

**MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
July 23, 2013
Regular Meeting**

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:46 p.m. The Board Secretary read the Legal Notice.

Pledge

The Chairman opened the meeting. Mr. Gerst and Mr. Space were asked to sit at the dais in place of the absent Board Members. The Chairman explained about the Board of Adjustment, the Open Public Meetings Act of the State of New Jersey, appeals go to the Superior Court of the State of New Jersey. He introduced the Board Attorney. The Meeting follows a printed agenda, which is on file in the Clerk's office and posted on the bulletin board. If needed a break will be taken at approximately 9:00. There are no new applications after 10:30, no new testimony after 11:00. The applicant explains the application first then anyone speaking for or against the application is given the opportunity to do so on a case-by-case basis.

Roll Call

Present: Russell Curving, Steven Castronova, Frank Curcio, Michael Siesta, Michael Gerst, Clint Space, Robert Brady

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

Absent: James Olivo and Arthur McQuaid

MEMORIALIZATIONS

**VINCENT LANZA
RESOLUTION NO. 7-2013**

MOTION BY Clint Space to memorialize Resolution No. 7-2013

SECOND BY Robert Brady

Roll Call Vote:

Yes: Frank Curcio, Clint Space, Robert Brady

No: none

MICHAEL & KAROLINA COLE

**RESOLUTION NO. 8-2013
BULK VARIANCE NO. ZB05-13-03
BL 13402; Lot 8
569 Macopin Road, R-4 Zone**

MOTION BY Steven Castronova

SECOND BY Robert Brady

Roll Call Vote:

Yes: Russell Curving, Steven Castronova, Frank Curcio, Michael Siesta, Robert Brady

No: none

DONAVAN FRITZ

**RESOLUTION NO 9-2013
BULK VAR. ZB05-13-04
Block 8602; Lot 40
18 Cherbourg Drive; R-2 Zone**

MOTION BY Russell Curving
SECOND BY Michael Gerst

Roll Call Vote:

Yes: Russell Curving, Steven Castronova, Michael Gerst, Frank Curcio, Michael Siesta, Robert Brady

No: none

VACAMAS PROGRAMS FOR YOUTH
USE VAR & MINOR SITE PLAN ZB03-13-01
BL 12501; Lot 41.01
256 Macopin Road; R-4

Peter Schiavone, Attorney for Vacamas addressed the Board he indicated at the June meeting there was an issue over the discharge of the pool water, since that time the Engineer Mr. McKittrick submitted a new plan and he will now address the Board.

Mr. Glatt indicated that Mr. McKittrick was previously sworn in and still under oath. Mr. McKittrick indicated that there were questions about the discharge from the filtration unit from the pool, specifically where the water would flow. Mr. Friedman contacted the pool contractor, the manufacturer of the equipment and the result is the pool would be backwashed once a week and each backwash would generate about 350 gallons of backwash water. Based on that the propose installing a single 1000 gallon drywell which is shown on sheet 2 of the revised plans that the Board has. The drywell would be connected by subsurface pipe which would be directed from the unit and water would be absorbed into the ground. Just in case of an overflow situation they are proposing a pop up emitter which is simply a pipe with a pvc insert when water gets too high in the seepage part of the drywell, it would pop up out of the ground and allow the water to disburse above the ground in the event where there is a situation of heavy rain and the pit is full or for some reason there is an upset in the pool and it has to be backwashed more than twice because the 1000 gallon drywell will hold two complete backwashes plus the bulk of the third.

Mr. McKittrick indicated that the chlorine content when running a swimming pool is between 1.5 and 3 parts per million. This is not toxic water the children swim in it they open their eyes in it and they do ingest it slightly. The chlorine is for bacteria control not for algae control. It is his opinion the water has no toxicity, however in the interest of satisfying the Board requirements they proposed the drywell.

The purpose of the pool is because the Lake Lariwien dam is a high hazard dam and is under a consent order from the DEP to be upgraded and part of that procedure requires the lowering of the lake level to facilitate the repairs of the dam. Since the camp offers swimming activities to the children they needed an alternate source of swimming and the pool offers satisfies the need. The location was chosen because it is adjacent to an existing structure which will be used as a changing facility for the children and also for storage of the equipment for the pool. Page 2 of the drawing shows the approximate distance that the apron from the pool is from the Lake it is about 80 feet. He indicated that it is important that everyone understands that the reason for upgrading the dam in addition to the DEP consent is because it provides other facilities for the camp. It provides aquatic wildlife, an esthetic vista for people coming into West Milford, it is the first lake in Town that you see, located on the S turns, the dam will enhance that and keep the lake in tact.

