

MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
January 22, 2019
Regular Meeting

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:44 p.m. The Board Secretary read the Legal Notice. The Pledge of Allegiance was done earlier at the Re-Organization Meeting.

Roll Call

Present: Daniel Jurkovic, (left early at approximately 8:30pm), James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst, Matthew Conlon, Steven Castronova, Robert Brady,

Also present: Deidre Ellis, Board Secretary, Stephen Glatt, Board Attorney

Absent: Russell Curving, Kenneth Ochab Board Planner, (presently we are without a Board Engineer)

CARRIED APPLICATIONS

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

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

**Complete: 6/6/18
Deadline: 10/3/18
New Deadline: 03/2/19**

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 was 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 reminded the Board that this was a case that was going to require a special meeting. The Board Attorney then spoke about accommodating the number of people who are interested in the matter under Public Open Meetings Act. The Board Attorney indicated that he had been in touch with Mr. Tafuri, the attorney for Green Meadow, and that the board had requested a traffic report and an Environmental Impact Statement. The Applicant's Attorney indicated to the Board Attorney it would be approximately another 10 days to another week from today that he should have the reports and then we, in turn, should be able to have those reports. Those reports will also be given to the Objector's Attorney, Susan Rubright, and it will be in the file for the public. At that point we will schedule a special meeting. Case law says the applicant cannot get approval by default, in the event there was a snowstorm to delay things.

Chairman Robert Brady suggested that if we can't proceed with the application we should take it off the agenda, and they can reapply later. A representative needs to attend the meeting in order to explain why they want it carried.

The Board Attorney indicated that the Applicant's Attorney was under the impression that he would have to renotice in the paper and he would be speaking to him regarding this issue in the future.

The deadline is March 2, and it will require a time extension, so the Applicant's Attorney will need to be here for the next meeting. Our Planner and Engineer will also need to review the reports once they are obtained.

Discussion of why they couldn't have just withdrawn the application and come back to it later on. They could come back to it when they were ready. At the time, it would have been premature to withdraw it. It had become apparent that the two studies needed to be done.

More discussion as to the fairness to the townspeople to take up so much time with this one application. The members of the public were made aware that they will get notice of when the meetings will take place. The applicant has to renotify the public. Stephen Glatt will convey the Board's displeasure with Mr. Tafuri, so that he needs to do something by the next meeting be it to be prepared to move forward or to consider withdrawing the application, or to have the Board dismiss it without prejudice.

The Objector's Attorney spoke on behalf of "A Clean West Milford." The Objector's Attorney is a Partner with the law firm Brach Eichler, in Roseland, NJ. There were comments made about the concerns of the citizens of West Milford. The Objector's Attorney expressed appreciation regarding the environmental impact and the traffic statement reports being executed. The Objector's Attorney requested that when reports are submitted they are forwarded to her. The Objector's Attorney indicated she would like to have time to bring in her own experts.

The Board asked if the Objector's Attorney is going to have sufficient time to present. She answered that she may not have enough time to retain her experts. Discussion continued about the seemingly disproportionate time an applicant gets versus the time the objectors get. Robert Brady suggested we let Green Meadow wait if the objectors need more time to prepare.

The Board's Attorney suggested the possibility that once we get the reports in that we are waiting for, then we could put it on for "housekeeping" to know how we are going to proceed. The Board's Attorney suggested that the Objector's Attorney wait until they get their reports and then review them, and if there is no problem then the Applicant's Attorney, the Board's Attorney, can get some idea of a timeline. Or if not, proceed in which case the Objector's Attorney would receive whatever appropriate time for an expert.

The Objector's Attorney indicated that she wants to make sure that the Board has time to review and reiterated that she will need ample time to review.

The Board's Attorney, is going to speak to the Applicant's Attorney tomorrow, see what he says regarding the time extension. It appears we may be getting ahead of ourselves a bit as it looks like this will not be resolved in just one meeting.

Arthur McQuaid brought up the point that applicants need to appear here to get an extension. Stephen Glatt indicated that the application had been carried without a date, once the reports were in we would decide upon a date.

Robert Brady indicated that the Board is very insistent on applicants being here to speak to the board. We are taking our time to be there and they need to as well.

The Board's Attorney indicated that the Applicant's Attorney would not knowingly jeopardize his position. Steven Castronova suggested a conference call type meeting if our meeting was cancelled. Robert Brady indicated a special meeting could be scheduled if a time extension was not secured with the Applicant's Attorney by the Board's Attorney. Arthur McQuaid asked how the timeline went with having a make-up meeting, in the event of bad weather. We would have to advertise in the paper, ten days notice.

The Objector's Attorney would like to have a conference call with the Board's Attorney and Mr. Tafuri tomorrow January 23, 2019 after one o'clock would work for her. The Board Attorney is going to ask for an extension tomorrow. If that does not happen, later arrangements will be made for the application to be dismissed without prejudice.

