

**MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
June 25, 2013
Regular Meeting**

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:32p.m. The Board Secretary read the Legal Notice.

Pledge

The Chairman opened the meeting to the public. He 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, James Olivo, Frank Curcio, Arthur McQuaid, 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: none

MEMORIALIZATIONS

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

This resolution was not available for memorialization.

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

Use variance and bulk variance and minor site plan approval requested for an expansion of a non-conforming use for the construction of a swimming pool.

Peter Schiavone, Attorney for Vacamas addressed the Board and explained it was an application for a swimming pool for a children's summer camp. He indicated that the camp serves the community in West Milford as well as the surrounding community and its children. He indicated that the swimming pool gives an inherently beneficial use to the children. A swimming pool would be a wonderful thing for the community and a wonderful way to help the children through the summer. Peter Schiavone also indicated that with an inherently beneficial use variance, it is really the negative criteria that need to be addressed. The negative criteria are an evaluation of the gain of the community versus any negative impact on the community. To get into detail about that, he asked Mr. Friedman to address the Board about Vacamas and about some of the issues that the Board may be concerned with such as lighting, runoff, position of the swimming pool and will also discuss how the pool can benefit the pool and the community and meet the standard of an inherently beneficial use.

Mr. Glatt swore in Michael Friedman, Executive Director of Camp Vacamas, 256 Macopin Road, West Milford, NJ. Douglas McKittrick, 2024 Macopin Road, West Milford NJ, testifying as a Professional Engineer and Professional Planner.

Mr. Glatt indicated to the applicant's attorney that more information would be needed to explain why a swimming pool even for children would be an inherently beneficial use. If not then they will need to prove the positive criteria (special reasons).

Michael Friedman indicated that Vacamas has been in West Milford since 1950 Henyon Pond is there. They are under State mandate to put in a new dam and need to keep the lake lower than the normal capacity, which is dangerous for the children because there is no shallow area. The first reason for needing the pool is because they are losing a major swimming area in the camp for approximately 2 years. He also indicated that the swimming pool is beneficial for the kids because of the day camp, which has West Milford, and Bloomingdale kids, the kids are 5 to 7 years old and they do not like swimming in the lake because of the weeds and sediment. One of the best places to learn how to swim is at camp. The start as non-swimmers and learn how at camp. He indicated it would be a great advantage to campers and the community. There will be no lighting, swimming only during the day; they are American Red Cross, they have been in the town and never had a problem in terms of swimming, they teach a safe program. It is only during the day there are no loud speakers on the camp at all so there will be no additional noise. He indicated it would be an asset to the community and the camp. Mr. Friedman indicated that it would be a dangerous situation with no rain and the lake going down an inch a day and they keep losing the area where the younger kids can swim.

Mr. McQuaid asked if Mr. Friedman indicated that they were Red Cross certified and he indicated there are 26 lifeguards on the waterfront and they are American Red Cross certified guards, trained. They are careful. Mr. Friedman indicated that the pool is to be in that location because that is where the day camp is. Vacamas is awaiting the State's approvals the State approved them for a 1 million dollar loan, which the town will need to vote on. They are waiting on the State's approval and they are hoping to have a shovel in the ground by next June. Once the new dam is in place they will be able to raise the lake by 6 inches.

Mr. Glatt asked for a description of the property and what is on there. Mr. Friedman indicated that over the summer there are 350 overnight campers, 100 day campers on facilities at all times. 53 buildings all year round, there is a lodge, the younger kids live in modern facilities with bathrooms inside the teenagers are in tents and do adventure programs. He indicated that they hire lots of local people they utilize the local stores. During the summer there are 190 employees and year round they have 23 employees full time at the camp.