The issue came up about the pool being an expansion of a non-conforming use, swimming pools are a permitted use in a residential zone and there are other pools in the area. The non-conforming use as a camp is really not much different than a residential use. A lot of the same activities go on, recreation, residence, children playing, sports activities, the application will result in no increase in traffic, lighting, number of campers. The six foot fence is for security purposes, one being the high volume of traffic on Macopin Road and the fact there will be children and it really protects the children from people on Macopin Road and protects the pool from vandalism during off hours at night when not in use. He indicated that he gave a synopsis of why the variance and the site plan should be approved. It is not detrimental to the neighborhood, does not harm the intent of the Master Plan. One of the goals of the Master Plan is to provide recreational activities and the camp clearly provides the activities. He indicated that he believes he addressed the wastewater coming out of the filtration unit.

Mr. Castronova asked about the filtration it is designed to be a diatomaceous earth filter. Mr. Brady indicated that the Board is aware of the toxicity of the chlorine to humans was not the issue but to vegetation that was the reason for the seepage pits. Mr. McKittrick indicated that all of the pools in his neighborhood are discharged into the grass and it does not die. A Board Member asked about the

crushed stone is there anything else used for disbursement. Mr. McKittrick explained that the seepage pit itself is wrapped in a geo textile to keep silt from entering inside the pit but the chlorine will dissipate as it sits in the 6 foot pit and changes to another chemical and any bacteria in the ground will help to take care of any additional residual chlorine levels that are in that and indicated he did not see that as being an issue.

Mr. Cristaldi asked if he thought they could dig 6 feet without hitting rock and Mr. McKittrick indicated he will do the soil logs but has done 2 septic systems in the vicinity so he thinks he can. One adjacent to one of the buildings and one at the original manor house and it was sand and gravel and they got 10-foot excavations. Mr. Cristaldi indicated if he did hit rock he could change it to two 3 foot pits instead.

Mr. Drew asked about the storage of the chemicals and Mr. McKittrick indicated a proposed small shed, the anticipated plan is only to maintain chemicals on site for a couple of weeks activity. They will not store for the entire season. The chemicals would be stored in the shed with the filtration equipment.

Mr. Brady asked for comments or questions from Board Members. One Board Member asked how deep the pool would be and it will be between 3 and 4 feet deep. There are no further questions and the Chairman opened the application to the public.

Seeing no one for or against the application Michael Siesta moved to close the public portion and Steven Castronova second.

All in favor to close the public portion.

Mr. Schiavone addressed the Board and indicated that Mr. McKittrick did a very nice job of addressing both the positive and negative criteria that would be involved with the pool as well as addressing the issues of the Board and will not take up additional time summing up anything else or rehashing what has been said and he thanked the Board for their time.

There was discussion among the Board Members.

MOTION BY Steven Castronova to approve the application require soil logs as a condition and based upon the testimony of Mr. McKittrick with regard to the positive criteria that it is a camp and will be for the benefit of the children of the camp and the reason they are doing it is because of the need to re-build the dam.

SECOND BY Michael Siesta

Mr. Drew added that it might be wise to have the storage facility for the chemicals be reviewed and approved by the Health Department. The motion and second were amended

Roll Call Vote:

Yes: Russell Curving, Steven Castronova, Frank Curcio, Michael Siesta, Michael Gerst, Clint Space, Robert Brady

No: none

Mr. Brady explained to the applicant that there is a 45 day appeal period after the resolution is memorialized.

MARY & LOUIS ROSNER

BULK VARIANCE NO. ZB05-13-02

Bl. 4201; Lot 39

565 E. Shore Road, LR Zone

Bulk Variance requested for front yard set back where 126.6 feet exists and 123 feet is proposed for enlarging an existing front yard accessory structure.

Mary Rosner of 565 East Shore Road, Hewitt, NJ was sworn in by the Board Attorney. When the home was purchased 1 year ago there was an existing structure that was in disrepair close to the road. They had that approved for repair and restoration and they would now like to add an extension so that they can use the structure as a garage since there is congestion on the road. They are hoping to alleviate some of the congestion by adding the garage. They are looking to extend a few feet from that structure to the road to do that. She then directed Douglass McKittrick, Engineer and Rhea Wundrak Lipner to further discuss on her behalf.