B&B ORGANIC WASTE RECYCLING, LLC
USE & BULK VARIANCE & PREL. &
FINAL SITE PLAN ZB06-18-05
Block 6002; Lot 29
280 Marshall Hill Road; LMI Zone

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

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 indicated that he wanted an extension to his application to the next meeting and that there was a delay was caused because they thought that the town engineer was going to get back to his engineer regarding getting the berm situation straightened out. The Board Attorney indicated that the problem does not lie between the engineers. It has been carried because there is an issue and the issue is between Mr. Battinelli and the Township regarding the location of Mr. Battinelli's berm. The berm is located on Township property. The Township wants the berm removed. This application ends up before the Board, so we are caught in between.

Matters regarding the berm need to be addressed with the Town Council. One of the conditions of the approval would be that any issue with the Township be resolved. We are not an enforcement agency. Mr. Battinelli requested a 60 day extension. The application will be carried until the February 26, 2019 meeting. The Board Attorney is going to relate said matters Mr. Battinelli's lawyer. Mr. Battinelli will not be required to give any further notice.

Motion to carry the application by Matthew Conlon. Steven Castronova second.

All in favor to carry the application. None opposed.

**RANDA INVESTMENTS (AMENDED)
USE AND BULK VARIANCE #ZB02-18-02**
Block 7601; Lot 2
1463 Union Valley Road; VC Zone

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

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, requested a few moments to confer with The Board's Attorney. Matthew Conlon made a motion to allow the Applicant's Attorney to speak with the Board's Attorney, the motion was seconded and all were in favor.

A brief recess took place.

Chairman Robert Brady, indicated before counsel started, there are problems now because there are no planning or engineering experts.

The Applicant's Attorney indicated that nonetheless, the applicant would like to proceed.

Robert Brady explained that no vote could take place unless there was input given from the Boards experts.

As a matter of housecleaning, the Board's Attorney indicated that Mr. Matthew Conlon listened to the meetings from the 3 meeting days that he had missed. In doing so he is eligible to hear this application. Matthew Conlon made the clarification that he did not recuse himself. He just had been absent. The Applicant's Lawyer and the applicant subjectively believe there is no engineering or planning issue tonight, Mr. Brady has indicated that he would like for our planner to be here. But he is out sick.

The Board Attorney asked if the applicant would have a problem at this time voluntarily giving an extension. The Applicant's Attorney indicated that there was no problem. A 30 day extension was submitted.

The Applicant's Attorney requested that the new engineer would be up to speed in time for the meeting and if this were not the case that they be informed prior to the meeting.

The Board Attorney indicated that the bulk of the issue on the table would be more in dealing with the zoning issue and special reasons and less about the actual engineering.

Matthew Conlon made the motion that the application be carried to the February 26, 2019 meeting as consented by the applicant.
Motion was seconded.

Roll call vote:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst, Matthew Conlon,
Steven Castronova, Robert Brady
No: none

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 Steven Castronova to approve invoices for Board Professionals
Second by Matthew Conlon

All In Favor to approve invoices.

COMMUNICATIONS

NJ Planner November/December 2018

LITIGATION

None

APPROVAL OF MINUTES

December 18, 2018

Motion for approval and second

Michael Gerst abstained from this vote

All others in Favor to approve all minutes.

DISCUSSION

There was much discussion by the Board about the process of finding/hiring a new Engineer. Time is of the essence so that the person filling the position can become familiar with the applications that are presently pending. There could be a possibility of an interim Engineer, should we need. Copies of the two current resumes (Richard Wostbrock and Associates and MCB Engineering Associates, LLC) were distributed and reviewed.

In the end, since the Board has a right to employ whomever they choose, a motion for a subcommittee composed of Arthur McQuaid, Robert Brady and Steven Castronova was made by Matthew Conlon and a second by Michael Gerst.

Roll Call:

Yes: James Olivo, Frank Curcio, Arthur McQuaid, Michael Gerst, Matthew Conlon,
Steven Castronova, Robert Brady
No: none

Any Board member who wished to submit the resume of an engineering applicant was urged to do so before close of business Friday, January 25, 2019.

The subcommittee will meet and do all the interviewing and whomever the subcommittee chooses as the best candidate will be accepted by the Board and approved at the next meeting. In the meantime that candidate can get up to speed on pending matters.

Motion for adjournment of the January 22, 2019 meeting by Steven Castronova
Second by Matthew Conlon
All in favor.

ADJOURNMENT at 9:56 PM

Next meeting February 26, 2019 at 7:30 p.m.

Respectfully submitted by,

Deidre Ellis, Secretary
Zoning Board of Adjustment