

MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
March 19, 2019
Regular Meeting

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:40 p.m. The Board Secretary read the Legal Notice. The Pledge of Allegiance was recited.

Roll Call

Present: Frank Curcio, Arthur McQuaid, Michael Gerst, Matthew Conlon, Steven Castronova, Robert Brady, Daniel Jurkovic,

Also present: Deidre Ellis, Board Secretary, Stephen Glatt, Board Attorney, Patrick McClellan, Board Engineer

Absent: Russell Curving, James Olivo and Ken Ochab, Board Planner

The Chairman greeted the Board and the public. Mr. Brady explained the Zoning Board and Open Public Meetings Act. The meetings are advertised in the Herald News. The Board operates in accordance with the Open Meeting Act of the State of New Jersey. No new applications after 10:30 pm and no new testimony after 11:00 pm, after the applicant speaks then anyone can speak for or against that application. If it is needed there will be a break at approximately 9:00 pm. Under normal circumstances the Board follows a printed agenda. The appeals of this Board go directly to the Superior Court of the State of New Jersey.

GREEN MEADOW ORGANICS, LLC
RESOLUTION 5-2019
USE & BULK VARIANCE & PREL. &
FINAL SITE PLAN ZB10-17-13
Block 4601: Lot 17 & Lot 21
960 Burnt Meadow Road; LMI Zone

A motion was made to approve RESOLUTION 5-2019 by Michael Gerst and second by Arthur McQuaid.

Roll call vote: Michael Gerst, Frank Curcio, Arthur McQuaid, Robert Brady
(Matthew Conlon, Steven Castronova, Daniel Jurkovic abstained)

Chairman Robert Brady indicated to the public that if they were there for the purposes of the Green Meadow Organics, LLC application, it has been withdrawn and they will have to notify the public should they reapply.

PATRICIA MAYO
RESOLUTION 6-2019
BULK VARIANCE ZB-12-18-13
Block 1807; Lot 10
19 Magnolia Road; LR Zone

A motion was made to approve RESOLUTION 6-2019 by Michael Gerst and second by Arthur McQuaid.

Roll call vote: Frank Curcio, Arthur McQuaid, Michael Gerst, Robert Brady
(Matthew Conlon, Steven Castronova, Daniel Jurkovic abstained)

CARRIED APPLICATIONS

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

Complete: 9/20/18
Deadline: 1/18/19
New Deadline: 7/24/19

Preliminary and final site plan and use and bulk variance approval requested for an organic recycling facility with accessory composting, topsoil production and mulch manufacturing, retail sales and offices are proposed for the front building. There are additional variances proposed for 2 wall heights and driveway grade. The applicant had requested to carry their application (pending additional information) to the April 23, 2019 meeting.

The Board Attorney indicated that if anyone were here regarding the B&B Organic Waste Recycling Application, it has been carried to the April 23, 2019 meeting and the applicant is not required to renotify the public or property owners within the 200 foot distance, so if anyone was attending the meeting regarding that matter it will be heard at the next meeting and they should attend if interested.

The Chairman indicated that the same goes for the other carried application, Randa Investments. It will be carried and heard at the April 23, 2019 meeting. The Board Attorney confirmed that information.