Mr. McQuaid asked if from time to time PAL Basketball has used the gym, Mr. Friedman confirmed that and indicated that they don't charge for the boy scouts when they camp. They do not charge for the community. He has been there 33 years. Mr. Glatt asked if Mr. Friedman saw any negative impact and he said none. Mr. Brady asked about the winterization of the pool. Mr. Friedman indicated that it would be closed down and the company hired will drain it put a top on it. The cover will be up to code Mr. Friedman wants the pool drained completely though. All insurance and Town requirements will be followed. There were no other questions by Board Members.

Douglas McKittrick was called to testify on behalf of the applicant. The pool will be an integral part of the camp with respect to the education and training, athletic activities that the kids participate in and the lake has to be lowered because of dam repair work. Mr. Friedman needs to be able to provide the children with an alternate swimming facility, the pool was the most logical. Mr. McKittrick indicated that the camp is recreational as well as educational. Educational facilities are inherently beneficial which is a legal term that describes the nature of the activity that is supposed to take place on the property and the reason it is important is because there are different standards for use variances for inherently beneficial uses, specifically if it is an inherently beneficial use, positive criteria are matter of fact and presumed to be existing then it is a question of addressing the negative criteria. The Board has seen use variances before with negative criteria proofs.

Mr. McKittrick indicated that one of the variances that are being sought is a 6-foot fence around the pool. The fence would be located approximately a foot off the edge of the concrete apron that would be around the pool.

Mr. McKittrick was asked for his credentials. 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.

Mr. Glatt indicated that he was taking exception with this being an inherently beneficial use but in the testimony of the engineer, there was positive criteria that the Board could consider but it could not really be labeled an inherently beneficial use, Mr. McKittrick indicated in the past it was considered inherently beneficial. There were a litany of reasons pertaining to the positive criteria.

The Engineer indicated that they requested a 6 foot fence around the pool where a 4 foot was allowed. The 6 foot fence is desirable because of the close proximity to the road, it would keep people out, animals out and it would provide protection from trespassers during winter months when the pool was empty it would be fenced, gated and locked. The engineer could not comment on the cover he has not seen a definite plan. Typically they are anchored to concrete anchors embedded around the pool. They are made of a geo textile or very synthetic textile that has intensive strength and should not be a problem.

There were questions with regard to emptying the pool or the filter back wash. They would install a rip rap apron that would dissipate the kinetic energy and water by sheet flow across the ground. The increase in impervious surface, it has a proposed concrete apron around it and the apron would be sloped away from the pool to keep from washing material into the pool and the slope would allow it to flow away from the pool by sheet flow away from the area. The existing gravel driveway will be removed and not be reinstalled some place else. Right now there is a perimeter road that goes over the dam and around the lake and is primarily used for emergency vehicle access. The road would stay it is between the pool and the lake. The access for vehicles would be limited to a small stub of a parking lot off of the access road adjacent to the lake, so there would be no increase in parking around the pool facility at all.

The negative criteria require that the applicant demonstrate that there is no detriment to the surrounding property values; it does not harm the intent of the Master Plan. There will be no detriment to the residential neighborhood. A swimming pool is a permitted use in a residential zone. The installation of the swimming pool itself would not disrupt or change the single family dwelling character of the surrounding neighborhoods. There will be no increase in traffic, the number of counselors will not change, the number of employees driving to the site will not change and there will be no impact on local traffic, Macopin Road is an arterial feeder which can handle a lot of traffic anyway which can handle a lot of traffic but the swimming pool will have no increase in traffic on Macopin Road or the surrounding adjacent roads. There will be no lighting, will not be in operation at night, it is a day time pool so no light pollution spilling onto adjacent properties. The non-conforming use here is similar to a residential use but not on the same scale. It houses children, it has youth activities, swimming, camping, non-intrusive no noise factors, no disruption of the quality of life for the surrounding neighbors. The pool is required because the dam has to be re-built and it is an administrative consent order from the DEP. The construction of the dam provides a benefit to the community also because it is an aesthetic asset because when you come up Macopin Road it is the first body of water you see coming into West Milford and it is a decent size body of water. It is unique because there are not homes around it there are woods surrounding it. It is a benefit to have the dam being re-built and have the pond/lake remain in place. It provides views, aquatic ecosystems around the pond and in the pond itself with regard to fish and wildlife that thrive in the wetlands adjacent to the pond. One of the benefits allows them to take down the dam and continue activities while the work is being done.