Mr. McKittrick was sworn in and was asked for his credentials, located at 2024 Macopin Road West Milford. He has been licensed since 1982 in New Jersey. He has been in West Milford since 1987. He has been qualified for the Zoning Board and Planning Board in West Milford many times. He has been qualified at many Passaic and Sussex County Boards. He has been an expert witness from Passaic County and Bergen County Superior Court, Hackensack Meadowlands Development Commission, Port Authority of New York and New Jersey. His credentials were accepted and he is qualified for the Board.

The project is to complete the rehabilitation of an existing structure. It is not on the road which is East Shore Drive. Her property is in the Lakeside Residential Zone. Her property is almost adjacent to the inlet to the Greenwood Lake Dam. Her house is set back almost on the lake itself. Directly in front of the house is a small structure that is presently 12 X 18 feet. The structure sits back off the road about 126 feet. In the Lakeside Residential Zone specifically Greenwood Lake area homes with garages, the bulk of the garages are in the front of the home. Reason being unimpeded view and access to the lake secondly because of the topography here, it is the only practical place to put a garage. This property has fairly steep slope, you can see it has 2 foot elevations and steep slope to the house area. The paved common traveled way is a series of driveways that serves 7 houses. Those houses are located along East Shore Road and Lake Park Terrace, however because of these properties they have used this common driveway that threads through the adjacent lot as well as the Rosners's lot and continues through the next 5 properties after that. There is no specific easement for this, it is something that has been done and continues to be done. The areas designated, as islands are grassy areas or treed areas among the pavement; they act as a rotary or a traffic circle during heavy congested periods. The existing shed is 12 feet X 18 feet and it was a dilapidated structure and the applicant had that re-built, obtained a building permit and restored the structure. It was one story and in its rehabilitated state is a single story. The intent is to put a second story on that and extend it out 3 feet so that the lip of that meets the lip of the paved parking driveway area so it can be used as a garage.

Mr. McKittrick wanted the Board to be aware that he did the structural design for that floor to withstand the weight of an automobile actually 6,000 pounds. The floor was installed with that in mind as part of the rehabilitation. The 12 X 18 foot garage which is existing will handle most cars however if it was made three feet larger which is what the applicant is seeking, it would accommodate the car and storage of additional material or a longer car such as an SUV. Mr. McKittrick indicated that the application will result in no increase in traffic, it will effectively get one car off of the traveled way that is used by so many people, it will get their car in the garage and off the traveled road way and be an improvement to the neighborhood because of the traffic and congestion.

The application provides for a slot drain in front of the driveway going into the garage this is shown on page 2. The drain would take some of the existing storm water which winds up along the curb and divert it out through existing drains which drain out into the lake. Mr. McKittrick indicated the lakeside residential zone where this is located was created to accommodate existing development on lakes and bring some order to the zoning in those lakes. The Lakeside Residential zone allows for residential use and accessory structures. The proposed structure would act as a storage shed and a garage, the lower floor will house materials from the lake such life jackets or lines and the upper level would hold their vehicle in the summer time and in the winter a small boat, jet skis other items for storage. The garage meets the building envelope requirements for the lakeside residential zone with respect to setbacks it is behind the 40 foot front yard setback, it is clear of the 30 foot side yard setbacks and is clear of the 60 foot rear yard setback from the lake. The only variance they are seeking is expansion to an accessory structure in the front yard. Mr. McKittrick indicated in his opinion the three foot addition to an 18 foot structure is a deminimus expansion. It will have no negative impact on the neighborhood, it does not block anyone's site view of the lake, it is a capital improvement to the neighborhood because it is taking a dilapidated building and improving it. This is a typical structure that would be in the lakeside community with respect to garages. It is smaller than most of the garages and most are two car garages. It is his opinion that the structure will not harm the neighborhood, the intent or integrity of the neighborhood. There is a benefit by reducing traffic on a busy driveway. It will assist the applicant in keeping the yard clean because they will have a place to put their equipment.

Mr. Brady confirmed that the ground level, which is below grade for parking, will be just storage only electricity. Mr. McKittrick explained the structure it is about a 7 foot drop and it because of the rock ledge it is not even a full basement it is a half basement. From grade and the road you would only see the upper area of the garage. The lower floor will remain at the 12 X 18 foot only the 2nd floor will be 21 foot.