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

Complete: 11/13/18
Deadline: 06/11/19

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

Use Variance

Section 500-26

Permitted: Dwelling units in association with commercial uses

Proposed: Dwelling units without association with a commercial use

Bulk Variance

-Section 500-26.A

Permitted: Dwelling units above commercial uses

Proposed: Dwelling units on first floor

Permitted: Dwelling units above commercial uses

Proposed: Dwelling units without association with a commercial use

Required: No parking within front yard

-Section 500-28.A

Required: Maximum front yard setback 20 feet

Proposed: 60.7 foot front yard setback

-Section 500-29.E

Required: No parking within front yard

Proposed: Parking in the front yard

-Section 500-31.A

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

Proposed: Six (6) units per acre

-Section 500-31.B

Required: Maximum floor area of 800 square feet per unit

Proposed: 1,340 square feet floor area per unit

-Section 500-31.D

Required: No apartment access through individual exterior doors

Proposed: Apartment access through exterior doors

NEW APPLICATION

GREENWOOD LAKE SERVICES

APPEAL ZB 01-19-01

Block 3107; Lot 1

322 Lakeside Road; LR Zone

Complete: 2/15/2019

Deadline: 6/15/2019

The Applicant appeals the Zoning Official's decision that the proposal is an expansion of a pre-existing non-conforming use and the proposed survey does not show the current conditions. The Board Attorney indicated that there was a representative here from Greenwood Lake Services, Mr. Drew Murray Esq. The Board Attorney indicated that the application had been carried at the Board's request to the April 23, 2019 meeting because the Board Planner, Ken Ochab had a planned vacation and could not review the application and do an appropriate report for the Board. There will be no need for any further notice to the public for this application.

Motion by Matthew Conlon to carry the application to the April 23, 2019 meeting.
Daniel Jurkovic second.

Roll Call:

Yes: Frank Curcio, Arthur McQuaid, Michael Gerst, Matthew Conlon,
Steven Castronova, Robert Brady

No: None

FRANK MCELROY
Use & Bulk Variance ZB 09-18-12
 Block 2509; Lot 6
 62 Passaic Drive, LR Zone

Complete: 2/14/2019
Deadline: 6/14/2019

Use variance relief requested to place a 10 foot by 65.5 foot, (656.2 s.f.) in-ground swimming pool in the front yard, where the use is not permitted.

Bulk variance relief requested for the proposed construction of a 1,531.2 s.f. dwelling 1,122.5 s.f. attached garage, driveways and walkways with variances requested for side yard setbacks, front yard setback, primary building coverage, and building height.

LR - LAKESIDE RESIDENTIAL ITEM	ZONE REQUIRED	EXISTING	PROPOSED
LOT AREA	20,000 S.F.	8,818 S.F.	8,818 S.F.
LOT FRONTAGE (PASSAIC)	120'	40.04'	40.04'
LOT FRONTAGE (LAKE SHORE)	120'	40.00'	40.00'
LOT WIDTH	120'	40.00'	40.00'
LOT DEPTH	150'	220.5'	220.5'
SIDE YARD, EACH	30'	2.94'/8.44'	3.0'/9.0'
REAR YARD	60'		
FRONT YARD (PASSAIC)	40'	29.1'	36.7'
FRONT YARD (LAKE SHORE)	40'	156.0'	122.9'
PRIMARY BUILDING COVERAGE	881.8 S.F. 10%	851.7 S.F. 9.7%	1,531.3 S.F. 17.4%
BUILDING HEIGHT ²	35'	UNKNOWN	37.15'

Drew Murray Esq. indicated that he was representing John Barbarula Esq. on behalf of the applicant. The Board Attorney indicated that this application was also being carried because the Board Planner, Mr. Ken Ochab would like to do a report on this matter and the Attorney for the Board had spoken to Mr. Barbarula and there is also an issue related to the use variance publication for this application, so that will be rectified prior to the next meeting. The bulk variance part of the publication was fine but there had been an issue over the use variance. Our Board Attorney made the request to the Applicant on behalf of the Board in order to allow Ken Ochab the opportunity to prepare and attend. Mr. Murray was asked if he wished to add to that and said he concurred, and was authorized to extend whatever time the Board needed.

Mr. Matthew Conlon questioned the time period of the extension of the application. The application would be carried to the April 23, 2019 meeting and the deadline will extend through our July 23, 2019 meeting. Mr. Murray agreed to sign the extension provided.

Motion by Matthew Conlon to carry the application to the April 23, 2019 meeting and to extend the deadline to July 24, 2019.

Second Michael Gerst.