There was also a question about the flood hazard area permit by rule, Mr. McKittrick indicated that every body of water in New Jersey has a riparian buffer around it. The buffer is either 150 feet or 300 feet depending on the classification of the body of water. The buffer is a transition zone between the water and the uplands where you are not allowed to disturb vegetation. The primary purpose is to protect the temperature of the water and to protect the ecosystems that live adjacent to the water. If you are doing a project in the buffer and you need to take down species trees, you are required to get a permit from the DEP to do that and it requires the replanting of trees in kind for what you removed. In some cases it is a 2 to 1 factor depending on the nature and quality of the water. If you are doing a project that is adjacent to a body of water and your not doing any construction within 25 feet of the bank and not putting fill in the flood hazard area and your not taking down vegetation that qualifies as vegetation under the flood hazard regulation, you can apply by a permit by rule. It is a notification to the DEP that you meet the criteria. It is an automatic approval from the DEP and there is no fee associated with it. They will be within the riparian buffer, they are not taking down any species trees or any vegetation and they will not put fill in the flood hazard area and they are much further than 25 feet from the bank of the lake so they qualify for the Permit By Rule. If the application is approved then prior to acquiring a building permit, the applicant will need to apply for the Permit By Rule from the DEP. That is a 14 day notification prior to commencing the work. It is incumbent upon the applicant to make sure he qualifies for the permit because if he does not, and the DEP finds out he is doing work and did not qualify, then he is subject to fines and penalties as if he did work without a permit.

Mr. Brady asked about the backwashing of the filter and confirmed that Mr. McKittrick indicated he was going to allow it to run across the ground. Mr. McKittrick indicated that he proposes to have it cross a riprap apron to dissipate the energy so that when it comes out of the discharge of the pump. A backwash is used to clean the filter of materials that are in it. It is not known what type of filter as of yet. Mr. Brady indicated that the water coming out of it is chlorinated and Mr. McKittrick indicated that the chlorination levels in a swimming pool is typically between 2 and 4 parts per million it is low, Mr. McKittrick indicated that it is his opinion that it will have no detriment to the surrounding properties or the ground or anything else it goes into because by the time the chlorinated water travels over the ground, its oxidation powers have been completely consumed by any bacteria living in the ground or any dirt on the ground. The Board Engineer asked where they were discharging there is a shed shown and the area is pretty flat. Mr. McKittrick indicated he would pipe the backwash around the north side of the pool and discharge to the east of the pool. Sheet 2 is being discussed it shows the process of where the water will flow and where the riprap apron would be. The applicant does not want it to flow toward the building or the septic system so his proposal is go around to the east to the filtration shed is and into the road.

Mr. Glatt indicated that the Board needed information for the record location size proximity of the pool to other buildings and the proximity and distance from the road. There are things talked about but not on the record.

Mr. McKittrick indicated it is a proposal to construct a 32 X 75 foot pool with a 6 foot concrete apron around it. It would be adjacent to Macopin Road, approximately 45 off the edge of the right of way, 35 feet from the existing building that is for counselors and day care. Located north of Macopin Road and south of Lake Larriwien. The area that is the proposed location presently has a fire pit area, small gaming areas, small canopy and a deck where there used to be a yurt. The fire pit, deck, gaming area would be removed propane tanks to be removed, the propane tanks used to heat the yurt, yurt foundation will be removed. There is a gravel driveway currently and is used to bring vehicles up for supplies to yurt and the fire pit. This gravel area will be removed and they will replant with a lawn area. There will be a small stub driveway coming off the gravel driveway, which goes to the north of the existing building. It will be big enough for an emergency vehicle or if someone had to be taken away. The pool will have a mechanical lift for ADA purposes to get handicapped children in and out of the pool. There will be lifeguards there to supervise pool activities. They want a 6-foot chain link fence around the apron for security and safety purposes. The building that the pool will be adjacent to is serviced by a septic system, most of the camp is serviced by municipal sewer and municipal water provided through Butler's system. The location chosen was because it was flat and it meets the separation distance from the septic system, which is a minimum of 20 feet. It accommodates the needs of the camp, facilitating the grading issues and maintaining the septic distance and that is why this location was chosen from a technical perspective.

