

**MINUTES**  
**Of the Township of West Milford**  
**ZONING BOARD OF ADJUSTMENT**  
**June 23, 2009**  
**Regular Meeting**

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:45p.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, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, James Olivo and Vivienne Erk and Robert Brady

**Also Present:** Stephen Glatt, Board Attorney, William Drew, Board Planner, Richard McFadden, Board Engineer and Denyse Todd, Board Secretary

**Absent:** none

**MEMORIALIZATIONS**

**CLAUDINE CHIARMONTE & KAREN KEMP**  
**RESOLUTION NO 9-2009**  
**BULK VARIANCE NO. 0930-0824**

Block 10808; Lot 13  
22 Seymour Drive, LR Zone

**Motion by Ada Erik** to memorialize Resolution No. 9-2009

**Second by Barry Wieser**

**Roll Call Vote:**

**Yes:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Vivienne Erk, Robert Brady

**No:** none

**TONYA ZEPPELELLI**  
**BULK VARIANCE #0930-0826**

Block 16703; L3  
12 Woodridge Dr., R-2 Zone

Ms. Zeppetelli asked for an adjournment because her engineer could not be present. Mr. Glatt, the Board Attorney told her that if the Board approved her adjournment request that he would require her to re-notice because she was not specific when she did her noticing and only stated bulk variance and there were others listed on her application. She needs to re-mail them with the side yard variance, lot depth and area. The secretary informed the applicant that there was no contact telephone number for her. She was also told if she had any questions to please contact the planning office.

**Motion by Ada Erik** to approve the request for an adjournment

**Second by Arthur McQuaid**

**All in favor** to carry the application to the next meeting. Mr. Brady announced that the application was carried to the next meeting

The application for Mr. Hart was called and nobody came forward. Mr. Brady asked the Board if they were in agreement that the application would be called again later during the meeting.

**SHILOH BIBLE CAMP**

**Use Variance #0440-0663**

**Preliminary & Final Site Plan #0420-0180AB**

**Bulk Variance #0430-0664**

Block 6002; Lot 47

753 Burnt Meadow Road; R-4 Zone

David Becker appeared on behalf of Shiloh Bible Camp, they are present to request a time extension. They received their approvals in 2005 to construct a multi-purpose church/gymnasium building and they received approval for a use variance, bulk variances and preliminary & final site plan. They needed to get state approvals, they have some but not all of the approvals required. He brought Mr. Bove from Lan Associates and also the principal from Shiloh, Jon Frank. Mr. Becker said that under the Statute the Board is allowed to grant 3 one-year extensions and this should be the final extension, hopefully. Mr. Glatt asked if they have mentioned that time is running out to the people or agencies holding up everything and he said yes they are pending.

Mr. Brady asked if they knew why an average citizen could get approvals within a year and why it took more than two years for their approvals. Mr. Becker called his engineer to testify, Eric Bove, LAN Associates of Midland Park. His credentials include testifying for this Board. He said that the permits outstanding refer to the sanitary flow at the camp, the existing septic was built 20 years ago when the camp was built and that is part of the process for the Highlands and water quality management plan. The State has determined that the existing septic is not in compliance with the current regulations and needs to be expanded. It was not brought to their attention until well into the permit process, then TWA permits were required and they are involved with the Health Department for that reason. One permit lead to another to another and if they knew the direction the state would be going from the beginning, the permit process could have been expedited, and they were not aware of them until more involved. The Highlands issues are not a problem, they were declared exempt. The water quality issues are giving them the problem now. TWA permits are in and some minor revisions for the T-1 permit to match the TWA permit. Mr. Becker also wanted to make Mr. Frank available for any questions.

**Motion by Arthur McQuaid** to grant the extension for use variance, 0440-0663, preliminary and final site plan #0420-0180AB and bulk variance #0430-0664, Block 6002; Lot 47, 753 Burnt Meadow Road, R-4 Zone. The testimony presented has shown that the applicant has done his best to comply with requirements from the state and the new rules and regulations from the Highlands also has to be followed and that the request is not because of their lack of desire or inability to perform but because of the state requiring additional permits and additional new information.