Roll Call:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Michael Gerst,
Matthew Conlon, Steven Castronova, Robert Brady

No: None

The Board Attorney reiterated that if anyone was here for the McElroy application that is going to be carried and be heard at the April 23, 2019 meeting. The bulk variance portion has already been sent out and therefor the applicant is not going to be required to do give further notice. Regarding the use variance there was an issue so the applicant will be required to give public notice. There had been a report prepared previously by the Board Planner that will be available to anyone wishing to review it. The Board Attorney also indicated that the Planner needed to be present to hear that application.

A question was asked from an audience member regarding the procedure of hearing applications, and the Board Attorney indicating that the public will have the opportunity to express their concerns regarding any matters they wish when the McElroy application is heard and there will be another notice, for the use variance given.

ARTHUR HUSK
Bulk Variance ZB-01-19-03
Block 7608; Lot 1
119 Pinecliff Lake Dr.; LR Zone

Complete: 2/15/2019
Deadline: 6/15/2019

Seeking Bulk Variance approval for location of an accessory structure where side or rear yard is allowed and front yard is proposed. The lot is considered to have two front yards, due to a dedicated fire lane along one side of the property line.

The Board Attorney swore in Arthur Husk of 119 Pincliff Lake Drive. Chairman Robert Brady asked that he explain what he was proposing. Mr. Husk testified that he was looking to put an 8 foot by 12 foot shed (98 Sq Ft) in the side yard. He had applied for a zoning permit, and was denied because his property is adjacent to a fire lane and the town considers the fire lane a street, therefore the side yard is considered a front yard and therefore, the shed is not allowed in a front yard.

Mr. Husk argued that other sheds meet the criteria of what he is trying to do. There are 15 on Pincliff Lake. The second argument is that in reality these fire lanes are not really treated as streets. They are not plowed, there is no traffic through them. They are dirt or grass covered. The lane next to him is rutted out, they are not accessible for vehicles. Mr. husk is asking that it be considered a side yard and would like to be allowed to put his shed there.

Chairman Brady indicated that one of the proofs for approval is the availability of any possible property that Mr. Husk could acquire to alleviate the problem. Mr. Husk responded there was no other property to purchase.

The Board Attorney indicated that the Planner for the Board had only one concern and that was that because of the setbacks, if the applicant could show that there was no other location on the property available he could qualify for the C-1 hardship. Mr. Husk indicated if he were to place the shed elsewhere, moving it over, it would be between the house and the lake, (he is on a lake front property). The location is not only the best location it is the only location.

Daniel Jurkovic wondered why this type of application was even coming before the Board. This is not a street, it is a right of way. He indicated that Mr. Husk meets the criteria. Mr. Husk indicated that after going to the Zoning Official, and receiving his denial, it was advised he apply for the variance and go to the Board as the next step. Matthew Conlon indicated that the Zoning Department is basing the denial on what the code allows.

Stephen Castronova asked if there was currently another shed on the property presently. Mr. Husk indicated there is not. Matthew Conlon asked if there was any other storage on the property. Mr. Husk indicated there is not. Chairman Brady asked if there were any other questions from the Board. There was not.

Chairman Brady then asked if there was anyone in attendance who would like to speak on for or against the application in accordance with the New Jersey State Open Meetings Act.

A motion was made by Michael Gerst (seeing no one) to close the public portion.
Second Matthew Conlon with unanimous approval by the Board.

A motion by Michael Gerst to approve application ZB 01-19-03
Second Matthew Conlon.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Michael Gerst,
Matthew Conlon, Steven Castronova, Robert Brady

No: None

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

MICHAEL DARMSTATTER (Amended)

Complete: 2/15/2019

Bulk Variance ZB 06-18-04
Block 6403; Lot 1.01
151 Lincoln Avenue; R-1 Zone

Deadline: 6/15/2019

Originally approved and variance granted by the board last year for a proposed accessory building 12 feet by 30 feet, and was located 11 feet from the side property line to stable a horse. The revised application proposes an expansion of the accessory horse stable to 12 feet by 36 feet, maintaining the 11 foot side yard setback and the 33.7 foot separation to the existing residential structure. The expansion requires the approval of these two variances. The purpose of the expansion is to allow two horses to be kept on the property.

