

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

JULY 24, 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: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur Mc Quaid, Gian Severini, and Robert Brady.

Also Present: Barry Wieser, Frank Curcio Stephen Glatt, Board Attorney, William Drew, P.P., Planning Director, Richard McFadden, Township Engineer and Denyse Todd, Board Secretary

Following Roll Call, Chairman Robert Brady explained the procedures for the Zoning Board of Adjustment.

MEMORIALIZATIONS

VINCENT LANZA

Resolution No. 11-2007

Bulk Variance #0630-0753

Block 2707; Lot 3

33 Flanders Road; LR Zone

Requested: Bulk Variance approval for lot frontage, lot area, lot width, lot depth, minimum front, side and rear yard setback and building coverage, and relief from the MLUL C.40: 55D-35 requirement that no permit for the erection of any building or structure shall be issued unless the lot abuts a public street giving access to such proposed building or structure, to enable the construction of a single-family dwelling.

Eligible to Vote: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Gian Severini, and Robert Brady

Motion by Ada Erik to **approve** Resolution No. 11-2007

Second by Gian Severini

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Gian Severini, and Robert Brady

Motion Carried

VINCENT LANZA

Resolution No. 12-2007

De minimis Exception

Block 2707; Lot 3

33 Flanders Road; LR Zone

Requested: *De minimis* exception from the Residential Site Improvement Standards N.J.A.C. 5:21-3.1 for pavement, curbs, storm drains, etc.;

Eligible to Vote: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Gian Severini, and Robert Brady

Motion by Ada Erik to **approve** Resolution No. 12-2007

Second by William Lynch

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Gian Severini, and Robert Brady

Motion Carried

DONALD AND SIOBHAN PARTINGTON

Resolution No. 15-2007

Bulk Variance # 0730-0770

Block 11103; Lot 5.01

572 Snake Den Road

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

Eligible to Vote: Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini, Barry Wieser, and Robert Brady

Motion by Gian Severini to **approve** Resolution No. 15-2007

Second by William Lynch

Roll Call Vote:

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

Motion Carried

RICHARD SCHAEFER

Resolution No. 18-2007

Bulk Variance #0730-0766

Block 7512; Lot 4

33 Pinecliff Lake Drive; LR Zone

Requested: Request for a 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.

Eligible to Vote: Ada Erik, Daniel Jurkovic, Barry Wieser and Robert Brady

Motion by Ada Erik to approve Resolution No. 18-2007

Second by Daniel Jurkovic

Roll Call Vote:

Yes: Ada Erik, Daniel Jurkovic, Barry Wieser and Robert Brady

Motion carried

CHRISTOPHER FULTON

Resolution No. 19-2007

Bulk Variance # 0730-0773

Block 8602; Lot 45

4 Cherbourg Drive; R-2

Requested: Bulk Variance relief for fence height to construct a fence in the front yard with a height of 6 feet.

Eligible to Vote: Ada Erik, Daniel Jurkovic, William Lynch, Barry Wieser, Frank Curcio, and Robert Brady

Motion by Ada Erik to approve Resolution No. 19-2007

Second by William Lynch

Roll Call Vote:

Yes: Ada Erik, Daniel Jurkovic, William Lynch, Barry Wieser, Frank Curcio, and Robert Brady

Motion carried

JOSEPH ORZO

Resolution No. 20-2007

Bulk Variance # 0730-0778

Block 902; Lot 1

600 Warwick Turnpike; LR

Requested: Request for Bulk Variance relief for fence height to construct a fence 6 foot in height in the front yard when maximum permitted height is 4 feet.

Eligible to Vote: Ada Erik, Daniel Jurkovic, William Lynch, Barry Wieser, Frank Curcio, Robert Brady

Motion Ada Erik

Second William Lynch

Roll Call Vote:

Yes: Ada Erik, Daniel Jurkovic, William Lynch, Barry Wieser, Frank Curcio, Robert Brady

Motion carried.

Applications Carried From Previous Meeting

UPPER GREENWOOD LAKE PROPERTY OWNERS ASSOCIATION

Use Variance #0740-0775

Bulk Variance #0730-0776

Preliminary & Final Site Plan #0720-0292AB

Block 2007; Lot 9.03

Lakeshore Drive; LR Zone

Request for a Use Variance, Bulk Variances, and Preliminary and Final Site Plan approval on property located at Lake Shore Drive, Block 2007; Lot 9.03 in the LR Zone with Use Variance relief requested for an accessory structure without a principal structure on the lot, and Bulk Variances for maximum building coverage and an accessory building in a front yard, and Preliminary and Final Site Plan approval.

