot 1
1866 Clinton Road, R-1 Zone

Mr. Glatt swore in Andrew & Jennifer Malko both residing at 1866 Clinton Road. Mr. Brady asked the applicant to proceed. They want a variance for a fence because they have two front yards, the variance is needed since they are requesting a six foot fence and a four foot fence which is allowable won't be tall enough because their property slopes downward. They have dogs and it will not be tall enough fence will be eye level with Clinton Road from the street. They want it to be six feet all around the home. Mr. McQuaid asked about the traffic along Clinton Road and Mr. Malko said it would be in 60 or 80 feet from Clinton Road. Mr. Jurkovic asked about the style of fence and Mr. Malko said a stockade or dog eared type. A Board Member asked about the grading of his property. The maximum difference in the height of the property could be about 15 feet. The bottom of the fence would be eye level, they are splitting the hill with the fence. The fence would be inside the tree line and maintain the tree line. He will bring in the fence if needed to save the trees. Mr. Brady asked if there were any questions of professionals or Board Members and also of the applicant. Mr. Brady opened the meeting to the public.

Motion by Ada Erik to close the public portion of the meeting.

Second by Daniel Jurkovic

All in favor to close public portion of the meeting.

Opposed none

Motion by Daniel Jurkovic to approve the bulk variance for a fence height of six feet. The applicant said the bottom would be about six feet off Clinton Road. It would not have impact on sight distance and beneficial so the dogs are maintained inside the yard. The septic would create problems if in another location. The applicant will try to maintain the tree line.

Second by Ada Erik.

Mr. McQuaid added if it were an interior lot there would be no variance needed only since it is a corner lot does it pose an issue.

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur
McQuaid, Barry Wieser, Robert Brady

No: none

Mr. Brady said they have their variance and explained that after the resolution is memorialized technically there is a forty five day period where someone could appeal. Mr. Hannan commended the applicants for checking what was legal.

Mr. Brady said we were going to take a break.

Motion by Francis Hannan to take a break.

Second by Daniel Jurkovic

All in favor

There was a break from 8:56 p.m. Returning at 9:12.

KURT GARDENIER
BULK VARIANCE #0830-0802
Block 6204; Lot 16, R-1 Zone
83 McKinley Place

Mr. Glatt swore in Kurt Gardenier of 83 McKinley Place. Mr. Brady asked the applicant to begin. He is requesting a garage because his equipment is getting ruined being outside. He has a motorcycle also. The existing garage is too small. The area is covered with pea gravel presently and there will be no grading. A Board Member asked if the engineer's memo was received and the applicant said yes. The approval will be contingent on the engineer's items, and the applicant's engineer will add to the plans when notification is received from the state. The existing shed is only an overhang where there is only firewood. He would like to keep the sheds on the property. The garage will be attached. Mr. Drew was asked if the sheds could be kept and he said as long as not exceeding lot coverage. The wood shed is more of a lean to. Mr. Drew asked about the original plan that there was an easement and then it was not placed on the new plan. Mr. Gardenier did not know why it was not there. There is a brook easement on original. Mr. Glatt asked if there was any indication of what happened to the easement, and also asked if he had the deed and he did not know either answer. The attorney asked if it would make a difference to the outcome of the application and Mr. Drew said the addition is already approved within the easement. Mr. Gardenier said it was even with the back of the house. Mr. Glatt said that the original received in February shows existing items if easement was existing would encroach and he said yes. Mr. Glatt said that the Board needed to know for sure if the easement was evacuated. Mr. Glatt asked if he gave the copy of the Deed or title insurance policy to the surveyor. Mr. Glatt told the Board that he felt the matter should be carried to next month for confirmation of the easement. Mr. Glatt looked at the original survey and it gave no additional information. Mr. Glatt said the surveyor should get the information regarding the easement. Mr. Gloor should come to the meeting to advise the determination or the deed or title insurance should have the information. The survey was marked exhibit A-1 3-D Maps dated 7/11/08, A-2 Survey dated 5/17/97, A-3 Survey dated 5/17/97 with original signature. Mr. Gardenier asked what to do when received and Mr. Glatt said as soon as possible so the secretary could circulate to the Board.

Motion by Daniel Jurkovic to carry the application to the meeting on September 23, 2008.

Second by Ada Erik

All in favor to carry the application.

Motion by Ada Erik to approve the bills of the Board Professionals

Second by Barry Wieser

Roll Call Vote for Stephen Glatt, Board Attorney's bills:

Yes: Ada Erik, Francis Hannan, William Lynch, Arthur McQuaid, Barry Wieser, Robert Brady

No: none

Abstain: Daniel Jurkovic

Roll Call Vote for William Drew, Board Planner's bills:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Barry Wieser, Robert Brady

No: none

Abstain: none

The Planning Office Checklists were not sent with the packets and the secretary will send the checklists for the September meeting.

Motion by Ada Erik to carry the discussion involving the checklists to the September meeting.

Second by Arthur McQuaid

All in favor to carry any discussion regarding the checklists.

Approval of Minutes

Motion by Ada Erik

Second by Barry Wieser

All in favor to approve the minutes

Communications The New Jersey Planner was very interesting

Adjournment

Motion by Ada Erik to adjourn the regular meeting

Second by Barry Wieser

All in favor to adjourn the regular meeting of August 26, 2008

Regular Meeting adjourned at 9:32 p.m.

Adopted: September 23, 2008

Respectfully submitted by,

Denyse L. Todd, Secretary
Zoning Board of Adjustment