The Board Attorney swore in the Darmstatters. Michael H. Darmstatter, 151 Lincoln Ave., West Milford and his father William J. Darmstatter, 202 Black Oak Ridge Road, Wayne, NJ. William Darmstatter is the engineer and surveyor for the applicant. Michael Darmstatter is calling his father as the expert on his behalf, in his professional capacity.

William Darmstatter indicated that the Board had granted a variance for a side yard set back for a horse stall. After the applicant received the resolution the applicant wanted to clarify a few inconsistencies. The applicant's testimony was that there would be two horse stalls 12ft x 12ft and one tack room 12ft x 12ft, which would be a total of a 12 X 36 ft building and their plans had stated the building was to be 12 x 30 ft, so they would like to amend that. The resolution states that there was to be one horse. At the time and presently they are only planning on one horse but with two stalls the ordinance permits having as many horses as there are stalls. Two stalls were approved and they would like to make them a little larger instead of 12ft x 10ft, they request 12ft x 12ft. It would be for a possible future horse. The applicant has no problem with the Board restricting then number of horses to two, as that is the number of stalls. William Darmstatter reiterated that the resolution allowed for one horse, and two stalls were approved.

Patrick McClellan, Board Engineer indicated that he has had an opportunity to review the plan, and was in agreement that the only difference between the plan is that the building is labeled now to be 12ft x 36ft and it is a result of having three 12ft x 12ft stalls, instead of three 10ft x 10ft stalls, with two stalls intended for horses and the other intended to be a tack room. The language of the resolution was limited to one horse but his interpretation of the ordinance was that once you exceed one acre in size, it is not necessarily a board of adjustment matter, as long as certain conditions are satisfied, and this application does satisfy the conditions. But we are here because the building has been increased in size to 12ft x 36ft. Essentially we are re-granting the conditions of the resolution for this application.

Matthew Conlon questioned Mr. McClellan to clarify that the only restriction on the number of horses allowed is based on the number of stalls and that it is not an issue to be resolved by the Board. Mr. McClellan indicated that was correct and that the property has exceed one acre in size and then for horses, 100 sq ft per horse, and the building exceeds the requirements for two horses.

The Board Attorney questioned Mr. McClellan, if in the future, it would be possible for the tack room to be converted into another stall and permit three horses. The Board Engineer indicated that it could and would be conforming but that Mr. Darmstatter had indicated that Mr. Darmstatter only intended to have two horses and testified that he would not object to the Board limiting him to two horses. The Board Attorney indicated that the Board, when it issues a variance, is allowed to put reasonable conditions on the applications. The Board Attorney indicated that later on someone could say to the Board we have three stalls and we want three horses, and you can not put a condition on us, there has to be a voluntary consent with the applicant if the board votes in favor. Mr. Darmstatter consented to limiting the number of horses to two, it was the original intention.

Matthew Conlon asked if the building due to its square footage, could potentially be used for four horses. The Board Engineer indicated that due to the configuration and the restriction the applicant is setting forth, it would be permitted two horses. The Board Engineer indicated that there would have to be a reasonable 10 ft x 10 ft shape to the building, not an alleyway. Discussion about the current owner of the property and others in the future.

Mr. William Darmstatter indicated that screening from the neighbors will also be put in.

The Board Attorney indicated that when the property was sold, that the resolution would be recorded in the register of deeds office in Passaic County so that we put any future people on notice.

