

**MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
May 25, 2010
Regular Meeting**

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:42 p.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, Gian Severini, Vivienne Erk, Robert Brady

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

Absent: Arthur McQuaid, James Olivo

Mr. Brady asked Ms. Erk to sit at the dais as one of the regular members was not present. The Chairman explained the Zoning Board procedures and the agenda. He introduced the Board Attorney. The public portion and the appeal process was also explained.

MEMORIALIZATIONS

RESOLUTION NO. 6-2010

Approval of Annual Report

Motion by Ada Erik to approve the Zoning Board of Adjustment Annual Report to the Mayor, Council and Planning Board

Second by Gian Severini

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio,
Gian Severini, Vivienne Erk Robert Brady
No: none

PETER BONGIARDINO

BULK VARIANCE #ZB03-10-05

Block 2319; Lot 3
9 Aura Ct., LR Zone

The Board Attorney swore in Mr. Bongiardino of Aura Court, Hewitt. Chairman Brady asked Mr. Bongiardino to make his presentation.

The applicant stated that he put a deck on his home with zoning approvals. He then put an overhang over part of it. He brought photographs with him and they were marked into evidence as A-1 and A-2. It is a porch overhang, not an enclosure and he found out after it was built that it is then an addition. He was then told that because of the overhang his road frontage changed and he required a variance. He would like to keep the overhang. The photographs depict that the porch is open and not a closed structure. It is only a roof over the deck. Mr. Hannan asked about the Environmental Commission memo and it was regarding the roof runoff the applicant responded by telling the Board that gutters have been installed. Mr. Bongiardino stated that he will not enclose the porch. Mr. Brady commented about the wrap around deck and Mr. Bongiardino explained that the overhang is only in the front and not all the way around. Mr. Brady asked the members of the Board if they had questions and nobody did he then asked the applicant if there was anything further and there was not.

Mr. Brady opened the meeting to the public.

Ada Erik after seeing no one for or against moved to close the public portion

Gian Severini second

All in favor to close public portion

Opposed: none

Mr. Brady suggested that a condition of the resolution should be to have the work inspected to ensure it was up to code.

Motion by Francis Hannan to approve bulk variance application #ZB03-10-05, Block 2319, Lot 3, 9 Aura Ct., LR Zone, for the front yard setback where 40 feet is required and 27.5 exists because of a covered porch. The applicant has testified that he had approvals to put on a deck and then put an overhang over the small front section of the porch and once the roof section went over then he was required to seek a variance for the front yard setback. The applicant addressed the concerns of the Environmental Commission by explaining that he had gutters and leaders. Also, it should be stated in the resolution, the requirement that the construction be inspected according to code and also the applicant represented that he would not be enclosing the porch area.

Second by Barry Wieser

Roll Call Vote:

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

No: none

Mr. Brady explained the applicant had his variance and Mr. Glatt explained the appeal process. He also mentioned the inspections and Mr. Bongiardino stated it was already inspected and he got his approvals and that was how he knew about the overhang section requiring a variance.

Shiloh Bible Camp, Inc.

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 spoke on behalf of Shiloh Bible Camp, Inc. 753 Burnt Meadow Road, Block 6002; Lot 47. It is 11 plus acres and is used as a camp and retreat center. They were before the Board about 5 years ago seeking to construct a multi-purpose building that will be a worship center/gymnasium. The Board granted a use variance as it was a pre-existing non-conforming use and the construction would expand that. The Board granted a use variance, preliminary and final site plan and bulk variances. There were state approvals that were needed. It was a slow process but the Highlands Exemption, wetlands LOI, flood hazard area jurisdiction determination, water quality management plan revisions and a revision to the Highlands Exemption were all required and received.

Mr. Glatt explained that the Planner looked at the plan and in the legal notice it was stated that there was a "slight" modification and it appears that the increase in the building is 25%. If that is the case it is not a slight modification and even though it is eleven acres there could be an expansion of the use variance approvals. 25% is a lot it is not slight. Mr. Becker was not referring to the size but the overall project not changing, the use would remain the same and his use of the word slight was not really about the footprint but what they were doing. Mr. Becker said the use is permitted under what was granted 5 years ago. Mr. Glatt said there is a question of whether to proceed or not proceed because of the advertisement. The Board needs to make the decision and it has been taken to court for less. The Engineer, Erik Boe of Hawthorne was sworn in, B.S. Civil and Environmental Engineering, Cornell University, PE as of 2007 an employee of LAN Associates for 8 years. He has been before this Board as well as others. The Chairman accepted the credentials of the professional.

Mr. Boe explained that building coverage has never been an issue with the project. They will go up to 3.3 percent of impervious coverage. A Board Member explained that the issue is whether the notice was sufficient. The concern of the Board is whether they will end up in court. Mr. Boe explained the notice and felt it was sufficient since they set forth what they were doing with regard to the project, and the approvals they were looking for and the catchall language is always sufficient. Mr. Boe feels the applicant would take the risk and nobody would prevail against the notice. Mr. Brady explained that if it was approved and the notification is not sufficient the Board is taking the risk.

Mr. Brady asked the engineer the square footage of the original approval and it was 6,370 proposed building is increased to 8,824 square foot. A 2.7 percent building coverage, increased to 3.3 percent, which is about a 2,500 square foot increase.

Mr. Glatt told the applicant and professionals that he understands their use of the word slight but it could be misleading and consistency is really necessary and the word slight may convey to somebody that it is minor and they may not feel it would be necessary to be there because of the

word slight. Mr. Glatt said that it is up to the Board on whether to proceed or not but he feels the notice is defective because it is a 25% increase.

Mr. Glatt told the applicant they would need to re-notice with specificity to it. Mr. Hannan commented that it is a tough one but he has sat on the dais and things have been remanded back for less that have cost all kinds of legal fees and one time they went one minute over the time and someone appealed it because someone left because they thought it was over. If there was not a history of having a problem with this it would not seem to be an issue. Mr. Brady asked if anyone wanted to make a motion.

Motion by Ada Erik to have the application to go forward.

Second by Vivienne Erk

Roll Call Vote:

Yes: Ada Erik, Gian Severini, Vivienne Erk

No: Francis Hannan, Barry Wieser, Frank Curcio, Robert Brady

There will be a meeting on June 22, 2010, the secretary will not be present but someone from the office will cover.

Mr. Becker asked about the notice and the board attorney gave him a suggestion and Mr. Becker decided to put in the percentage. The Planner also added that there would be additional fees since the fees are based on the square footage for the site plan part of the application. Mr. Glatt confirmed that the applicant would re-notice.

APPROVAL OF INVOICES-BOARD PROFESSIONALS

Motion by Ada Erik to approve invoices for Stephen Glatt

Second by Gian Severini

Roll Call Vote:

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

No: none

Motion by Ada Erik to approve the minutes for the April 27, 2010 meeting.

Second by Frank Curcio

Roll Call Vote:

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

No: none

Mr. Brady signed and handed out the Zoning Board NJPO I.D. cards

Motion and Second to adjourn the meeting

All in favor to adjourn the meeting of May 25, 2010

Opposed: none

Meeting adjourned at 8:22 p.m.

Adopted: June 22, 2010

Respectfully submitted by,

Denyse L. Todd, Secretary
Zoning Board of Adjustment