Mr. Brady indicated that he did not like the chlorine discharge at 4 parts per million and 350 campers most of which are children it does not seem it would do the job. Mr. McKittrick indicated that you cannot over chlorinate a pool. Mr. Brady's concern was in order to keep it clean it would need to be backwashed 2 or 3 times a day with that many campers. Mr. Friedman indicated that the pool would only be used for the younger children it would not have more than 40 children in the pool at one time and the maximum during the day would be 120 children. It will never be used for older children. Mr. Brady indicated that he did not want it to be discharged along the ground. Mr. McKittrick indicated there were not a lot of solutions on where to put the pool discharge, he will not pipe into the lake or the storm sewer system on Macopin Road. He had experience with water treatment and he understands chlorine levels, residuals and decay. He does not think 120 children will be in the pool for 8 hours a day. He understands what happens with children in a pool. He can use different chemicals in the pool, the backwash whatever they decide will have something in it. Chlorine is an oxidizer; the water will need to be maintained for safety purposes. A sedimentation basin can be installed, but is not pleasing to look at, small children should not be wandering into it. If the Board wants they can look into it, it is not difficult to design. The basin would need some kind of an outlet in it because if backwashed several times you cannot risk it overflowing, it would need a controlled spillway coming out of it. Mr. Cristaldi asked about the distance to the lake and its about 150 feet, if the water is sent to the east it would flow into about an 8 to 10 acre area of the camp and seep into the ground. Mr. McKittrick does not know how much water would get backwashed out of the pool. Mr. Cristaldi

asked about seepage pits and Mr. McKittrick indicated that the soil is good for absorption it is sand and gravel. Mr. McKittrick was not sure of the calculation for the backwash. He would know the flow rate but not how long it would run, Mr. Cristaldi indicated it is not known how much water will be put onto the ground when you backwash it, if the engineer gets to the point where the riprap that dissipates it into sheet flow then its just a question of how long the sheet flow lasts for. It is a total gallon issue, Mr. Cristaldi indicated he did not know where it will end up and if anybody will be walking in it. Mr. Cristaldi indicated they would be better off if they discharge it into some type of seepage pit and if there was a problem with an overflow maybe it will run in the direction he discussed. It would save the trouble of it sitting on the surface. Mr. McKittrick has no problem with that but would like the opportunity to put a pop up emitter on that in case the pit became full. He would not want to have a situation where it is pumped into a pit and that fills up and backs up and creates a problem with the filter itself. Mr. Cristaldi agreed. If the amount is known he can figure on that many pits each holds 1000 gallons.

Mr. Brady asked if Mr. McKittrick could provide the Board with figures, calculations and additional diagrams about where this will go and about the backwash? Mr. McKittrick said it would not be a problem. Mr. Brady indicated that the planner and the engineer would need the information. Mr. McKittrick added he could find out information from the pool company. Mr. Brady asked how far away the sewers are from the filtering area and he thought it was on the other side of the stream. The backwash would take a long time and is not a realistic option. Mr. McQuaid indicated that he cannot see how it would be 1000 gallons of water. Mr. Brady indicated that it varies. Mr. McKittrick indicated the pool manufacturer should be able to supply a calculation of how much water will be backwashed and it is a time basis like 10 minutes...then it changes modes and it will be on a timer. Mr. Castronova asked who would be in charge of the process. Mr. Friedman indicated that it would be somebody certified in pool maintenance which is required by the State it will be monitored by the Township Health Department also. The pool will not be heated and will only be used 10 weeks a year. It is unknown what disinfectant will be used in the pool.