Mr. William Darmstatter indicated that they presently only want one horse but the additional stall would be for a future horse. Originally the interpretation was that they had indicated one horse, two stalls and one tack room. Now they would like to have two horses and don't need to make the stalls larger, but prefer to have more room for the horses. There was discussion about previous topics, waste control, the dumpster. The Board Planner had done a report on that already and none of that is going to change. The question arose, would the number of horses change those variables. Reference was made to the February 19, 2019 Planner report. The Board Attorney read the report for everyone;

QUOTE "A revised plan has been submitted for the above property. The previous approval for a proposed accessory building to stable a horse was approved by the Board last year. The accessory building was 12 ft. x 30 ft. and was located 11 feet from the side property line (variance granted). The Board also granted a variance for the distance between the residence on the site and the proposed accessory building (100 ft. required and 33.7 ft. proposed).

The revised application proposes an expansion of the accessory horse stable to 12 ft. x 36 ft., maintaining the 11 foot side yard setback and the 33.7 foot separation to the existing residential structure. The expansion requires the approval of these two variances. The purpose of the expansion is to allow two (2) horses to be kept on the property.

Section 500-90 of the zoning ordinance prescribes that a minimum of one acre is required for the keeping of horses and 100 square feet of roof area is required per animal. The applicant meets this criteria.

The applicant shows the placement a pine tree buffer along the southern property line in the area of the "horse area" in the front yard to screen the area from the adjacent residential properties. This was required during review of the previous application.

The planning and zoning issue here is the nature of keeping horses on properties within proximity to residential areas. This is not the applicant's issue since with respect to the requested use he is complying with the ordinance requirements. His variance issue is the location of the stable, which the Board has previously approved, not the number of horses and the use of the property."

Matthew Conlon reiterated that the set back distance was not changing and that only item that is changing is that the square footage is going to increase, and not in the direction of the residential side of the property. Athur McQuaid voiced concern that they may ask for yet another horse in the future and the Board Attorney indicated that with the resolution, the variance and these minutes as evidence for future reference, it would remain two horses as per the conditions approved by the board. Also in the future instead of taking the structure down, a potential buyer with the same intent could go before the Board and extend that condition and keep the structure as is, and maintain the same pre-existing condition.

The Chairman then opened the application to the public for comments and questions in accordance with the NJ Open Meetings Act.

The Board Attorney swore in Mark Nicol, 20 Central Ave. He testified that he hired Mr. Vince, an engineer and planner to testify on his behalf. The Board Attorney swore Mr. Joseph Vince, place of business, Schwanewedehals, 9 Post Road, Suite M 11, Oakland New Jersey. He had a BS Degree from Fairleigh Dickenson University in Civil Engineering Technology and is currently a senior at NJ IT in Land Surveying Technology, practicing surveying, engineering and planning since 2005. Mr. Vince is a licensed engineer and planner in the state of New Jersey. He's in good standing and has testified in the past in Branchburg, Wayne and Oakland.

The Board Attorney questioned if Mr. Vince was going to be addressing the matters at hand or the entire application. Mr. Vince indicated that he was there to address just the expansion portion of the application and that he was there to discuss was the size expansion and the changing from one horse to two horses.

The Board Attorney maintained that right now there is a tack room and two stalls, we understand the size as they are now. The applicant has limited himself to, as we took it, to be one horse, so if the Board does not grant the application, he can amend it to say that he still wants two horses.

Mr. Vince indicated that his client's major concern was the number of horses verses the size of the barn, but wants to discuss both. Mr. Vince has reviewed materials in preparation for the meeting, those listed were the Resolution 14-2018, the prior and current plans on file with Town, Coastal and Land Use Enforcement Inspection Report

issued in recent months, since the last application was made, NJ Department of Environmental Protection Notice of Violation on the property prior to tonight's hearing but subsequent to the last hearing, a complete NJ Department of Environmental Protection Wetlands GP8, prepared by Eastern States Environmental, Township of West Milford Land Use Ordinance, and Township of West Milford Master Plan Land Use Element.

Mr. Vince indicated that in review the understanding was that the stalls would contain one horse according to his client and also the Resolution. The direct testimony and the conditions were indicative of one horse. There had been past testimony by Courtney Brennan regarding the manure and it had been based on the one horse. Quote (point 5) "with one horse it would not be a full size dumpster." (Point 8) "On top of manure removal, with one horse it should not be a problem.