**Second by Ada Erik**

**Roll Call Vote:**

**Yes:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, Robert Brady

**No:** none

**DENA CAR, LLC c/o FRANCIS KASABRI**

**PREL & FINAL SITE PLAN #0820-0329 AB**

**USE VARIANCE # 0840-0816**

**BULK VARIANCE #0830-0817**

Block 14104; Lot 1

2038 Route 23 North, HC Zone

Dana D'Angelo, attorney for the applicant, explained to the Board that the feeling is that this project would be a good use for a defunct property. They are seeking approval to be able to put a pre-owned car lot there, which they feel the location is suited given its proximity along

the highway. Mr. D'Angelo called his first witness who was sworn in by Stephen Glatt. His name is Francis Kasabri, Principal, Managing Member of Dena Car, LLC. He sells pre-owned high-end cars. He lives around the block and has passed the property for years and he wanted a property on the highway that would be suitable for his business, even though it is undersized which is the reason for the bulk variance. He sells cars in Bloomingdale presently. The size of the lot in Bloomingdale is approximately  $\frac{1}{4}$  acre and this is about six times as large. The intended use is to sell cars and he is only displaying and selling only at this location. He will not be washing cars, detailing cars or repairing cars, he owns International Auto Body on Lowell Street in Butler and does all of the prepping and detailing of the cars at that location as well as the Bloomingdale location. Mr. D'Angelo asked after he purchases a car what happens and the applicant said it goes to Lowell Street for prepping, they run them through service and then they are displayed. Mr. D'Angelo asked how they are transported and they are driven with a dealer plate to the other location. There will be no car carriers delivering cars only car jockeys. There is about a mile between the Bloomingdale and the West Milford locations. There will be no cleaning cars either, only sales. The operation times will be Monday – Friday, 9:00 am to 9 pm and Saturday 9:00 am to 7:00 pm. There will be lights on a timer for when the sun goes down and then some will shut off at midnight. He would like to leave about 40% lighting, and then when the sun comes up they will go off. A lot of the business is Internet business but being on the highway they will pick up highway traffic. A lot of the Internet business is by appointment. They will have cars passing by and pulling in to the lot to see the displayed cars. They would prefer to have a general area for display rather than striping the lot because there are different size cars. They don't want to be limited because the styles of cars could change with the market; they will only have the cars in that one area. There will be no spray painting.

A Board Member asked about the items in the Planner's report, and one item was the amount of cars at one time, the response was whatever the area would hold about 80 cars. The Engineer will cover the rest of the questions. However, the exterior of the building was not mentioned and it will be stucco. A Board member asked about new cars versus old cars and they would like to reserve the ability for new cars in the future. Mr. Glatt asked about this application. Mr. McQuaid asked about washing cars and they will go to the prep center for washing, and if dusty they will use spray wax and they use a cloth which is pre-waxed but not water. Mr. D'Angelo asked about the prep work if on the lot for a while and Mr. Kasabri said it goes to Butler. No mass drop-offs or big trucks or flat beds because they will arrive ready to sell. They have all licenses and permits for all of his locations. Mr. Glatt asked about new or used cars. Mr. D'Angelo asked Mr. Kasabri if he had any plans at this time for a new car dealership and he said no. Mr. Glatt wanted to recommend to the Board since he has the business as a used car business and that is the intent that the Board only vote on the used car business and not a new car business. It can be bifurcated. A new car dealership is so different than a used car business; it can be placed in the resolution that he can come back to the Board. The applicant agreed to amend his application for used cars only.

Mr. Brady asked about warranty work, Mr. Kasabri said that this would be done at the Bloomingdale location. The bodywork and detailing will be done in Butler. They already have a lot in West Milford. They do not have a new car dealership in New Jersey. He purchased the property because at the time the economy was good and he wanted to expand and he lived around the corner. He thought it had good potential for his type of business. He did inquire about other areas on the highway and they were too expensive. Mr. Drew had a couple of questions about delineating the area on the site for where the cars will be displayed. The area was designated with stripes. Mr. Kasabri doesn't like to pack the cars in he would prefer to have the room for the customers to walk around and that way they wouldn't be packed. They will be able to walk thru the parking lot and see the car it will not have to be driven to the front. They plan to have it nice and neat with plenty of room. They had a previous location with congestion. Mr. Kasabri said that he will not be using display lifts.

