

MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
December 13, 2011
Regular Meeting

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:57 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 Russell Curving and Vivienne Erk to take a place at the dais since there were regular members absent, there was a 5 member board. 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: Frank Curcio, Arthur McQuaid, Russell Curving, Vivienne Erk, Robert Brady

Also Present: Stephen Glatt, Board Attorney, William H. Drew, Board Planner, Nordan Murphy, Board Engineer, Denyse Todd, Board Secretary

Absent: Ada Erik, Steven Castronova, James Olivo, Gian Severini

MEMORIALIZATIONS

LUPANO, CARLO & ELIZABETH

RESOLUTION NO. 24-2011

BULK VARIANCE #ZB05-11-08

Block 4401; Lot 12

837 E. Shore Rd., (aka Storms Island Road)

LR Zone

The attorney explained that the resolution was prepared, there were issues concerning the square footage that the applicants were asking for. The Board approved 724 square feet but that was incorrect it should have been 756 square feet (the building was to be 27 X 28). Mr. Glatt spoke with the applicant to see if he would be available to clarify the size of the building since it was just a mathematical mistake. He was unable to make the meeting due to illness. It was Mr. Glatt's opinion that it could be voted upon to amend the approval. The Planner still needs to make additions to the resolution. The attorney asked if the Board could make a motion that the 27 X 28 garage was consistent with the applicant's testimony and then the correct square footage would be 756 square feet.

Motion by Arthur McQuaid to amend the approval to show the dimension of the garage to be 756 square feet, which is 27 X 28. The minutes state the 27 X 28 garage and feels it was an error in the calculations.

Second by Frank Curcio

Roll Call Vote:

Yes: Frank Curcio, Arthur McQuaid, Vivienne Erk, Robert Brady

No: none

Mr. Glatt mentioned that one of the conditions were that the resolution needed to be recorded. He will have the language when the resolution or an addendum to the resolution gets memorialized.

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

Bulk variance relief requested for building coverage where 10% is allowed, 10.32% exists and 11.44% is proposed. Also accessory coverage where 3 % is allowed, 2.28% exists and 8.4% is proposed for enlarging a 12 X 20 foot garage to 30 X 30 foot garage and a 10 X 12 foot addition.

The applicant requested a carry to the December 13, 2011 meeting. Prior to the meeting the applicant will be submitting revised plans showing the garage attached to the principle dwelling instead of being an accessory structure. The applicant signed a 60-day time extension, which makes the deadline date February 22, 2011

Mr. Glatt swore in the applicant Ronald Heddy of 7 Ash Road and his engineer, Douglas McKittrick, office located 2024 Macopin Road. Mr. Brady and Mr. Glatt explained to the applicant that since there was a 5 member Board if someone were to abstain and there was a tie the applicant would lose.

Mr. McKittrick reiterated the applicant's proposal. The applicant opted to shift the garage and attach it to the house to reduce the variances. The accessory building variances have been eliminated including the accessory structure, the principal structure and the coverage variance for the accessory structure. The sizes have remained the same and the variances were reduced to two. A variance for lot coverage 19.84% and a side yard variance required is 30 feet and they would need 21 feet.

They came up with a scheme to attenuate the storm water runoff, the requirements state they need to provide 71 cubic feet of water storage. It was not possible to install seepage pits or drywells to accommodate the storm water because of the proximity to the well and the septic system. They will at the downspouts install 55 gallon plastic rain barrels. There are provisions for 6 of them and that will hold about 44 cubic feet out of the 70, about 63% of requirement for a 100-year storm. The rain barrels could accommodate up to and including a 50-year storm, it would not handle a 100-year storm. It is a partial solution but better than no solution like previous meeting.

There are other lots that have a higher percentage of coverage which were created by subdivision back in the '30's Lot 7, 8 and 9 all have higher coverage, lot 7 has 25.3% lot coverage. The addition is not inconsistent with the lot coverage in the rest of the neighborhood.