Carried from June 26, 2007 since all of the Board Members weren't present.

Mr. Michael Sweeney, Esq. Of the firm Hunziker, Jones and Sweeney spoke for Upper Greenwood Lake Property Owners Association Stephen Eid, the Land Surveyor will be speaking as well. Mr. Jim Jones will also speak as a representative for Upper Greenwood Lake Property Owners Association. Mr. Sweeney further stated that the structure that would be going up would be in the same location as a basketball court.

Mr. Glatt explained that there were some Board Members who were going to recuse themselves. Mr. Severini recused himself and Mr. Barry Wieser took his place on the Board.

Mr. Stephen P. Eid, President, Eid Associates, 555 Alpha Road, Ridgewood, NJ, prepared plans and is also a resident of Upper Greenwood Lake was sworn in as a witness for Upper Greenwood Lake Property Owners Association. Mr. Brady asked about his credentials, he is a NJ Professional Land Surveyor, 1984, Engineer, 1992, Bergen & Passaic County, NJIT Degree, 1986 active member of NJ, Society of Professional Land Surveyors. He has appeared before the Zoning Board Of Adjustment. He is not a Professional Planner at this time. Mr. Eid was asked to speak about the application; he said that the basis of the application was the as-built for the Clubhouse where a lot line was created 30 feet east of the Club House to keep the beach and clubhouse and parking facility separate, this is lot 9.02, it is 20,760 square feet, 0.48 acres, East of that is lot 9.03, 61,000 square feet. The applicant is planning to take the existing basketball court down since it is no longer used and tends to be a hangout and replace it with a pavilion. The pavilion would be 38 X 54 feet and would rest on the existing concrete pad that is there now which is 2 feet high 42 X 58. To the east side of the main structure is a 3-foot high wall, which runs north to south and is required for dam safety. The NE corner will have an 8-foot setback, on the westerly side 13 feet near right of way. Side yard towards Longhouse is 86 feet

where 10 feet is required, rear yard towards the Lake the setback is 36 feet where 10 feet is required. Need Use Variance 3.36% for that lot and only 3% allowed. Clubhouse lot and beach lot would be 2.51% combined. There was a previous Use Variance before this Board. Mr. Brady asked where in conjunction of this property was the dam. He also asked about the septic field and it belongs to the Clubhouse. There is an easement from Clubhouse along the right of way, there will be no plumbing for this structure; open except for roof it is an open structure. Mr. Jurkovic asked why the properties (lots) weren't being remerged. Mr. Sweeney said that they wanted to make sure that construction financing didn't in any way effect the Property Owners with any proceedings or consequences. Mr. Jurkovic asked if under the Municipal Land Use Law, wasn't his client obligated to take steps to minimize the impact of the Variances. Mr. Sweeney said the property was subdivided 10 years ago but continues to operate as an integrated unit. An application for a Subdivision was granted 10 years ago Mr. Glatt asked if it was before the Zoning Board Of Adjustment or was it before the Planning Board, a Board Member asked what the main reason was for a subdivision, a lot line was created because there was a mortgage on the Clubhouse. Mr. Glatt said that we needed an explanation of the History of the original application.

David Lynch was sworn in as a witness for Upper Greenwood Lake Property Association, he resides at 520 Lakeshore Drive, Upper Greenwood Lake; at one time he was President. He was involved in the original clubhouse project, which consisted of the sale of the original clubhouse to procure funds for the new clubhouse; the loan was approved for the clubhouse with the condition of a subdivision, no appeal on the Subdivision. Lakeland State Bank wanted the subdivision to take place for financial purposes in case of default of the Loan their concern being in case of a foreclosure so they didn't lose the Beach. Mr. Drew stated that this Board granted the approval of the subdivision. Mr. Jurkovic wanted to know why the subdivision took place with the Zoning Board of Adjustment; he didn't feel it made sense that either board would get involved with it only for financial reasons. Mr. Jurkovic wanted to see a copy of the original Resolution granting the sub division. Mr. Drew said if the Board wanted to adjourn he would go to the office to see if the resolution was available.