The next witness brought a site plan but none of the members of the public showed interest in seeing it. Joseph S. Miannecki, Jr. Towaco, NJ, Civil Engineering, NJIT since 1990, he received his professional license in 1994 which is when he started Miannecki Consulting Engineers. He specializes in site plans, subdivisions, environmental studies, environmental impact, wetland studies, flood hazard area studies and Highlands' applications. He has

testified in front of about 30 or 40 Boards but doesn't think he testified in West Milford. The Chairman accepted his credentials.

Mr. Miannecki began to explain the property, it is 1.42 acres and fronts Route 23 Northbound, it is located in the Highway Commercial Zone (HC), approximately 130 feet deep and about 488 feet long. He is referring to the preliminary and final site plan from February 2009. There is an existing 3500 square foot block building close to the center of the property. He described the proposed vehicle display area on the eastern end about 14,000 square foot in size, 70 feet deep by 222 feet long. It will be outlined by a 6 inch wide white stripe, that will allow the Township Engineer or Zoning Officer to drive by and see immediately if they are in violation of their approval. It will be 20 feet off the 20 foot right of way line. There is an additional car display area on the western end and it is approximately 12 X 80 or 960 square feet in length, and it will also be outlined by the 6 inch wide white stripe. They are providing 11 parking spaces when 10 is required in addition to 5 employee spaces, which are proposed to be on the western part of the site north of the vehicle display area. There is a visiting space area, which consists of 5 spaces on the easterly side of the building and another 6 on the westerly side of the building with an included handicap space and aisle.

The site currently has 3 driveways, the easterly driveway is proposed to be removed and sealed up and there will be planting done as open space. The existing ingress immediately east of the building will be retained and the exit driveway to the west of the building they would like to retain. There will be new curbing, sealing up the access driveways on Route 23 on the easterly end and there will be modification to the existing westerly most driveway and that will be curbed and there will be an additional planting area.

The existing non-conformities consist of minimum lot depth because 150 is required they are providing 102.5 feet, which is already existing and cannot be changed. The required front yard setback is 50 feet and it is 39.98 feet. There is also a 50 foot rear yard setback and 11.08 is existing. The total impervious coverage allowed is 60% and currently it is 67.8% and they are proposing 65.3%, which is a reduction of about 3,000 square feet of impervious coverage.

Mr. Miannecki said there is a reduction of impervious coverage, a revitalization of an existing defunct site and there are ingress and egress improvements with elimination of an existing driveway, which isn't necessary, relining and re-striping and repaving of a parking lot. Mr. Hannan mentioned that he was glad to see the one driveway would be removed as it is on a bad turn.

The landscape and lighting plan will be discussed it is sheet 5 of 12 also February 2009. It shows the proposed lighting layout and illuminations. They are proposing completely re-lighting the entire parking lot with metal halide fixtures (the small circle with the lines coming out of it represents the lights on the site plan) they will give an even illumination in the parking lot and aim and display the cars, they are shown to be scattered throughout the lot. They are proposing decorative trees along the frontage of the property, which will consist of flowering plums, which do not get too big. They are proposing low type landscaping for in front of the building and won't interfere with site distance.

Mr. D'Angelo asked about additional lighting for the parking lot on the right side of the building. Mr. Miannecki indicated that he thought there was enough illumination but if the Board wants additional lighting he can put a wall-mounted fixture on the building and that should suffice for the Board Professional's request. He can center it on the easterly side of the building. Also, Mr. D'Angelo brought up the exit drive lighting, he didn't think it was as necessary to illuminate the exit drive as much as the entrance. He will add it if the Board wants it but he thinks it is excessive. Mr. D'Angelo asked about the sight distance down Route 23 and he said it was over 500 feet. Mr. D'Angelo also asked about the ADA Chairman's memo and the handicap parking spot, which is space #11, it was suggested that the striping was on the left to allow more space for someone non-handicapped. He would like this spot away from the building because it will allow more maneuvering to leave the spot, this is also van accessible. Mr. D'Angelo said there is also a concrete sidewalk around building Mr. Miannecki confirmed this is flush with the pavement, so there is no need for ramps.