Mr. Glatt asked if there would be great resistance to carry it to next month to submit what the Engineer and Planner would like, also have the Health Department review it since it is a health and safety issue.

Mr. Friedman explained that they have a projected grant for the pool for \$75,000, There is no way the pool will be installed this year but they need for Vacamas to show approvals. Mr. Glatt asked if there was a deadline and Mr. Friedman explained the pool has to be in next year. He does not know how they will react.

Mr. McKittrick returned to address the Board, the bulk variances the location was chosen because it is adjacent to where the camp building is, and it minimizes the distance the children would need to get to the pool facility. Its specific location is due to the flatness of the land, its distance from the septic system, and the ease of grading to put the pool in. The 6 foot fence is requested for security and safety reasons. The use variance is a good use; it gives children the opportunity to learn things, athletic activities learn how to swim, waterfront safety, learn to participate in group activities, and to enhance the overall camping experience and a learning experience with the outdoors. With regard to the negative criteria, there is no significant impact on surrounding property values; a pool is a permitted use in a residential zone. It is a permitted accessory structure that would be allowed in any residential zone except it is slightly larger than you would normally find. The installation of the pool will not cause an increase in traffic, no lighting to impact surrounding properties, it is a non-conforming use that is not substantially different then permitted uses in the surrounding zone and therefore has no detriment on the intent of the Master Plan. It also allows for the continued operation of the swimming facilities of the camp in its normal fashion while the dam is being rebuilt. He also reiterated the reasons to have the dam re-built.

Mr. Drew was asked by the Chairman to have his comments known. He indicated that the questions that were raised about the backwash and how it was going to be handled was significant. It is not clear to his mind that would make it suitable for a condition for any potential board approval. It would be better served to the applicant, the board and staff if a plan were submitted for review the hearing was carried until the July meeting. There was testimony as to how it would be dealt with, the Board has an opportunity to have its input into the issue and then

it can be determined one way or another if the plan is acceptable as presented with the additional information or if it is not. There are too many open ended questions to consider this a potential condition of approval. Mr. Cristaldi agreed because after it is approved and the resolution only mentions a condition, its not the same as if the resolution can pinpoint a plan that everyone has and they know what to look for when out in the field knowing if it matches the resolution. It's hard to know what the condition really meant and you would need to look through transmittals and paperwork to find out the information it is better. The Board Members agreed.

Mr. Brady indicated that the Board could not force the applicant to postpone application. The professionals would like more information. Mr. Glatt explained that the Board had two meetings before the meeting deadline in August. The Board can postpone, or vote on it tonight or the applicant can request an adjournment. Mr. Glatt indicated that the Board is cognizant of the fact that there is a deadline some type of nebulous deadline relating to the grant, if necessary we can verify and substantiate to whoever it is a letter can be written or the attorney can speak to someone and explain there are technical engineering issues that need to be resolved and certainly by August 28 if not by the July meeting, Those are the alternatives, Mr. McKittrick could speak with Mr. Friedman. They will postpone it until July 23, 2013. Mr. Glatt told the applicant's engineer that revised plans and any other information will need to be in the office no later than 10 days before the meeting. The Health Department will receive a copy in case they have any input, it should be brought to the Secretary. Mr. Glatt reiterated that the Board will give a copy of any documentation to satisfy the funding people either by transcript of the meeting or a letter. The application has not been opened to the public but because additional information will be submitted, the public portion will be at the next meeting. Since the matter is to be carried no additional noticing will be required.

Mr. Brady indicated that the applicant requested a postponement for additional information to be supplied to the Board.