There was discussion on why it would make sense to impose certain restrictions for this particular application.

Mr. Vince has an exhibit (O-1, March 19, 2019) Titled Usable Area by Joseph Vince. It shows the wetlands area, and garage in the back. Mr. Vince indicated that you need 50 feet from the side line and you need to have 100 feet from the house. Mr. Vince indicated the amount of useable space for the lot is reduced to .94 acres, whereas the ordinance permits horses one acre. The ordinance does not mention usable area or not usable area, but they feel that it is important given the fact that the restrictions that horses can not be kept in a conforming location and the amount that the horses can actually be on is less than what the ordinance permits, it would be reasonable to restrict the number of horses on that property

The Board Attorney indicated that it goes to the issue of the size of the property is the size of the property. The wetlands limits the envelope of where things can be built, and that is the hardship, that is why things were located where they were and because of those limitations. People come before the Board because of constraints. Wetlands are a condition that limits where we can build, no different than a well or something else that is there. We can not discount the fact that it is wet lands. One that basis, the Town could say we are not going to even charge taxes on it.

More discussion. The Board asked if they were hearing correctly that within the wetlands buffer that you are not allowed to graze horses? Mr. Vince indicated that was correct and then indicated that he did not believe so.

Conversation went back to the number of horses and whether or not the building that was approved should be allowed to be enlarged. There is still a question of whether or not grazing is allowed in the buffer zone. If grazing is allowed then there is sufficient property, if not allowed, then maybe that argument carries more weight.

Mr. Vince indicated that he had researched the code and it did not specifically say whether or not it is permitted or not. The Board Attorney indicated that if it was not stated that it is not permitted in the code then it is permitted. The Board Attorney

stressed that when the Board voted on this application and discussed it, it was never stated that if Mr. Darmstatter asked us for another horse that we would not allow it. The Board gave him a variance where we limited the horses, but one stall was for a tack room and the other two stalls were horse stalls. The Board took into consideration the objections of the public. The question was brought up as to what would be the zoning reason why the Board should not allow a second horse. We are only talking about an extra 6 feet. Today, theoretically the Board could say the horses and the building speak for themselves, whatever the ordinance provides is what they are allowed to do. What is the zoning reason why the Board should stick to the original one horse? We can not go on supposition.

There was discussion about the conditions of the resolution, once again, the condition being one horse two stalls.

The Board Attorney indicated that this amended application is basically a new application and stressed that the initial application had one horse and two stalls, because he wanted one horse now but in the future he might want two. Basically Mr. Darmstatter, the applicant is indicating at this point that he wants two horses.

Conversation went back to the engineer for Mr. Nicol. He indicated that farm animals shall be kept in a manner that shall not constitute a public nuisance. Mr. Nicol indicated that due to setbacks the buffer is being violated, the structure is in a non-conforming location, and the reduction to one horse is appropriate. Mr. Nicol also indicated that this project is not conforming to the municipal land use law, it will have a detrimental effect to the surrounding properties and the public good.

There was discussion regarding the buffer, Mr. Nicol indicated that the purpose of the buffer is to provide adequate air, light, and open space.

The Board Attorney questioned how big the piece of property was behind the area in question. There are about 30 acres there. If a person owns the property and decides to develop the property and sees that Mr. Darmstatter has secured a variance, and has a structure there, the person buying the property can not declare a hardship when they can build elsewhere on the 30 acre vacant property.

Once again, Matthew Conlon mentioned that all of this has been previously discussed and the only thing this meeting is addressing is the addition square footage and the number of horses.

Arthur McQuaid asked where the objecting neighbor's lot was. It was indicated on the map.

The Board Attorney indicated that the application was filed as an amended application and not a new application, and if the Board denies the request from Darmstatter, it does not void the other approval. The Board Attorney clarified that the amended application was not exacerbating the conditions of the resolution but just giving the horses a little more room. It is not creating a great hardship by adding an additional 72 square feet.