Motion by Daniel Jurkovic to adjourn for five minutes.

Second by Ada Erik

All in favor

Opposed None

Mr. Eid said that Board approved the project, as a whole 2.51%, 3.36% is what is being asked for, 3% standing alone. North of the area is concrete, handicap ramp, from basketball area 38 feet wide to the west. To the north east 8 foot setback from right of way and North West 13 foot setback there will still be an existing area of concrete not to be covered by the foundation, no new impervious coverage.

Surrounding area description east 3 1/2 to 4 foot wall sticking up in the air, easterly direction paved driveway, spillway comes out to Lake Shore Drive then a grade drop to the east to gravel for overflow parking. To the north corner of Longhouse and Lake Shore there is a vacant lot. There is one house across the street that will have no obstruction to lake. The pavilion will be 22 feet high from concrete to peak. Mr. Jurkovic asked about drainage to the lake. It will basically drain back into the lake like it does presently. A Board Member asked if there were any other buildings like this in town. Bubbling Springs and Westbrook Park were mentioned. Septic for the clubhouse is to the East. Lot 9.03 could not house a primary building. Mr. Jurkovic asked about utilities in the structure. Lighting within structure would be the only light source. A Board member asked if there was any lighting plan? The applicant stated that there were no additional lights only original light from original plan which is on a pole outside the structure. There will be posts supporting the structure only.

Mr. Eid said that Mr. Ligus was concerned about the handicap parking and would like one additional spot. Mr. Eid explained where the existing handicap parking was and has other options to discuss. The State has no jurisdiction over the handicap spots. Converting certain spots to handicap spots is one option there is an area in the right of way and a there is a van accessible space, #1,2 and 3 would be handicap parking. A Board member asked which spot was easiest for this purpose. Spot #16 would be best because of the Grade it would be better if the spot is paved. This is also impervious. Additional spot approved would be with beach

access. Mr. Glatt asked if a parking variance was needed originally because these changes might change original structure.

Mr. Jurkovic asked Mr. Eid if the application was approved would it impair the intent or purpose of the zoning plan or ordinance for the Township? Mr. Eid said it would not. If approved would it be detrimental to the sight or surrounding property? No not at all. What benefits would this approval mean to the area? Main reason board wants it built is for elderly people and those sensitive to the sun. A Board Member asked if Mr. Eid had his planning license. Mr. Sweeney said not at this time. Mr. Glatt asked when the last time was he had his license. He did not renew last year but had it for 15 years. Mr. Glatt said because of his years as a Professional Planner we could consider his testimony, that his testimony would be fair. Mr. Brady asked if the height of 22 feet will cause a sight distance problem because of the slope of Longhouse Road. No it would not, the elevation at the corner of the pavilion is 1101 and the intersection is 92. Developing property, gas line area on the plan is at the 100 year flood elevation just on foot print. No other questions, Mr. Jones was being called to testify.

James M. Jones of 91 Witte Road, Upper Greenwood Lake was sworn in to testify, President of the Upper Greenwood Lake Property Owners Association. He thanked the Board and said how helpful the planning staff has been. Beach goers have a place to be out of the sun. They tried to have a youth recreation place with it being a Basketball area but it became a hangout and this way there is a place to go out of the sun and still enjoy the beach. Mr. Jurkovic asked about the construction of the building. Mr. Jones said that it is considered a pavilion, it will have exposed trusses and be an open-air building, nothing will be concealed. Mr. Jones said it is similar to the facility at Mt. Peter. Mr. Jones said no exterior lighting other than the previously explained pole lighting. Interior lighting might be installed, maybe a paddle fan also. A Board Member asked how the 22-foot height was decided since it is more than 1 floor and it seems high. Mr. Jones said the pitch of the building was a nice pitch. The Board Member asked about a picture, (marked exhibit A1), Mr. Jones continued about the height, a shallow pitch is for function, the steeper the pitch, can be seen from the road. It has a pleasant pitch green in color to fit with the environment; height of walls would be 10 feet with a 12-foot rise. Mr. Jurkovic confirmed no utilities or water and asked if a telephone would be installed, Mr. Jones said it is not part of the plan yet unless it is recommended, only electricity. It would be a sun shelter. Mr. Brady asked if anyone else had any questions. No other questions.