Motion by Arthur McQuaid to postpone the application to the July 23, 2013 meeting.
Second by Russell Curving

Roll Call Vote:

Yes: Russell Curving, Steven Castronova, James Olivo, Frank Curcio, Arthur McQuaid,
Michael Siesta, Robert Brady
No: none

MICHAEL & KAROLINA COLE
BULK VARIANCE NO. ZB05-13-03
BL 13402; Lot 8
569 Macopin Road, R-4 Zone

Michael Cole of 569 Macopin Road, West Milford was sworn in by the Board Attorney. He lives across the street from the S & S Deli and Liquor Store. He indicated that he would like to install a 6 foot fence along the street side of his side yard. He only has a side yard; his rear yard goes down a cliff. When the house was purchased 3 years ago, a different person owned the liquor store and deli. Since that time it changed hands and they have begun to serve liquor out of the store. This has brought patrons to hang outside and restrict his privacy. In the last 3 years since they have been there the deli was robbed three times and there was an attempted break in at his residence once. He has photos and he is asking for a 6 foot fence in his front yard.

The attorney asked the applicant if there would be any negative impact to the neighborhood in his opinion, he indicated that he did not think so it would be a nice high quality cedar fence set back behind trees about 11 feet from the curb. Mr. Glatt confirmed that what was submitted was his survey from 11-4-2009 when the property was purchased and the marking on the survey in red was depicting where the fence would be and it was marked by the applicant.

The Planner asked the applicant if there were any changes made to the property that is not shown on the survey and the applicant indicated there were no changes and it accurately reflects the property, as it exists. The planner also asked about the north section of the property that shows a drainage easement and confirming that the applicant will stay of the drainage easement. The applicant indicated he would be staying inside the easement toward his house. There are no further questions of the planner.

Mr. Brady asked if there were any additional questions of the applicant. A Board Member confirmed that it was a privacy fence and the applicant confirmed that and added it was for security as well. He repeated that he had photos. The planner asked if there was a detail of the type of fence they wanted to install, the applicant indicated that they were working on the exact design of the fence but it would be cedar it will not be board on board it will be a solid fence with the good looking side to the public, he will have the inside view.

Mr. Glatt indicated that if the applicant thought the photographs were necessary, the applicant indicated that it could not hurt. Exhibit A-1 consists of 5 photographs, marked A-B-C-D-E. The attorney asked the applicant to explain what A-1-A was the applicant indicated that it was an overhead view of the left side of Macopin Road it shows his property with a yellow line showing the approximate location of the fence and on the right side of the photo it shows the deli and liquor store directly across from his yard. A-1-B is a view from his driveway and it is showing his property in proximity to the liquor store but also shows the tree and berm that separates the curb from his property line showing the setback of where the fence will be. A-1-C is the view of the liquor store from the closest end of the property towards his side yard and you can see the front door of the liquor store with the railing, typically there are chairs there and people hang out and smoke there that is his concern of the lack of privacy. Mr. Glatt confirmed the location of the fence it will go from the small post in the forefront of the picture and it will head to the left along where you can see a little rock wall. A-1-D is similar to B he wanted a picture of the inside of the berm where you could see the curb. A-1-E is a blow up or closer view of what the applicant has described.

The Chairman asked if there were any other questions by Board Members of the applicant. Steven Castronova commented that he understands the concerns there have been a lot of problems at that deli. Mr. Cole thanked the Board.

The Chairman opened the meeting to the public.

After seeing nobody for or against Michael Siesta moved to close the public portion.
Steven Castronova Second
All in favor to close the public portion.

Motion by Steven Castronova to approve
Second by Arthur McQuaid
Roll Call Vote:

Yes: Russell Curving, Steven Castronova, James Olivo, Frank Curcio, Arthur McQuaid,
Michael Siesta, Robert Brady
No: none

Mr. Brady indicated to the applicant that it would be memorialized at the next meeting and there is a 45 day appeal period after the memorialization is advertised in the newspaper.

