

**MINUTES
of the Township of West Milford
Passaic County, New Jersey
ZONING BOARD OF ADJUSTMENT**

**MAY 22, 2007
Regular Meeting**

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:44 p.m. The Board Secretary read the Legal Notice.

PLEDGE

Mr. Brady asked all in attendance to join in the Pledge of Allegiance.

ROLL CALL

Present: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini, Barry Wieser, and Robert Brady.

Also Present: Stephen Glatt, Board Attorney, William Drew, Planning Director, Richard McFadden, Board Engineer, and Tonya Cubby, Board Secretary.

Absent: Ada Erik, William Lynch.

Following Roll Call, Chairman Robert Brady asked Barry Wieser, Alternate # 1 to sit on the Board for Ms. Erik. The Chairman reviewed the Zoning Board of Adjustment procedures.

MEMORIALIZATIONS

RESOLUTION NO. 7-2007

JOHN J. PANARIELLO

Use Variance #0640-0760

Block 11103; Lot 5.02

610 Snake Den Road; R-4

Requested: Use variance relief from the MLUL C.40:55D-70d for accessory structure to be used for purposes not associated with the proposed principal structure.

Mr. Glatt advised that recommendations from the Board Engineer's memo dated February 2007 should be included in the resolution.

Motion by Mr. Brady to **amend** Resolution No. 7-2007 to include the Engineer's recommendations in the resolution.

Second by Mr. Jurkovic.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini, Barry Wieser, and Robert Brady.

No: None.

Abstain: None.

Motion carried.

Motion by Mr. Hannan to **approve** Amended Resolution No. 7-2007.

Second by Mr. Jurkovic.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini, and Barry Wieser.

No: None.

Abstain: None.

Motion carried.

Mr. Glatt advised that the remaining Memorializations scheduled for approval at this meeting were undergoing final revisions by the Planning Department. The Board members discussed the proposed Board Attorney reduction in contract to provide funds for a Substitute Attorney, if needed. Mr. Brady noted that the resolutions on tonight's agenda should be available for approval at the June 26, 2007 meeting.

APPLICATIONS CARRIED FROM PREVIOUS MEETINGS

RICHARD SCHAEFER

Bulk Variance #0730-0766

Block 7512; Lot 4

33 Pinecliff Lake Drive; LR Zone

Requested: Bulk Variance relief to construct an accessory building closer to the principal structure than permitted, located within the front yard and exceeding maximum accessory building coverage.

Mr. & Mrs. Schaefer approached the Board and noted that the revised architectural plans and new survey had not been completed. He requested that the Board carry this application to the June 26, 2007 meeting. He also granted the Board an additional 30-day extension for this application.

Motion by Mr. Jurkovic to **carry** this application, Bulk Variance #0730-0766, Block 7512; Lot 4; 33 Pinecliff Lake Drive; LR Zone, to the June 26, 2007 meeting.

Second by Mr. Severini.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini,
Barry Wieser, and Robert Brady

No: None

Motion carried.

NEW APPLICATIONS

1952 UNION VALLEY ROAD, LLC

Use Variance #0540-0698

Preliminary & Final Site Plan #0420-0167AB

Bulk Variance #0430-0647

De Minimis Exception

Block 3601; Lots 1 & 3

1952 Union Valley Road; CC Zone

Request for Use Variance, Preliminary & Final Site Plan, Bulk Variance, and *De Minimis* Exception approvals to construct a mixed use business consisting of a service station, convenience store and deli, and two apartments on the second floor of the aforementioned site.

John Barbarula, Esq., attorney for the applicant, appeared before the Board and stated that the applicant is requesting a carry due to discrepancies in the application with regard to the site plan and survey that were discovered by the Planning Department. The applicant wishes to correct these discrepancies prior to appearing before the Board. In addition, the adjoining property owner has a new attorney who has submitted a letter to the Planning Department with regard to the applicant. Mr. Barbarula and Mr. Glatt both stated that they do not have any supporting information. Mr. Glatt noted that the letter purported that an order is pending regarding an agreement between the adjoining property owners, but there is no documentation attached. Mr. Barbarula stated that the application can move forward once the site plan and survey are corrected. He stressed that the applicant is requesting a use variance and he needs to present the necessary documentation to substantiate this variance. The Chairman explained the process for public input at the next regular meeting on June 26, 2007. Several members of the public desired to be heard on this matter and they were asked to return on June 26, 2007 for the public hearing.