Mr. Wieser asked the Engineer what the maximum amount of vehicles that will be for sale. There are four inside and the maximum outside will not exceed 100 cars. There will be an aisle, no access in rear. The size of the cars will decide the layout of the display. The broken pavement will all be re-paved. Mr. Brady asked a few questions and the answers are the footprint of the building will remain the same. There will be no living upstairs in the building. There are no neighbors to be impacted by the lighting, and if there is a glare to the roadway the applicant will be responsible to put back light shields or to make adjustments where needed.

The Engineer's memo was mentioned.

1. There are no walls over 4 foot in height, the only proposed wall will be less than 3.9 feet.
2. The dumpster location, with regard to recycling, there will only be a few employees basically domestic garbage.
3. He will add additional spot elevations and notations as necessary, he will remove decal for ramp.
4. It is a typo.
5. no handicap ramp
6. Applicant will provide granite block curbing where it is currently railroad ties, as many are in disrepair. It will not be in the rear part of the site and they will request a partial waiver.
10. Stall dimensions added for 1-11 and he is proposing 9 X 18 but he will add additional designations.
11. The sinkhole will be researched and filled. Possibly the rain has caused this.
12. The slope along the northerly, easterly line shall be stabilized and detail added. He added a note #17 or #18, related to rocks or boulders or trees to be removed but stumps left. The slope face needs to be addressed, perhaps mulch or woodchips. It is steep. They will provide natural stabilization either plantings. Newark property is behind building.
13. They are proposing a stockade fence along property between gas station and their property, as a line of demarcation, Mr. Drew the Planner suggested planting as a separation. Mr. Brady suggested that the Planners and Engineers get together to discuss the best screening.
14. Additional lighting they agreed to put an additional light on the building to illuminate spaces 1-5.
15. He can add an additional light to one of the poles for the exit driveway to bring up to .3. It was suggested that the pole be shifted.

The Environmental Commission memo was mentioned and it doesn't appear to be affected. The Health Department memo was discussed and they feel that with the use and employees and the square footage they can stay under the threshold of the prior approval. He will add the detail but since the previous uses were a bar and caterer, they don't feel it will be a problem. Ms. Erik asked about the roadway in the back corner of the property and his client would like to close it off. It is not a right of way and it is very steep. Mr. D'Angelo indicated that there is a recorded easement for that road but it doesn't appear to do anything. It is an access easement but you can't go past Newark Watershed. If they can vacate it, they will close it off. The architect will address the Fire Marshall's memo but they will do what he wanted including the fire zones. Mr. Brady asked If Board Members had any questions of the Engineer and there were none.

There was a motion and second to take a break at 8:56.  
Returned at 9:19.

The Attorney swore in David Smith of 16 Jessup Road, Warwick, NY, Licensed Architect, NJ, 1995 graduate of University of North Carolina, Charlotte, working in West Milford for 13 years with Tom Hitchins Associates. He has not testified in front of this Board but has testified in front of other Boards. His credentials were accepted.

Mr. D'Angelo asked about the signage first. There will signage on the front and sides of the building, which will be on the building itself, part of the stucco delineation, which will have the logo of the company and show the brand logos. There is street sign, approximately 112 square feet near the edge of the road. They intend to reuse the sign but change lettering. The sign on the roof will be removed but a new parapet will be installed that will surround the building. The attorney mentioned the ADA memo regarding the front doors. The existing

sidewalk is flush to the payment, the oversized door will be fixed and essentially is only to bring cars in and out of the building and the other set allows foot traffic. They are about 3 feet and 5 feet. The other doors will be standard 3 foot doors. The air conditioning will be placed behind the building. Stucco will be the exterior covering of the building. The sign on the building is below the 20% allowable.

Mr. Glatt swore in the planner P. David Zimmerman, Licensed Professional Planner in NJ, he has an Undergraduate Degree in Planning from Rutgers, Master in Planning from the University of Pennsylvania, taught Planning at Rutgers for 14 years, self employed as a consultant with an office in Morristown, NJ. He has appeared before this Board. The Board accepted his credentials.