State of New Jersey Open Meetings Acts
Move to close public portion, Ada Erik
No one present to speak against the application
All in favor to close
Opposed none

Mr. Brady asked Mr. Sweeney if he would like to make a closing statement. He responded by saying that as the applicant simply stated that a pavilion structure would provide health and safety for sunburn and heat related illnesses. People could enjoy benefits of the beach for an extended time. The application serves the zoning purposes as it was originally zoned for recreation purposes. The basketball court was under utilized and was vandalized. The pavilion would have more use and would be esthetically pleasing by enhancing the appearance of the property. It is compatible with the surrounding area, it doesn't interfere with the neighbors' view of the lake, it follows the recreational theme of club and facilities. The concerns of the handicap accessibility will be addressed with regard to the Board's questions. Spots 15 & 16,

Mr. Brady asked if the Board had any questions or would like to make a motion.

Mr. McQuaid said that the Township Zoning Board permits this kind of use for community homeowners associations but it is usually a primary building, and that was why he was questioning whether a primary building could exist on this piece of land even without the testimony there is no way a primary building could be placed on this lot because of the lot configuration. The Zoning Board of Adjustment approved the application for the subdivision in February 1997 and memorialized it in April 1997. This Board created the lot and he sees no problem with the structure since the pad is already there putting a roof on it and having the shelter, he agrees with having a place to get out of the sun.

Mr. Glatt said there were cross easements at the time with regard to the Resolution of 2/1997 and it is defacto 1 lot because of the cross easements.

Mr. Glatt said that the Use Variance should be decided first, and other applications will be voted on together. Mr. Jurkovic agreed with Mr. McQuaid's comments about the uniqueness of the property, impervious surface, good use of concrete pad, under utilized. Commend the Property Owners Association for the work they have been doing. The structure would be a good choice for that area. He agrees that it doesn't offend the Master Plan and maximizes recreational use. It doesn't affect building coverage since there is an existing pad which is 3.36% and they want to build on the existing pad .6% is not going to make a difference for unimpervious coverage. Primary reasons for impervious surface property, no drainage issues cross easements were confirmed by Mr. Glatt.

Motion by Mr. Jurkovic to approve Use Variance #0740-0775

Second by Mr. McQuaid

Roll Call Vote: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Barry Wieser and Robert Brady

Mr. Jurkovic made a motion to approve the Bulk Variance for an accessory structure in a front yard when 2 streets intersect. He said that it was like having two front yards with the lake being the rear yard. It doesn't have any adverse impact to the surrounding land and is for recreational use.

Motion by Mr. Jurkovic to approve Bulk Variance #0730-0776

Second

With regard to the location of the handicap parking, Mr. Drew stated if the spots were located on the street, that Town Council approval will be required. Approval conditional upon satisfaction of Building Department and prior to approval one more parking spot would need to be added.

Motion by Mr. Jurkovic to approve Preliminary and Final Site Plan #0720-0292AB

Amended to include the additional conditions of no septic or water in the pavilion.

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Barry Wieser, and Robert Brady

Motion Carried

APPROVAL OF MINUTES

Motion by Ada Erik to approve the minutes of the June 26, 2007 Regular Meeting of the Zoning Board of Adjustment.

Second by William Lynch

Miscellaneous

RESOLUTION No. 17-2007 -ACCEPTANCE OF 2006 ANNUAL REPORT FOR JANUARY – DECEMBER, 2006.

Motion to accept report Daniel Jurkovic

Second Frank Hannan

Roll Call Vote: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Gian Severini, Robert Brady

Mr. Brady asked if anyone was planning vacation for the week of the August 28, 2007 meeting and would not be attending please advise Mr. Drew so he can reschedule the meeting. Mr. Glatt explained that if notices were sent by applicants they need to change it. Applications currently in review can be rescheduled if known ahead of time.

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 Ada Erik to adjourn the meeting of July 24, 2007.

Second by Arthur McQuaid.

On a voice vote all were in favor of adjourning the July 24, 2007 Regular Meeting of the Zoning Board of Adjustment.

Motion carried.

Meeting adjourned at 9:14pm

Adopted: August 28, 2007

Respectfully submitted by

Denyse L. Todd, Secretary
Zoning Board of Adjustment