Responding to questions from the public about the adjoining Stainsby Road conditions, the Township Engineer, Richard McFadden, advised that a meeting with the residents about the road conditions was forthcoming, separate and apart from this application.

Motion by Mr. Jurkovic to carry this application, Use Variance #0540-0698, Preliminary & Final Site Plan #0420-0167AB, and Bulk Variance #0430-0647, Block 3601; Lots 1 & 3; 1952 Union Valley Road; CC Zone, to the June 26, 2007 meeting.

Second by Mr. Severini.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini,
Barry Wieser, and Robert Brady

No: None

Motion carried.

Mr. Barbarula also granted a 30-day time extension for this application.

DONALD & SIOBHAN PARTINGTON

Bulk Variance # 0730-0770

Block 11103; Lot 5.01

572 Snake Den Road; R-4 Zone

Request for Bulk Variance relief to construct a fence 8-foot in height in the rear side and front yard when maximum permitted height is 6 feet.

Mr. & Mrs. Partington, applicants, appeared before the Board, were sworn in by Mr. Glatt, and proceeded with testimony on the need for a bulk variance to construct an 8-foot fence when maximum height permitted is 6 foot. The applicants clarified for the Board the proposed site for the fence and noted that the front yard was not part of the variance request. Mr. Drew reviewed for the Board the proposed fence location, explaining that the fence extended beyond the back wall of the existing house and the need for the variance. Mrs. Partington proceeded with submissions of documents and photos to prove the necessity of the 8-foot fence. She stressed the desire to protect her children from the adjoining neighbor's unsightly and purportedly dangerous 6-foot fence and the logging activities that occur on the property. She reviewed the following: A-1, the zoning permit for a 6-foot fence; A-2, the septic design prepared in 1996 by Ballester and Associates, showing the elevation near the house; A-3, the adjoining property owner's site plan with the proposed fence line; A-4, the Site development plan with the 220 foot distance highlighted, showing the fence in relation to neighbor's property; A-5 through A-13, photos of neighbor's existing fence, views from the applicant's house, yard and surrounding properties; A-14 and A-15, photos of the applicant's proposed fence consisting of pressure treated wood in a shadow box design, secured with steel dowels for stability; A-16 through A-20, photos of 8 foot fence at Town Hall and the Post Office.

Mrs. Partington stated that there will be no negative impact to the neighbors, that safety issues are being addressed and, per the Municipal Land Use Law, the fence promotes public health, safety and welfare. She further noted that there will be no detriment to the surrounding properties and that this fence would be an improvement to the site.

Mr. Glatt inquired about the elevation of the site, to which Mr. Partington replied that there is a 70-foot rise from the front to rear of the property. Mr. Glatt next inquired about the height of the proposed fence from the ground, and Mr. Partington replied 9 feet. Mr. Partington then stated that there are other 8-foot fences in the Township, including the Post Office. The Board noted that the Post Office is exempt from these restrictions. Mr. Drew explained the reasoning for local fence height restrictions, including aesthetics and uniformity to surrounding structures. Several Board members questioned the applicants about the maintenance of the fence. Mr. Glatt questioned the design on the front and back sides and inquired if they will be the same shadow box design, to which Mr. Partington replied in the affirmative. The applicants stated that the fence would be stained clear or a green-gray color to blend in with the surrounding environment. Mr. Drew, through questioning, established the elevation of the house, septic, and proposed fence. Mr. Partington described his house in relation to the neighboring property. When asked

by Mr. Drew if there is a significant grade distance along the proposed fence line, Mr. Partington replied in the negative, noting that the site is fairly level, to which Mr. Drew concurred.

The Chairman opened the hearing to the public and asked that anyone who was present for this application to come forward. John Panariello, 608 Snake Den Road, West Milford, appeared before the Board. As the neighboring property owner, he stated that he wanted the Board to ensure that the applicant's proposed fence would be maintained in a natural wood tone, adding that the fence would be an improvement to the site. He questioned whether the applicants would be required to plant pine trees as a condition of approval, referring to his own conditions of approval stipulated by the Board on another application. He further stated that his existing fence was installed to keep the neighbors from accessing his property. Overall, he is satisfied with the design, fence height, and color of the proposed fence.

With no one else present wishing to be heard on this application, Mr. Severini motioned to close the public portion of the meeting, with a second by Mr. Jurkovic.

Motion by Mr. Severini to **approve** Bulk Variance #0730-0770; Block 11103; Lot 5.01; 572 Snake Den Road; R-4 Zone; to construct an 8 foot fence in the rear and side yard.

