

MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
February 26, 2019
Regular Meeting

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:42 p.m. The Board Secretary read the Legal Notice. The Pledge of Allegiance was recited.

Roll Call

Present: James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst, Robert Brady,

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

Absent: Russell Curving, Daniel Jurkovic, Matthew Conlon, Steven Castronova

The Chairman greeted the Board and the public. Mr. Brady explained the Zoning Board and Open Public Meetings Act. The meetings are advertised in the Herald News. The Board operates in accordance with the Open Meeting Act of the State of New Jersey. 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. Under normal circumstances the Board follows a printed agenda. The appeals of this Board go directly to the Superior Court of the State of New Jersey. The Chairman introduced and welcomed Patrick McClellan, the new Board Engineer.

The Chairman discussed the hiring of the new Engineer, Patrick McClellan. Patrick McClellan is familiar with West Milford and also has a "back-up" Engineer should he be unable to attend a meeting, and was a unanimous decision by the subcommittee of the Chairman, Arthur McQuaid and Steven Castronova.

RESOLUTION 3-2019

RESOLUTION FOR THE POSITION OF ZONING BOARD ENGINEER-Patrick McClellan

A motion was made to approve by Frank Curcio and a second was made by Robert Brady.

Roll call vote:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady

No: none

GEORGE MESIAH

RESOLUTION 4-2019

BULK VARIANCE # ZB 8-18-11

Block 16901: Lot 4

Canistear Road; R4 Zone

A motion to approve was made by Frank Curcio and second by Robert Brady

Roll call vote:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, and Robert Brady

No: none

(Michael Gerst abstained because he had been absent during a previous meeting.)

CARRIED APPLICATIONS

**GREEN MEADOW ORGANICS, LLC
6/6/18**

Complete:

**USE & BULK VARIANCE & PREL. &
FINAL SITE PLAN ZB10-17-13**

**Deadline: 10/3/18
New Deadline: 03/2/19**

Block 4601: Lot 17 & Lot 21
960 Burnt Meadow Road; LMI Zone

Use variance request, the proposal does not meet the conditions of the LMI Zone. Expansion of a pre-existing non-conforming use (compost, recycling facility), bulk variance to permit stored materials within 300 feet of a residential structure, 159 feet is proposed and to permit stored materials within 25 feet of any property line, 0 feet proposed for the internal property line between lots 17 & 21. A number of waivers are requested with the application. The application had been carried pending an Environmental Impact Study and a Traffic Report. The meeting date has not been scheduled but the applicant will need to re-notice and advertise the meeting.

The Zoning Board Attorney, Stephen Glatt Esq., indicated that he had been in touch with the Applicant's Attorney, Mr. Robert Tafuri Esq., who was present and there had been a letter sent requesting a withdrawal without prejudice. Green Meadow's Attorney further requested that the Board consider waiving the filing fees when the applicant reapplies.

There was discussion amongst the Board members regarding waiving the fees and it was agreed that if the applicant refiles in the future that the application fees would be waived but the escrow would not and could not be waived at that time. After discussion regarding the time frame in which the applicant would have to refile, a motion was made wherein the Board agreed the deadline for re-filing could be no later than December 31, 2019.

The Objector's Attorney Susan Rubright Esq.'s Associate, (The Objector's Attorney is a Partner with the law firm Brach Eichler, in Roseland, NJ.) spoke on behalf of their client, "A Clean West Milford" and indicated concerns with being kept informed of when the applicant may come back to the Board. The Board Attorney indicated that the Objector's Attorney had been informed throughout the process up until that point and that would continue in the future, suggesting we copy emails to her office and share pertinent information in a timely manner.

Michael Gerst made a motion to approve the motion, second by James Olivo.