The objectors may not like that there would be two horses, but that is really not the issue. The Board could also not grant the extra footage but could still allow two horses. The amendment is asking for two horses, and to take away the limitation on the size of the structure.

The Board Attorney emphasized the question of what detriment it would be to the zoning or to anyone in the neighborhood. How does an additional 72 square feet have a negative impact?

Mr. Vince vocalized his disagreement. He disagreed that the 72 feet was de Minimus, because it makes it almost big enough to create another horse stall. Mr. Vince indicated that if someone were to create an addition on their house that was 72 feet it may not be considered de Minimus. His client feels the restriction on the number of horses was appropriate given the location of the structure.

Jill Nicol, 20 Central Avenue, was sworn in by the Board Attorney. Ms. Nicol questioned the number of stalls and the clean up of the stalls. Jill Nicol expressed concern with where the manure dumpster would go, its accessibility, and the buffer area.

Conversation ensued about the dumpster size and increased manure, the expert who was at a previous meeting was not present. Mr. Darmstatter indicated that the size of the dumpster would increase with there being two horses and manure would be picked up at the same frequency. More discussion of the location of the dumpster. It will be accessible for pick up.

Patrick McClellan, the Board Engineer, indicated that there was a line item indicating that the pad for the dumpster would be 50 feet from the barn. In looking at the plan, he suggested Mr. Darmstatter locate the dumpster within 50 feet from the barn, outside of the wetlands but accessible by the driveway. Mr. Darmstatter suggested two locations, putting it either behind the building or putting it up in front near the driveway, either way they would be no where near the wetlands.

Ms. Nicol was asked if there was a location out of those places that would be preferred. Arthur McQuaid suggested the location of the dumpster be drawn on the plan.

Mr. William Darmstatter suggested that where ever the Board would like the dumpster placed would be agreeable and they were fine with showing that on the plan. Ms. Nicol stated her preference would be closer to the barn and away from the property owners on Central and away from the wetlands area, closer to Lincoln Avenue and not necessarily 50 feet from the barn. The garage came into conversation, code allows for two accessory structures. More discussion about previous testimony. More discussion on why originally we were working off the concept of one horse. The Board Attorney indicated that we became focused on the one horse because the way it had been phrased was to have one horse and perhaps another one later, and that was the basis of why we focused on one horse. Explanation that the Board can vote tonight or vote to carry the application.

Jill Nicol expressed concerns, her understanding of why it was going to be one horse had to do with fly control measures, and environmental issues.

The Board Attorney emphasized that the public has access to the audio of the meeting. Ms. Nicol said she had the recording.

The Chairman suggested that anyone else who would like to be heard speak so that anyone who was going to listen could have the most comprehensive recording. Questions regarding the public portion of the meeting. The Chairman indicated there would be a public portion at the next meeting, if the Board does not finish during the present meeting.

Arthur McQuaid had questions for the applicant. He specifically asked if Mr. Michael Darmstatter was willing to limit the application to two horses, even into the future. Mr. Darmstatter indicated he would. Discussion ensued regarding cleaning the stalls. The Board Attorney advised Mr. Darmstatter to bring a horse expert to the next meeting to be able to answer horse specific questions. Mr. Brady indicated that if that was done questions and concerns may be addressed at the next meeting, if it is carried. The Board Attorney indicated that if he were going to change the number of stalls again that would make his case more difficult.

Michael Darmstatter indicated that there is nothing for this application inside the wetlands. When questioned if the horses are going to graze in the wetlands, Mr. Darmstatter indicated no and that there would be a paddock and a fence that would stop the horses from getting in the wetlands. It is indicated on the plan that way.