Second by Mr. Jurkovic.

Mr. Glatt, Board Attorney, requested facts of findings:

Mr. McQuaid responded that the sloping of the property and the addition of an 8 foot fence will keep access from the adjoining tree farm, that the slope and fence is more in line with the height of the house, that the activities of both properties will be shielded, and that the fence should not be constructed more than 220 feet from the house. Mr. Jurkovic added that the fence should be restricted to wood tone colors and this needs to be included in the resolution of approval. He also noted that the topography of the properties justifies the height of the fence, and that the only residents that will see the fence are the two property owners. He stated further that the installation of the fence does not offend the master plan in any way, and the fence will help to alleviate any noise emanating from the adjoining property. He reiterated that the resolution needs to reflect that the fence be a natural color. Mr. Severini amended his motion to include the fence color and the preceding statements by fellow Board members.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini,
Barry Wieser, and Robert Brady.

No: None.

Motion carried.

APPROVAL OF MINUTES

Motion by Mr. McQuaid to **approve** the minutes of the April 24, 2007 Regular Meeting of the Zoning Board of Adjustment.

Second by Mr. Severini.

On a **Voice Vote**, all were in favor of approving the minutes of April 24, 2007.

Motion carried.

CORRESPONDENCE

The Planning Director reviewed correspondence received from Orange and Rockland Utilities regarding the potential danger of above and under ground utility lines and a request that the Board encourage all applicants to be aware of safety issues and to adhere to the "Dig Safely" law.

The Board Chairman acknowledged the letter mailed to former member Ed Spirko upon his resignation, stating that the Board accepts his resignation with regret.

APPOINTMENT

Mr. Drew reviewed with the Board members the necessity of approving Michael Hakim, Landscape Architect, as consultant for the Board of Adjustment, in particular, with regard to certain conditions of approval for the Panariello Use Variance. Mr. Hakim, the Township's landscape architect, has received prior approval by the Township and all necessary documents are on file. His fees in relation to various applications will be paid through the escrow funds.

Motion by Mr. Brady to **appoint** Michael Hakim, Landscape Architect, as a consultant for the Zoning Board of Adjustment.

Second by Mr. Severini.

On a **voice vote** all were in favor of appointing Michael Hakim as landscape architect consultant for the Zoning Board of Adjustment.

Motion carried.

ANNUAL REPORT

The Planning Director reviewed the changes made to the 2006 Board Report following discussion by members at the previous Board of Adjustment meeting; he followed with an explanation of the distribution process.

Motion by Mr. McQuaid to **accept** the 2006 Annual Board Report of the Township of West Milford Zoning Board of Adjustment.

Second by Mr. Severini.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini,
Barry Wieser, and Robert Brady

No: None

Motion carried.

ADJOURNMENT

With no further business to attend to, Mr. Brady asked for a motion to adjourn the Regular Meeting of the Zoning Board of Adjustment.

Motion by Mr. Severini.

Second by Mr. Wieser.

On a **voice vote** all were in favor of adjourning the May 22, 2007 Regular Meeting of the Zoning Board of Adjustment.

Motion carried.

Meeting adjourned at 9:03 p.m.

Adopted: June 26, 2007

Respectfully submitted by

Tonya E. Cubby, Secretary
Zoning Board of Adjustment

**MINUTES
of the Township of West Milford
Passaic County, New Jersey
ZONING BOARD OF ADJUSTMENT**

**MAY 22, 2007
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PLEDGE

Mr. Brady asked all in attendance to join in the Pledge of Allegiance.

ROLL CALL

Present: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini, Barry Wieser, and Robert Brady.

Also Present: Stephen Glatt, Board Attorney, William Drew, Planning Director, Richard McFadden, Board Engineer, and Tonya Cubby, Board Secretary.

Absent: Ada Erik, William Lynch.

Following Roll Call, Chairman Robert Brady asked Barry Wieser, Alternate # 1 to sit on the Board for Ms. Erik. The Chairman reviewed the Zoning Board of Adjustment procedures.

MEMORIALIZATIONS

RESOLUTION NO. 7-2007

JOHN J. PANARIELLO

Use Variance #0640-0760

Block 11103; Lot 5.02

610 Snake Den Road; R-4

Requested: Use variance relief from the MLUL C.40:55D-70d for accessory structure to be used for purposes not associated with the proposed principal structure.