The Planner explained that the highway commercial zone allows automobile sales establishments as a conditional use. Some of the standards required by ordinance that are not present are preexisting. The location of the building cannot be moved to satisfy the front yard and rear yard setbacks. The Planner began to discuss Mr. Drew's Planner's Report. The first item was suitability and why it was a good property for this use, the property is a highway location and would be attractive for this type of establishment. It is long and narrow with an extensive amount of blacktop already on the property so it allows the display and sale of the vehicles. The site is vacant and dormant and from a planning perspective, it is a private redevelopment of the site and they will do a renovation of the property and introduce landscaping, lighting and the building. It will be an asset to have it utilized. There is a modest reduction to the impervious coverage. Mr. Drew's report indicated that they need to show the special reasons associated with the application and if the standard of the conditional use is not satisfied then you come to the Board. Mr. Zimmerman cited a case. The ordinance requires 2 acres and there is 1.4 acres at this location, there would be more cars if it had 2 acres and they have scaled down, they have a nice amount of landscaping, the building is a modest size building which will house the offices and smaller showroom. The ordinance requires 40% maximum coverage and presently it is 67% but being reduced to 65%, which is a reduction of about 3,000 square feet, this is also preexisting. The ten parking spaces for customer convenience as required is being provided. The approval would be an appropriate use for the property. This is a unique use for a unique piece of property. There is appropriate lighting and appropriate open space. The application will not change the zoning and will not be a detriment to the public good. The proposal will redevelop the property and change the atmosphere of the area. He feels that the applicant satisfied the criteria for the variances and satisfied the items raised by the professionals for the adoption of the site plan. Mr. Brady asked if the Board had any questions and no one did. He thanked the Board.

Mr. D'Angelo feels that there isn't really anything to add and wanted to submit.

Mr. Brady opened the meeting to the public.

Ada Erik moved to close the public portion since no one was present for or against the application.

Gian Severini Second

All in favor to close the public portion

Mr. McQuaid mentioned that the property was dormant for some time and there were different restaurants that didn't make it, the last person who came before the Board wanted an adult juice bar. Since presently it is vacant it could be a health hazard. He has seen one of the buildings in Bloomingdale and they have done a nice job refurbishing it with the name and logo, more attractive than previous buildings there. This could be a really good plan for that area. Mr. Brady asked if there were any other comments from any Board Members.

Mr. McQuaid asked if all applications would be done together. Mr. Glatt said first the use variance but wanted a comment from a Board Member whether the applicant has put forth the special reasons as set forth by Mr. Zimmerman and then the bulk variance with the preliminary and final site plan but first the use variance.

**Motion by Francis Hannan** to approve use variance #0840-0816, Dena Car LLC, c/o Francis Kasabri, Block 14104; Lot 1, 2038 Route 23 North, HC Zone. It was a very thorough presentation, very succinct, all of the questions were answered and with regard to the special reasons this is a suitable use for the property and for a use variance it is a highway location, it is long and narrow which is conducive to a used car facility, there is already a

tremendous amount of blacktop and it has been vacant and dormant for a very long time and basically it will be a redevelopment of the site and also one of the goals of the Highland's Act is a redevelopment of properties like this. There will also be a moderate reduction of the impervious surface, that it promotes the Municipal Land Use Law and since it is a unique piece of property it will enable it to have a unique use. There doesn't seem to be any impact with regard to the negative criteria and not establishing precedent where it would effect our Municipal Land Use Law or Zoning aspects and that there is no detriment to the public good, that he firmly believes that it is positive to the public good because the property has been dormant for so many years, has been an eyesore and a problem for many years and has deteriorated and he concurs with Mr. McQuaid since he has been by Ramsey Corp. many times and admired the facility that is run in Bloomingdale. Also, it is a permitted condition use except for the lot area and the impervious surface.