Mr. Castronova asked about the existing 4 inch pvc drain will be relocated and it is used for water that comes down the driveway. Mr. McKittrick indicated it has always been there but they are relocating it. There are other drains and the lot to the right has them too, they were put in by homeowners not by the municipality. Mr. Brady asked if there were any questions by Board Members. Mr. Brady opened the meeting to the public.

Seeing no one for or against the application Michael Siesta moved to close the public portion and Steven Castronova second.

All in favor to close the public portion.

The floor will be 5 and ½ inches, it is a composite floor with a steel floor pan underneath it, it sits on steel beams that run across the distance they have sheer studs and are welded to the steel beams.

Motion by Steven Castronova to approve the application. It is a 2 ½ to 3 foot variance it will not impede or effect any of the neighbors or change anything such as parking. There is no detriment, it is only an increase of 3 x 12. The runoff will be tied into the existing drain and will not cause any problem. The board engineer indicated that it was a small amount of impervious coverage.

Second by Michael Gerst

Roll Call Vote:

Yes: Russell Curving, Steven Castronova, Frank Curcio, Michael Siesta, Michael Gerst, Clint Space, Robert Brady

No: none

Mr. Brady explained to the applicant that there is a 45 day appeal period after the resolution is memorialized.

**YEAR END REPORT
RESOLUTION NO 10-2013**

Steven Castronova asked if the report needed to be reviewed. Mr. Drew indicated that he incorporated the Board's comments from the last meeting and added the section about the recommendations for changes to the Lakeside Residential Zone based on the study that was done by the Planning Department back in 2004. The report contains the comparison of the current standards as opposed to the recommendation back at the time. It seems to him the recommendations are still pertinent. If the Council adopts the changes it would make the properties in the LR zone by and large conform to the existing zone standards whereas now they do not. He understands that the intent of the LR zone when it was adopted back in the 1980's was to bring up the standards of the lake communities and to try and encourage larger lot sizes so that septic systems would have a larger area for drainage, there would be less impervious coverage and less runoff into the lake. However, 30 years of experience shows that it is not happening. All of the lot sizes in the LR zone are 10,000 square feet some even less but by and large the average lot size is 10,000 square feet. This Board over the 20 something years he has been with the Township has consistently heard for rationale for lot size variance that there was no other property to purchase because they are isolated lots they are completely developed around them, nobody wants to sell a part of their property and the Board had no choice but to approve the lot size variance but why make somebody go through that motion. If the standards in the area are 10,000 s.f. the zoning should reflect that it should not require 20,000 sf. The standards that were adopted were based upon an in-depth study of the existing characteristics of properties in the LR Zone with the intention of allowing reasonable use of the property without people having to come and seek variances from this Board. Mr. Castronova indicated it would reduce a lot of future variances, the planner commented that it should. All the Board can do is make a recommendation the Council would need to act on it. Mr. Castronova indicated that it was a great recommendation to reduce the variances since it is the same old problem in the LR zone year after year. Mr. Drew indicated that is the intent. A Board Member asked if it would have an affect on any new lots being developed and the Planner indicated it would then require a sub-division, if there were large properties to be sub-divided, their findings were that they do not exist. The properties that are in the LR Zone are all small lots that have been created by virtue of large plat sub-divisions. Upper Greenwood Lake happened back in the early 1900's. Other lake communities which were summer resorts that have been converted to year round were created in the early 1900's, 1920's-30's. What you find are isolated lots that on the average are 10,000 square feet in size and speckled all about within already developed communities.

Motion by Michael Gerst memorialize Resolution 10-2013

Second by Russell Curving

Roll Call Vote:

Yes: Russell Curving, Steven Castronova, Frank Curcio, Michael Siesta, Michael Gerst, Clint Space, Robert Brady
No: none

All in favor to approve Stephen Glatt's bills

All in favor to approve William H. Drew's bills

All in favor to approve Alaimo - Michael Cristaldi's bills

All in favor to approve Michael Hakim's bills

No Communications

Motion by Steven Castronova to adjourn the meeting of July 23, 2013

Second by Russell Curving

All in Favor to adjourn the meeting

Meeting adjourned at 8:33 p.m.

Adopted: August 27, 2013

Respectfully submitted by,

Denyse L. Todd, Secretary
Zoning Board of Adjustment