Mr. Glatt advised that recommendations from the Board Engineer's memo dated February 2007 should be included in the resolution.

Motion by Mr. Brady to **amend** Resolution No. 7-2007 to include the Engineer's recommendations in the resolution.

Second by Mr. Jurkovic.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini, Barry Wieser, and Robert Brady.

No: None.

Abstain: None.

Motion carried.

Motion by Mr. Hannan to **approve** Amended Resolution No. 7-2007.

Second by Mr. Jurkovic.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini, and Barry Wieser.

No: None.

Abstain: None.

Motion carried.

Mr. Glatt advised that the remaining Memorializations scheduled for approval at this meeting were undergoing final revisions by the Planning Department. The Board members discussed the proposed Board Attorney reduction in contract to provide funds for a Substitute Attorney, if needed. Mr. Brady noted that the resolutions on tonight's agenda should be available for approval at the June 26, 2007 meeting.

APPLICATIONS CARRIED FROM PREVIOUS MEETINGS

RICHARD SCHAEFER

Bulk Variance #0730-0766

Block 7512; Lot 4

33 Pinecliff Lake Drive; LR Zone

Requested: Bulk Variance relief to construct an accessory building closer to the principal structure than permitted, located within the front yard and exceeding maximum accessory building coverage.

Mr. & Mrs. Schaefer approached the Board and noted that the revised architectural plans and new survey had not been completed. He requested that the Board carry this application to the June 26, 2007 meeting. He also granted the Board an additional 30-day extension for this application.

Motion by Mr. Jurkovic to **carry** this application, Bulk Variance #0730-0766, Block 7512; Lot 4; 33 Pinecliff Lake Drive; LR Zone, to the June 26, 2007 meeting.

Second by Mr. Severini.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini,
Barry Wieser, and Robert Brady

No: None

Motion carried.

NEW APPLICATIONS

1952 UNION VALLEY ROAD, LLC

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Bulk Variance #0430-0647

De Minimis Exception

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John Barbarula, Esq., attorney for the applicant, appeared before the Board and stated that the applicant is requesting a carry due to discrepancies in the application with regard to the site plan and survey that were discovered by the Planning Department. The applicant wishes to correct these discrepancies prior to appearing before the Board. In addition, the adjoining property owner has a new attorney who has submitted a letter to the Planning Department with regard to the applicant. Mr. Barbarula and Mr. Glatt both stated that they do not have any supporting information. Mr. Glatt noted that the letter purported that an order is pending regarding an agreement between the adjoining property owners, but there is no documentation attached. Mr. Barbarula stated that the application can move forward once the site plan and survey are corrected. He stressed that the applicant is requesting a use variance and he needs to present the necessary documentation to substantiate this variance. The Chairman explained the process for public input at the next regular meeting on June 26, 2007. Several members of the public desired to be heard on this matter and they were asked to return on June 26, 2007 for the public hearing.

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Motion by Mr. Jurkovic to carry this application, Use Variance #0540-0698, Preliminary & Final Site Plan #0420-0167AB, and Bulk Variance #0430-0647, Block 3601; Lots 1 & 3; 1952 Union Valley Road; CC Zone, to the June 26, 2007 meeting.

Second by Mr. Severini.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini,
Barry Wieser, and Robert Brady

No: None

Motion carried.

Mr. Barbarula also granted a 30-day time extension for this application.

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Mrs. Partington stated that there will be no negative impact to the neighbors, that safety issues are being addressed and, per the Municipal Land Use Law, the fence promotes public health, safety and welfare. She further noted that there will be no detriment to the surrounding properties and that this fence would be an improvement to the site.

Mr. Glatt inquired about the elevation of the site, to which Mr. Partington replied that there is a 70-foot rise from the front to rear of the property. Mr. Glatt next inquired about the height of the proposed fence from the ground, and Mr. Partington replied 9 feet. Mr. Partington then stated that there are other 8-foot fences in the Township, including the Post Office. The Board noted that the Post Office is exempt from these restrictions. Mr. Drew explained the reasoning for local fence height restrictions, including aesthetics and uniformity to surrounding structures. Several Board members questioned the applicants about the maintenance of the fence. Mr. Glatt questioned the design on the front and back sides and inquired if they will be the same shadow box design, to which Mr. Partington replied in the affirmative. The applicants stated that the fence would be stained clear or a green-gray color to blend in with the surrounding environment. Mr. Drew, through questioning, established the elevation of the house, septic, and proposed fence. Mr. Partington described his house in relation to the neighboring property. When asked

by Mr. Drew if there is a significant grade distance along the proposed fence line, Mr. Partington replied in the negative, noting that the site is fairly level, to which Mr. Drew concurred.