The Health Department was the next discussion item. The first item was the Arc Explorer 300 foot buffer, Mr. McKittrick's opinion is that it should be a 150 foot buffer because it is not a Class 1 waterway. Regardless, the construction is 330 feet from the lake. 2. The survey does show the deck on the dwelling with a note stating to be removed. 3. Survey must locate fuel storage, gas lines, drywells and any proposed drywells if applicable there will be no drywells because of the location of the septic system; the proposal is to install rain barrels instead at the downspout locations. Will show fuel lines or fuel service as a condition if the Board is in agreement, they will show whatever the fuel situation is there. 4. The garage and driveway are encroaching on the potable well-the way the well regulations read is that the structure is supposed to be 20 feet away from the well unless the existing structure is closer than that. The garage being proposed is not going to be closer than the existing structure, so in his opinion it does not apply. The driveway may be touching on the very edge of the well, and they will field verify the location with a metal detector and if they have to they will move it a foot or two to the southwest to keep it clear of the well. The only issues are the driveway encroachment of the well and the location of the fuel and the storage lines.

The combination of melding the two buildings together on sheet 2 were sketched by Mr. Heddy and measuring the existing dwelling. He did an overview to show the Board. The heights are to scale relative to each other. The peak of the house to the peak of the garage and it is a view looking at it from the road. Another concern was the bedroom count, the bedrooms being a representation of how many occupants are in the home and what the size of the septic system. The septic system was designed for 3 bedrooms and Mr. McKittrick designed it as it is a 3 bedroom home. The room labeled spare room is in actuality a enclosed porch and when you walk in the front door you walk into that porch to get into the house. It is not intended to be a bedroom nor will it be a bedroom. If the Health Department requires it to be relabeled covered porch they will do that.

The two variances they are asking for are the side yard variance where 30 feet is required and they are requesting 21 feet and that would be on the southwesterly property line. The existing dwelling is only 8.5 feet off the side yard on the northeast property line. The prior zone which was R-10 which required a 10,000 square foot lot and required only 10 foot side yard setbacks. A lot of residences

have less than 10 foot side yards. The 20 foot set back is adjacent to the neighbor's garage not the dwelling. It is a significant distance away from the dwelling. It will be garage to garage. The 21 foot setback would not be detrimental to the neighbors' views or enjoyment of their property. The total lot coverage of 19.84% acknowledging the coverage is only 10%, the prior R-10 it was 20%, which they are under. They are less than surrounding properties with regard to their coverage. They are on a larger lot with less coverage. It will not devalue the aesthetics of the neighborhood, it is the applicant's engineer's opinion that it will enhance the value of the Heddy property and the neighborhood and upgrade the property it will be a benefit to the neighborhood. The positive criteria of cleaning up the property and upgrading the property far outweighs the negative. They are asking for the variances to be granted and approval of the application.

The attorney wanted it known that the five members present heard the initial meeting in October. Mr. Brady confirmed that if the variances were granted, then there would be no additional outside storage of any equipment on the property that is the purpose of the garage. Mr. Heddy indicated yes it is for the cars that he has to get in the garage to work on them. Mr. Glatt asked if he was going to store other cars and the applicant said no.

Mr. McQuaid confirmed that the distance between the proposed changed the side yard set back to 21 feet instead of the 12 ½ that was originally proposed. There will be access to the garage from inside the house. There is the possibility of putting a slop sink in the garage since it is now going to be attached to the house. Mr. Brady confirmed that the top of the garage would not be used for living quarters and the applicant said only storage.

Mr. Drew asked Mr. McKittrick when he was going to stop comparing to the old zoning. Mr. McKittrick explained that some of the development was done under the old zone and that is why there are the situations that we have. Some development was done without any zoning. Some lots do not even comply with the R-10. He explains the process because so often that is why there are issues like this.