Mr. Drew suggested that the following become part of the conditions of approval: limiting the number of vehicles on the site and restricting the display area to that shown on the plan and that there be no use of display lifts for the display of vehicles for sale. The things testified by the applicant should become part of the conditions of the resolution for enforcement in the future. Mr. Hannan had no problem with the exception of the amount of cars. Mr. Brady said that 90 were allowed with the zoning regulations, however fewer for the purposes of getting around them in the parking lot. Mr. Drew said based on the size of a parking stall it would be 90 but the applicant testified that it would be less than that because they need access to aisles and available areas for viewing the cars, the testimony was 80 cars. If they restricted to the area of the plan, it would enable the Zoning Officer to enforce any activity that got beyond the scope of what the Board's approval intended. Mr. Hannan had no problem with that. Mr. Glatt indicated it might be too wide open. Mr. McQuaid feels that 90 would be a better number. Mr. Glatt asked Mr. D'Angelo about a number and Mr. D'Angelo said it is more of what is to be parked there because of the sizes of the vehicles. They would prefer not to have a not to exceed number. The economy could dictate the size of the cars. Mr. Glatt wanted it discussed now because it is the decision of the Zoning Officer if it is over-packed or not. Mr. D'Angelo asked if it is the ability of the Zoning Officer to say over-packed if it is within the delineated area and Mr. Glatt indicated that that could be the issue later on. Mr. Drew said that the site will be physically delineated with a white striped area and he indicated that as long as it is within the striped area. Mr. Hannan would prefer not to give a number. Mr. Brady would prefer to give a number. Mr. Glatt indicated that if a number were not given in the approval, then the applicant would have Carte Blanche to cover the area. If Mr. Kasabri sold then the new owner could put as many cars in as long as it was between the white lines. Mr. D'Angelo said his client came up with 100, if striped at least 90. The number should be not to exceed 100 cars. The use variance will be voted on with the condition of not exceeding 100 cars. Each Board member will be asked to vote on the use variance and if yes with the not to exceed 100 cars and if approving with the condition. This does not include what is in the building or the other side of the building.

Mr. Hannan wanted the other restrictions added to his motion regarding no lifts and also the cars to be within the display area according to the plan, and not to exceed 100 cars.

**Second by Arthur McQuaid** with the amendments of not using lifts and not to exceed 100 cars in the display area as show on the map.

Mr. Glatt explained to the Secretary that it was approved and a second for a use variance approval wherein the applicant cannot display more than 100 cars in the designated area. The area that is south of the building is the area being discussed. Mr. McQuaid amended his second.

**Roll Call Vote** to approve the use variance

**Yes:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, Robert Brady

**No:** none

**Roll Call Vote** to approve with the condition of not to exceed 100 cars in the large lot at the south end of the property.

**Yes:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, Robert Brady

**No:** none

**Motion by Francis Hannan** to approve Preliminary and Final Site Plan #0820-0329AB and Bulk Variance #0830-0817, the applicant has shown through testimony that most of the variances are unique to the property and were there before and will be afterwards, the impervious coverage will go down. The concerns that have been addressed on the site plan, the changes and recommendations that have been agreed upon by our Engineer and Planner and for those reasons motion to approve.

**Second by Ada Erik**

Mr. Brady asked if there was any discussion by Board Members or any one else and Mr. Drew said no other than what was discussed in the testimony and the questions and answers by the Board. Mr. Glatt wanted clarification that the bulk conditions were stated as pre-existing in Mr. Hannan's motion and he said the unique to the property.

**Roll Call Vote:**

**Yes:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, Robert Brady

**No:** none

The Board complemented the applicant on their presentation all wish they were all so thorough and encompassing and an excellent application.

**KEITH DANIEL DE BLOCK  
BULK VARIANCE #0930-0828**

Block 04903; Lot 006  
42 Morsetown Road, R-4 Zone

Mr. McQuaid recused himself from the application Mr. Brady asked Mr. Olivo to take his place.

Mr. Glatt swore in the applicant Keith Daniel DeBlock, 42 Morsetown Road, West Milford. They are requesting a variance for an above ground pool because they have two front yards, Morsetown Road to Kitchell Lake Road. There is no other place to locate it. His front yard faces Morsetown Road, to them it is their back yard, they have bushes that grow 9 feet tall in their back yard, so nobody can see in their back yard. Mr. Hannan asked about the Engineer's report about grade changing, they only would need to pull about four inches to level out the pool. They will not direct any stormwater onto any adjacent properties. The pool will not be near the septic system. Mr. Brady asked if there were any questions.

Mr. Brady opened the meeting to the public.

Motion by Ada Erik to close the public portion after seeing no one for or against the application.

Second by Gian Severini

All in favor to close the public portion

**Motion by Gian Severini** to approve Bulk Variance #0930-0828, Block 04903; Lot 6, 42 Morsetown Road, R-4 Zone for approval for an above ground pool on their property which has two front yards.