The Chairman asked if anyone else would like to speak on the matter. The Board Attorney swore in Cindy Defreese, of 6 Central Ave. Ms. Defreese asked what a paddock was and if it was where the horse is going to roam freely. Mr. Michael Darmstatter indicated that was shown on the original and the newer plan unchanged, and clarified that a paddock was a corral. Cindy Defreese questioned if Mr. Darmstatter was going to fence off the area. Michael Darmstatter indicated that there was a 20 foot buffer area and then the horse fence, for screening evergreen trees are proposed. Ms. Defreese questioned the screening due to the plants not growing well, due to lack of sunlight. Mr. Darmstatter indicated that the trees that would be planted in the area in question are shade tolerant and were selected by a landscape architect. Mr. Michael Darmstatter also indicated that if Ms. Defreese and the Board would prefer a fence he would comply. Cindy Defreese showed where her property is located with regard to the applicant's property. Mr. Darmstatter emphasized that he would comply with whatever was decided by Ms. Defreese and the Board but stated he was unsure specifications would allow, or if a variance for that would be required.

The Board Attorney suggested Mr. Michael Darmstatter and Ms. Defreese discuss the matter and decide before the next meeting as Mr. Darmstatter was giving her, her preference. The possible variance for a 6 foot fence is another matter.

Cindy Defreese continued with a question about the manure, with the addition of the other horse, and asked about possible well contamination. Mr. Darmstatter indicated that the area in question was a cistern not a well, but a dry well, and his drinking well was outside of the area. The Board Attorney indicated that this was another concern that would be addressed by the engineer. There was conversation about drainage and the dirt road. More conversation about the dumpster and the Board Attorney reiterated that Mr. Darmstatter was giving the neighbors a choice of where to put it so that is something to be decided by the next meeting. Matthew Conlon indicated that either way, the dumpster would be located on the other side of the property. The Board Attorney indicated that if there was something that was a new concern that the Board could address it.

The Chairman asked if there was anyone else who would like to speak and there was no one else who wanted to speak.

Motion by Matthew Conlon to close the public portion.

Second by Michael Gerst

All in Favor. None opposed.

Motion by Matthew Conlon to carry the application, ZB06-18-04 to the May 21, 2019 Meeting and to extend the deadline 38 days to July 23, 2019.

Second by Daniel Jurkovic

The applicant was in favor of extending the deadline. The Chairman explained that the application was being carried because several other previously carried applications were already on the agenda.

Arthur McQuaid sought clarification on the matters to be considered the next time this application was on the schedule, prior to the Board voting on the motion; Adding 6 feet onto the building. (72 square feet), the location of the dumpster and the number of horses (one or two). The Chairman indicated the applicant should bring his experts as well.

Roll call:

Yes: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Michael Gerst, Matthew Conlon, Steven Castronova, Robert Brady.

No: None

The Board Attorney indicated that the applicant would not be required to give further notice to neighbors. If anyone is interested in the matter, please attend the May 21, 2019 meeting.

APPROVAL OF INVOICES-BOARD PROFESSIONALS

Review and approval of invoices for Stephen Glatt, Board Attorney, Kenneth Ochab, Board Planner, Patrick McClellan, MCB Engineering Assoc. LLC, Board Engineer

Motion by Matthew Conlon to approve invoices for Board Professionals
Second by Daniel Jurkovic
All in favor.

COMMUNICATIONS

LITIGATION

None

APPROVAL OF MINUTES

February 26, 2019 Regular Meeting Minutes

Motion for approval by Michael Gerst and second by Robert Brady

All in favor. (Matthew Conlon, Daniel Jurkovic and Steven Castronova abstained because they were absent for the last meeting.)

A request was made to get a copy of the minutes for the previous meeting where the application ZB06-18-04 was heard.

Motion for adjournment of the March 19, 2019 meeting by Matthew Conlon

Second by Michael Gerst

All in favor.

ADJOURNMENT at 9:34 PM

Next meeting April 23, 2019 at 7:30 p.m.

Respectfully submitted by,

Deidre Ellis, Secretary
Zoning Board of Adjustment