Mr. Drew asked Mr. Heddy how many vehicles were on the property and Mr. Heddy said about 8. Mr. Glatt asked about a floor for the 2nd story and there would be one. Mr. Heddy repairs cars as a hobby. The garage will hold about 6 cars. Mr. Brady confirmed that the 2 cars remaining outside would be for the drivers in the household.

The Chairman asked if there were any questions from Board Members or anything further from the applicant or his professional there were none. The Chairman opened the meeting to the public.

Motion by Vivienne Erk to close the public portion after seeing nobody present for or against the application.

Second by Frank Curcio

All in favor to close the public portion

Motion by Arthur McQuaid to approve Bulk Var. No. ZB07-10-09; Block 7515; Lot 2; 7 Ash Road, LR Zone. Mr. Heddy's intention to build a 30 X 30 foot garage where he can store vehicles that he uses as a hobby and repairs. Presently he is storing 6 vehicles outside visible from the street. He plans to move them inside so that the only vehicles that will be out side will be the every day drivers'. The Health Departments concern of a 300 foot buffer was addressed, it was testified that the project is 330 feet from the lake so it is clear of the 300 foot buffer. The plans show an existing deck and the note stating to be removed. There will be no drywells because of the well and septic system, however, they will be installing 55 gallon rain barrels to help eliminate flooding or overrun from the water, testimony given stated it would handle 50 year flood but not 100 year flood. The location of the well will be verified by testing and they will make sure they are within the boundaries of the well. The driveway will be moved if necessary. The garage itself does not encroach on the well at all. There will be no living quarters in the garage the upstairs will be used for storage. It is a 3 bedroom house with a 3 bedroom septic system and will remain that way. The spare room listed on the plan is in actuality an enclosed front porch, if required they will have it changed to reflect that it is an enclosed porch.

Second by Russell Curving

Roll Call Vote:

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

No: none

The Chairman indicated to the applicant that hopefully the resolution would be available for memorialization for the January meeting. The Chairman explained the 45 day waiting period which

is 45 days from the advertisement of the memorialization. If work is done prior to that it is done at the applicant's risk.

DISCUSSION

Proposed meeting dates for 2012- The attorney asked if it was possible for the September meeting to be changed to the 18th with the site inspection changed to the 15th.

Motion by Russell Curving to change the site inspection to September 15, 2012 and the meeting to September 18, 2012.

Second by Robert Brady

Roll Call Vote:

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

No: none

Professionals will be decided at the Re-organization meeting on January 24, 2012. The Board was told that the professionals' fees would remain the same. Mr. Drew explained that Mr. Kirkpatrick would still be the substitute planner. The professionals will be approved at the Re-organization meeting.

Motion by Frank Curcio to approve Mr. Glatt's invoices.

Second by Vivienne Erk

All in favor to accept the invoices.

Motion by Frank Curcio to approve Mr. Drew's invoices

Second by Russell Curving

All in favor to accept the invoices

Pending Litigation- Grawehr VS West Milford Zoning Board of Adjustment

Mr. Glatt has been following up and it still has not been assigned to another judge.

Motion by Arthur McQuaid to approve the Regular Meeting Minutes of November 22, 2011

Second by Frank Curcio

All in Favor to approve the minutes subject to the change in Mr. Lupano's square footage, which should read 756 square feet. The minutes did state the correct size of 27 X 28 but the applicant erroneously testified that the square footage was 724. Both the Motion and the Second were amended to approve the change.

Mr. Brady wanted to thank the Board and wished all a Happy Holiday Season.

Mr. McQuaid added that he wished Ada Erik was at the meeting, he would have like to wish her well as she takes over the Council position. It was good having her on the Board the last few years.

Mr. Glatt wished a Happy New Year to all.

Motion by Vivienne Erk to adjourn the meeting of December 13, 2012.

All in favor to adjourn

Meeting adjourned at 8:42 p.m.

Adopted: January 24, 2012

Respectfully submitted by,

Denyse L. Todd, Secretary
Zoning Board of Adjustment