DONAVAN FRITZ
BULK VAR. ZB05-13-04
Block 8602; Lot 40
18 Cherbourg Drive; R-2 Zone

The Board Attorney swore in Donovan James Fritz, resides at 18 Cherbourg Drive, West Milford. Mr. Glatt requested that Mr. Olivo recuse himself from this matter, he is a neighbor to Mr. Fritz and there is another individual from the public present it is not known if for or against the application. Since there are additional members from the Board present, it is the attorney's decision. If Mr. Olivo wants to hear the matter he could sit in the audience.

The Chairman asked Mr. Gerst to take Mr. Olivo's place.

Mr. Fritz indicated that he would like to receive a bulk variance for a 1 bedroom and 1 bathroom addition. He currently takes care of his grandmother and mother. He is looking to add an addition so they can have enough space to take care of them as needed.

Mr. Glatt indicated that the Board needed zoning reasons, description of the property, the size and location of the addition, why that location was chosen. Mr. Fritz indicated that they were looking to add 400 square feet to the back side of the home. The reason why they chose that side is to use the best amount of space that they have that is not being utilized as far as the rest of the house goes. The property lines unable them to do what they want because they need about 45 feet it is more of a diamond shape.

The Board Chairman asked if there was any reason why they could not put the addition out the other side of the house to alleviate the set back. Mr. Fritz indicated that was considered but they want to use the best space that is not used every day. They use that side of the house for the kitchen and Mrs. Fritz works from home so that space is utilized for working. They did not want to disrupt that side of the house and they do not use the other side of the living room and wanted to utilize that space as an entrance way and have it offset from any activities that they have going on the other side and also, to give Mr. Fritz' grandmother enough space to have privacy. The Chairman asked if there was any other property that the applicant could acquire to alleviate the set back. Mr. Fritz indicated he was unaware if there was any. Mr. Chairman rephrased and asked if all the contiguous properties were owned and or developed and Mr. Fritz indicated they were.

The attorney asked for a description of what would be in the addition. Mr. Fritz indicated that there would be a 6 X 9 bathroom, a walk in closet and a separate bedroom for his grandmother. There will be no additional cooking facilities.

Mr. Brady asked if there were any additional questions by Board Members. Mr. Brady acknowledged the Board did not seem to have any questions and the Chairman asked if Mr. Fritz wanted to add anything he indicated that he did not.

The application was opened to the public.

Mr. Siesta after seeing nobody for or against the application moved to close the public portion.
Mr. Castronova second.

All in favor to close the public portion.

Mr. Brady asked if there were any questions or perhaps a motion.

Mr. Castronova indicated that he understood the concerns about the location where it is proposed and if it was moved to the other side a variance would not be required but all their options were explored and they did not want to block the kitchen or the deck.

Motion by Russell Curving to approve the application the zoning reasons are based upon the irregular size and shape of the property, based upon the fact there is no available land to purchase. The applicant under a very costly expense could move the addition without the need for a variance but under the circumstance would not make sense.

Second by Steven Castronova

Roll Call Vote:

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

No: none

Mr. Brady explained to the applicant that they had their variance and hopefully the resolution would be available for the next meeting at which time the application would be memorialized and that there is a 45 day appeal period after which time the applicant can get their permits.

DISCUSSION

Mr. Drew began discussing the year end report to the Mayor, Council and Planning Board for the calendar year 2012. The report evaluates the activity of the Board to see if there are any problems that may become apparent with the Zoning Board based upon any particular type of variance that might be requested and considered by the Board in any particular zone. Specifically, over the course of the years there has been a lot of variance activity in the LR Zone. Again, this year the majority of the variance applications were for properties in the LR Zone. A number of years ago in 2003 or 2004 there was an analysis of the LR Zone and utilizing the GIS system that they had in the Planning Department and it was determined that the bulk criteria in the LR Zone did not really match the existing character of the neighborhoods that were in those zones. It requires a 35 foot front yard and he believes a 60 foot rear yard and the average lot depth in the LR Zone is 100 feet There was about a 5 to 15 feet building envelope for development in the LR Zone. The Board has commented that that was passed up to the Council every year since that time and indicated it would be worth highlighting again and sending it to the Council, given the number of variance requests in 2012, the zoning bulk standards do not meet the typical neighborhood in the LR Zone. The remedy is not granting bulk variances and making people have to have applications, spending money and time appearing before the Board. The remedy is to re-evaluate the zoning standards and make them