Roll call vote:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst and Robert Brady
No: none

**B&B ORGANIC WASTE RECYCLING, LLC
USE & BULK VARIANCE & PREL. &
FINAL SITE PLAN ZB06-18-05**

**Complete: 9/20/18
Deadline: 1/18/19
New Deadline: 3/19/19**

Block 6002; Lot 29
280 Marshall Hill Road; LMI Zone

Preliminary and final site plan and use and bulk variance approval requested for an organic recycling facility with accessory composting, topsoil production and mulch manufacturing, retail sales and offices are proposed for the front building. There are additional variances proposed for 2 wall heights and driveway grade. The applicant requested to carry their application pending additional information.

Mr Battinelli requested an extension to his application to the April 23, 2019 meeting.

There was a discussion about the extension of the application deadline. Since a 60 day extension would fall short of the regular July meeting, the Board Attorney asked the applicant if he would mind extending the deadline. Mr. Battinelli was in favor of extending the deadline.

Motion to carry the application by Robert Brady. Michael Gerst second.

Roll call:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady
No: none

**RANDA INVESTMENTS (AMENDED)
USE AND BULK VARIANCE #ZB02-18-02**

**Complete: 11/13/18
Deadline: 03/13/19**

Block 7601; Lot 2
1463 Union Valley Road; VC Zone

Use variance application for an 8 Unit Townhouse/Apartment complex in the village commercial zone (VC) there are associated bulk variance relief requests

Use Variance

Section 500-26

Permitted: Dwelling units in association with commercial uses

Proposed: Dwelling units without association with a commercial use

Bulk Variance

-Section 500-26.A

Permitted: Dwelling units above commercial uses

Proposed: Dwelling units on first floor

Permitted: Dwelling units above commercial uses

Proposed: Dwelling units without association with a commercial use

Required: No parking within front yard

-Section 500-28.A

Required: Maximum front yard setback 20 feet

Proposed: 60.7 foot front yard setback

-Section 500-29.E

Required: No parking within front yard

Proposed: Parking in the front yard

-Section 500-31.A

Required: Maximum unit density of two (2) per acre

Proposed: Six (6) units per acre

-Section 500-31.B

Required: Maximum floor area of 800 square feet per unit

Proposed: 1,340 square feet floor area per unit

-Section 500-31.D

Required: No apartment access through individual exterior doors

Proposed: Apartment access through exterior doors

Mr. Drew Murray Esq., lawyer representing the applicant, indicated that his client was stuck in an airport somewhere. A request was made for the application to be carried until April 23, 2019.

The Board Attorney briefly summarized the application history, the application had been denied and an amendment to the application was made taking the number of units from ten down to eight. The Board has been told that there are Agencies indicating that are waiting on our approval to proceed. It would behoove the applicant to show some documentation to support this. If the applicant can provide something in writing that would be great. If not, another option would be to at least get the names of the agencies involved and the Board Attorney could approach them as a representative of the Zoning Board and get the information himself and make a determination.

Initially there were concerns about contamination, issues as to whether it was a use variance or a zoning change. There had been a lot of discussion about the number of units and less focus had been placed on the special reasons for the use variance aspect of the application. New notice will not need to be made if nothing changes with the application before the meeting date of April 23, 2019. Public is welcome to come to that meeting. Discussion about providing minutes to the public. An audience member has minutes in the Clerk's office to be distributed.

Michael Gerst made a motion that the application be carried to the April 23, 2019 meeting and to extend the deadline to July 25, 2019, as consented by the applicant.

Motion was seconded by Frank Curcio.

Roll call vote:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady

No: none

NEW APPLICATION

**PATRICIA MAYO
BULK VARIANCE ZB-12-18-13**

**Complete: 1/4/19
Deadline: 5/4/19**

Block 1807; Lot 10
19 Magnolia Road; LR Zone

Bulk variance relief requested for maximum building coverage where 3% is allowed and 0% is existing, and 5.52% is proposed, and such other variance relief as the board deems necessary, so as to permit the construction of a detached garage.