The Chairman opened the hearing to the public and asked that anyone who was present for this application to come forward. John Panariello, 608 Snake Den Road, West Milford, appeared before the Board. As the neighboring property owner, he stated that he wanted the Board to ensure that the applicant's proposed fence would be maintained in a natural wood tone, adding that the fence would be an improvement to the site. He questioned whether the applicants would be required to plant pine trees as a condition of approval, referring to his own conditions of approval stipulated by the Board on another application. He further stated that his existing fence was installed to keep the neighbors from accessing his property. Overall, he is satisfied with the design, fence height, and color of the proposed fence.

With no one else present wishing to be heard on this application, Mr. Severini motioned to close the public portion of the meeting, with a second by Mr. Jurkovic.

Motion by Mr. Severini to **approve** Bulk Variance #0730-0770; Block 11103; Lot 5.01; 572 Snake Den Road; R-4 Zone; to construct an 8 foot fence in the rear and side yard.

Second by Mr. Jurkovic.

Mr. Glatt, Board Attorney, requested facts of findings:

Mr. McQuaid responded that the sloping of the property and the addition of an 8 foot fence will keep access from the adjoining tree farm, that the slope and fence is more in line with the height of the house, that the activities of both properties will be shielded, and that the fence should not be constructed more than 220 feet from the house. Mr. Jurkovic added that the fence should be restricted to wood tone colors and this needs to be included in the resolution of approval. He also noted that the topography of the properties justifies the height of the fence, and that the only residents that will see the fence are the two property owners. He stated further that the installation of the fence does not offend the master plan in any way, and the fence will help to alleviate any noise emanating from the adjoining property. He reiterated that the resolution needs to reflect that the fence be a natural color. Mr. Severini amended his motion to include the fence color and the preceding statements by fellow Board members.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini,
Barry Wieser, and Robert Brady.

No: None.

Motion carried.

APPROVAL OF MINUTES

Motion by Mr. McQuaid to **approve** the minutes of the April 24, 2007 Regular Meeting of the Zoning Board of Adjustment.

Second by Mr. Severini.

On a **Voice Vote**, all were in favor of approving the minutes of April 24, 2007.

Motion carried.

CORRESPONDENCE

The Planning Director reviewed correspondence received from Orange and Rockland Utilities regarding the potential danger of above and under ground utility lines and a request that the Board encourage all applicants to be aware of safety issues and to adhere to the "Dig Safely" law.

The Board Chairman acknowledged the letter mailed to former member Ed Spirko upon his resignation, stating that the Board accepts his resignation with regret.

APPOINTMENT

Mr. Drew reviewed with the Board members the necessity of approving Michael Hakim, Landscape Architect, as consultant for the Board of Adjustment, in particular, with regard to certain conditions of approval for the Panariello Use Variance. Mr. Hakim, the Township's landscape architect, has received prior approval by the Township and all necessary documents are on file. His fees in relation to various applications will be paid through the escrow funds.

Motion by Mr. Brady to **appoint** Michael Hakim, Landscape Architect, as a consultant for the Zoning Board of Adjustment.

Second by Mr. Severini.

On a **voice vote** all were in favor of appointing Michael Hakim as landscape architect consultant for the Zoning Board of Adjustment.

Motion carried.

ANNUAL REPORT

The Planning Director reviewed the changes made to the 2006 Board Report following discussion by members at the previous Board of Adjustment meeting; he followed with an explanation of the distribution process.

Motion by Mr. McQuaid to **accept** the 2006 Annual Board Report of the Township of West Milford Zoning Board of Adjustment.

Second by Mr. Severini.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini,
Barry Wieser, and Robert Brady

No: None

Motion carried.

ADJOURNMENT

With no further business to attend to, Mr. Brady asked for a motion to adjourn the Regular Meeting of the Zoning Board of Adjustment.

Motion by Mr. Severini.

Second by Mr. Wieser.

On a **voice vote** all were in favor of adjourning the May 22, 2007 Regular Meeting of the Zoning Board of Adjustment.

Motion carried.

Meeting adjourned at 9:03 p.m.

Adopted: June 26, 2007

Respectfully submitted by

Tonya E. Cubby, Secretary
Zoning Board of Adjustment