more reflective of what the existing neighborhoods are. His recommendation is to make that part of the report to send to the Council for their consideration.

Mr. Drew indicated that another point that came to light with the cell tower application, was that there is a problem with the requirement in the Senior Congregate Care Zone (SCC) with regard to the set back of a telecommunications tower from the existing building. The Zone in Town is the Bald Eagle Manor site. With a recent application it was brought to the Board's attention that in that Zone you can have a cell tower 100 feet from an existing building. If an applicant came before the Board with an application with a cell tower of 125 feet and if it only had to be 100 feet from a building it could be a potential problem and the tower could crash into the building. So that should be added to the report as well for the SCC Zone. He would recommend matching the height of the tower or making the distance 150 feet.

Mr. Castronova and Mr. Drew discussed the LR Zone bulk standard issues and Mr. Castronova will put it before the Planning Board for discussion and perhaps a joint report to the Council with the suggestion would be worthwhile. It is an obvious change that would be warranted and worth it to discuss it. The Council is who ultimately makes the changes.

An additional comment that has been made in previous years and the Construction Official has advised the Secretary that they do now require an As-built foundation location survey as part of construction to verify that the setbacks have been met in the field before the whole building gets built and it is realized it is built in the wrong place. There have been problems in the past. Mr. Brady asked if Mr. Drew had recommendations on how to make the changes. Mr. Drew indicated that his report is a draft and with the Board's direction he could provide an analysis of the bulk standards and how they may be changed to reflect the dominant lot sizes and configurations, perhaps some suggestions to assist could be provided. Mr. McQuaid commented on Mr. Drew's report with regard to provisions for controlling the height and size of accessory structures in the LR Zone and must be rectified immediately.

Mr. McQuaid indicated that in the past it was discussed and the Board took a vote and said they did not want to send it to the Planning Board at all because the Planning Board is so busy doing so many other things. That if they got involved with something like this it would take away from other important things like the Streetscape. Mr. McQuaid agrees to a point but instead suggest limiting accessory building to 10 feet lower than the main house. So if you have a 35 foot structure for the main building instead of putting it down rectify immediately, then they can just put a little line next to it accessory structures should be 10 feet less than main building than the peak. Some accessory buildings/sheds have a floor above that may or may not be big enough for living space. Mr. Brady would like more information on that. The LR Zone is the only zone it seems prevalent the Planner could adjust for all zones if the Board wants him too. Mr. McQuaid and other Board Member do not want any restrictions. Mr. Drew indicated that what they needed to make sure of was what somebody does on their property does not have a detrimental impact on the neighbors. With the LR Zone there is a better chance for the situation to occur then in the larger zones if you are in R3 or R4. When the LR zone was drafted the professionals did not know how large or small the lots were.

All in favor to have Mr. Drew go over the report for the next meeting

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

Mr. Glatt indicated that there is nothing to report with the litigation, it is basically done.

Motion by Robert Brady to approve the minutes of March 26, 2013

Second by Frank Curcio

All in favor to approve

Motion by Clint Space to approve the minutes of February 19, 2013

Second by Robert Brady

All in favor to approve.

Motion by Arthur McQuaid to adjourn the meeting of May 21, 2013

Second by Robert Brady

All in Favor to adjourn the meeting

Meeting adjourned at 8:46 p.m.

Adopted: June 25, 2013

Respectfully submitted by,

Denyse L. Todd, Secretary
Zoning Board of Adjustment