**Second by Ada Erik**

Mr. Hannan added that the applicant agreed to the conditions outlined for grading and disturbance and will not be putting the pool over the septic field. Mr. Severini amended his motion and Ms. Erik amended her second.

**Roll Call Vote:**

**Yes:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Gian Severini, James Olivo, Robert Brady

**No:** none

Mr. McQuaid returned to the dais for the next application.

**LINDA PROVOST  
BULK VARIANCE # ZB05-09-01**

**Block 13102; Lot 36**  
**12 Pawnee Terrace, LR Zone**

Mr. Glatt swore in Linda Provost, 12 Pawnee Terrace, West Milford. They would like to construct a 12 X 24 above ground pool and they have two front yards. There is no available property contiguous to their property for them to purchase. The pool would meet the setbacks required by the code. Mr. Hannan asked about the Health Department memo regarding locating all components of the septic system, well line and also the public water line to show it on the survey. The septic system is shown on the survey and they do not have a well. The water line faces Pawnee Terrace and if they show the approximate location coming off on Pawnee Terrace they do not need a new survey drawn up. The septic system is shown on the plan and it is on the opposite side of the lot from where the pool is proposed to be. Mr. Hannan asked Mr. Provost to show where the line comes in and began to explain the steps and location of the water line, which would be to the right of the front steps, under the driveway. The water line runs probably parallel to the driveway from Pawnee Terrace which is no where near where the pool will be located which is on the back of the property, which is in the other front yard. Mr. Drew asked for the location of the septic system. Mike Provost, 12 Pawnee Terrace was sworn in everything said to this point is accurate and true. The septic tanks are, if looking at the back of the property, pool is to the right and the septic tanks are to the left. A-1 is marked into evidence it is showing the septic tanks and the pool is to the right, the septic field is in the front yard which is Upper Highcrest and this exhibit is marked A-2 and this shows the field being behind the rock wall where number 8 is. The field is about 30 feet from the tanks. One of the Board Members indicated there was plenty of room. Mr. Brady indicated that the Board of Health normally has as-builts of the septic system and it may be a good idea for them to get it from or to the Health Department. Mr. Hannan wanted them to know about the septic ordinance, which requires anyone effected to maintain the septic. They may not have it. Mrs. Provost produced the plan that they were discussing, it is marked into evidence as A-3 it shows it as being way back from where they were discussing. Mr. Brady opened the meeting to the public.

Motion by Ada Erik to close the public portion after seeing no one for or against the application.

Second by Gian Severini

All in favor to close the public portion.

**Motion by Francis Hannan** to approve ZB05-09-01, Block 13102; Lot 36, LR Zone. The applicant has agreed to the memo of the Engineer regarding grade changes and disturbances and they agree not to direct stormwater runoff onto adjacent properties. They have given testimony and evidence that the objections of the Health Department that the components of the septic field, water and well line will not interfere with the pool.

**Second by Ada Erik**

**Roll Call Vote:**

**Yes:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, Robert Brady

**No:** none

**JIM & PATRICIA GOBLE**  
**BULK VARIANCE #0830-0805**  
Block 14113, Lot 47, LR Zone  
Apple Lane

Mr. Glatt swore in Patricia Goble and Michael Goble, both of 290 Morsetown Road. Mr. Goble asked the Board to approve a slight change to the September, 2008 resolution. The plan originally was a swale and it has been determined that a swale is not sufficient and they are changing it to an underground pipe with the recommendation of the Township Engineer. Mr. Glatt confirmed that he know per the original condition that they would have to give an easement to the Township to put the pipe in there. Mr. Glatt after speaking with Mr. McFadden that the applicant was advised that they would pay to install it but he would go to the Council to see if the Township would cover the cost of the materials or pay for the materials. Mr. Goble agreed. Mr. Glatt explained in the event the Council does not agree to cover the materials that it would be the applicant's responsibility to get the materials and do the whole thing. Mr. Goble said he understood

what Mr. Glatt told him. Mr. Glatt suggested to the Board if approved that a condition of the CO is that the applicant would need to submit the easement to the Township. Mr. Glatt doesn't know if he or the Township Attorney would be reviewing the easement. Mr. Goble was also told by Mr. Glatt that he would need to find someone to prepare the easement. Further clarification for the condition before a Certificate of Occupancy could be issued is that the pipe has to be installed and completed and that they give the easement and Mr. Goble agreed. Mr. Brady asked if Mr. Goble had anything else and he said no and the Board didn't have any questions either.