Mrs. Mayo of 19 Magnolia Road was sworn in by the Board Attorney and indicated that her son Garrett Magliaro, of 182 Lake Shore Drive, Hewitt NJ would be speaking on her behalf. Mr. Magliaro was then sworn in.

Mr. Magliaro indicated that the property was in the Lakeside Residential Zone. He indicated that zoning was changed in the past. The property is 8688 square feet, the garage they are proposing is 480 square feet, so that exceeds the 3% allowance. Other than the maximum building coverage all the other guidelines are being met, septic, setback distances from the house etc. The proposed garage would have minimal impact on surrounding properties, it would be located to the rear of the property and would not impair anyone's views or view of the lake or cause an eyesore.

The Board questioned the physical dimensions of the garage. It is 16 feet by 30 feet. It would be used to store equipment and there is no other storage shed on the property. The Board Attorney asked if there was any other property nearby for sale. There is not.

Discussion as to where else a garage could be placed. It appeared to be the only and best location. The Chairman asked if there would be any landscaping changes due to the garage going in. There is no driveway there presently. Mr. Magliaro indicated that most likely a black top driveway would be put in later on. Mr. Magliaro indicated that he had spoken to the West Milford Health Department at length concerning any issues. Chairman Brady was reading the note from the Health Department and there appeared to be no conflicts.

Arthur McQuaid asked if there would be some QP (Quarry Processed) put down at the sight. Mr. McQuaid asked if there would be a couple of inches put down as part of the resolution. The question was raised as to the neighbors having garages. Some of the neighbors have garages. Impact ballards will be placed around the well and also around the area where the generator and air conditioning unit are.

The Chairman, Robert Brady commented about drainage and the septic fields. The applicant will take this in to effect and do proper grading to make sure there are no water issues. There were no more questions from the Board or professionals.

There were no people representing the public against this application. Seeing nobody against, a motion was made to close the public portion by Michael Gerst and seconded by Arthur McQuaid. All members were in favor.

Arthur McQuaid indicated that the application was a reasonable one. The garage is a bit oversized but will be good for equipment. A motion was then made by Arthur McQuaid to approve bulk variance application ZB-12-18-13, Block 1807, Lot 10, 19 Magnolia Road in the LR Zone, testimony has been given that there is no additional property that can be obtained, the zoning had been put in well after the lot size was established. Also that area is the only portion of the lot that is capable of having a garage placed on it, due to set backs.

A motion to approve was made by Mr. McQuaid and a second by Michael Gerst.

Roll call vote:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady
No: none

The Board Attorney explained to the applicant the next step of the process. The Board Attorney indicated that at the next meeting there will be a resolution passed and subsequently published, and upon that event there will be a 45 day period in which anyone could appeal. If construction was started in that time period it could be stopped, so it is recommended that applicants wait the 45 day period from the time the resolution is memorialized to be on the safe side.

APPROVAL OF INVOICES-BOARD PROFESSIONALS

Review and approval of invoices for Stephen Glatt, Board Attorney, Kenneth Ochab, Board Planner, Michael Cristaldi, Alaimo Group, Board Engineer

Motion by Michael Gerst to approve invoices for Board Professionals

Second by James Olivo

Roll call vote:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady
No: none

COMMUNICATIONS

LITIGATION

None

APPROVAL OF MINUTES

January 22, 2019 Regular Meeting Minutes

Motion for approval by Frank Curcio and second by Robert Brady

Roll call vote:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady
No: none

January 22, 2019 Re-Org Meeting Minutes

Motion for approval by Frank Curcio and second by Robert Brady

Roll call vote:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, and Robert Brady
No: none

(Michael Gerst Abstained because he had not attended the entire Re-Org meeting)

Motion for adjournment of the February 26, 2019 meeting by Michael Gerst

Second by Frank Curcio

All in favor.

ADJOURNMENT at 8:41 PM

Next meeting March 19, 2019 at 7:30 p.m.

Respectfully submitted by,

Deidre Ellis, Secretary
Zoning Board of Adjustment