Mr. Glatt said that in the motion it would be an amendment to Resolution #28-2008.

**Motion by Francis Hannan** to approve the changes in conditions to Resolution #28-2008, that the applicant along with the Township came to a decision that they were going to install a pipe instead of doing the swale originally approved. The condition of the Certificate of Occupancy will be that the pipe is installed and that they submit an easement to the Township as agreed and that will be approved by the Township and the applicant has indicated that they are going to approach the Town to try to get them to share the cost of the materials for that but the applicant understands if the Township does not agree that the cost would have to be incurred by the applicant.

**Second by Ada Erik**

**Roll Call Vote:**

**Yes:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, Robert Brady

**No:** none

Mr. Brady indicated that it would be best for everybody and hopes the applicant is in agreement, it would increase the value of the property and the Township would be responsible when the easement is given.

Mr. Hart's application was called again and Mr. Brady asked for the record to show that the room is empty. The attorney asked if the secretary heard from the applicant and there was no contact.

**Motion by Robert Brady** to dismiss the application for William Hart, Bulk Variance #0930-0827, Blockk 3508; Lot 6, 14 Gleason Road, R1 Zone without prejudice. Mr. McQuaid asked what it would entail and Mr. Glatt said they would be required to re-notice but was not sure about escrow and application fees but would be required to re-notice. Mr. Hannan and Mr. McQuaid would like to give him a second chance. Mr. Brady discussed the requirements where if the applicant wants to postpone or for whatever cannot be here that someone of an official nature or the applicant themselves or their representative being a lawyer being present to postpone. Mr. McQuaid agrees but perhaps an emergency situation arose this evening. Mr. Glatt agreed but in the past how many applicants or attorneys were required to appear. Mr. Glatt indicated that the only thing it takes is a letter asking the Board to reinstate the application by the applicant they only have to re-notice. It could change the precedent from the previous process. Mr. Hannan because of the economy he wishes it were different but he understands that it could cause a problem down the road. All that is required is a letter to the Board and re-noticing. Mr. Glatt wanted to see how many people were involved in the noticing and it is about 20. Mr. McQuaid asked if the Board had the ability to decide fees and Mr. Glatt said that sometimes applicants take a voluntary dismissal for the reason of delay so they do not have to pay additional fees and the only requirement is the re-noticing. The application will be dismissed without prejudice with a recommendation that if there is a legitimate excuse for not being here that the matter will be re-listed or re-instated without the need to file additional fees. Mr. Brady asked the attorney if that dismissing without prejudice means that the matter was dismissed and you are not prejudiced or stopped from re-filing the application. Mr. Glatt commented that even just a phone call to the secretary if an emergency would have been appreciated. There were no objectors this evening.

**Second by Gian Severini**

Mr. McQuaid confirmed that the motion included that if a legitimate reason there would be no additional fees only re-noticing.

**Roll Call Vote:**

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

**Motion by Ada Erik** to approve invoices for Stephen Glatt  
**Second by Gian Severini**  
All in Favor to approve invoices

**Motion by Ada Erik** to approve invoices for William H. Drew  
**Second by Gian Severini**  
All in favor to approve invoices

**Motion by Ada Erik** to approve invoices for Robert C. Kirkpatrick  
**Second by Gian Severini**  
All in favor to approve invoices

Mr. Brady mentioned the informative articles in the New Jersey Planner.

**Motion by Ada Erik** to approve the minutes for the May 26, 2009 meeting  
**Second by Barry Wieser**  
All in favor to approve

**Motion by Ada Erik to adjourn the meeting**  
All in favor to adjourn the meeting of June 23, 2009  
Opposed: none

**Meeting adjourned at 10:36 p.m.**  
**Adopted: July 28, 2009**

Respectfully submitted by,

\_\_\_\_\_  
Denyse L. Todd, Secretary  
Zoning Board of Adjustment