

MINUTES
Of the Township of West Milford
Passaic County, New Jersey
ZONING BOARD OF ADJUSTMENT
AUGUST 28, 2007
Regular Meeting

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:45p.m. The Board Secretary read the Legal Notice.

Pledge of Allegiance

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, 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
Absent: Gian Serverini

Following Roll Call, Chairman Robert Brady explained the procedures for the Zoning Board of Adjustment. He also asked Mr. Wieser to stand in for Mr. Severini.

MEMORIALIZATIONS-This resolution was not available

UGL PROPERTY OWNERS ASSOCIATION

RESOLUTION No. 21-2007

Use Variance #0740-0775

Bulk Variance #0730-0776

Preliminary & Final Site Plan #0720-0292AB

Block 2007; Lot 9.03

Lakeshore Drive; LR Zone

ACTION: 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 coverage and an accessory building in a front yard, and Preliminary and Final Site Plan approval.

NEW APPLICATIONS

NEIL OTTENS

Use Variance #0640-0759

Block 1907; Lot 1

7 Parlin Court; LR Zone

Request for Use Variance approval for placement of a septic field on an adjoining unimproved lot (Block 1911; Lot 4) crossing over Township right of way.

Joseph Affinito, Esq. is representing Mr. Ottens. Mr. Affinito explained the request for this use variance. He said that Mr. Ballester of Ballester & Associates, Inc., the Engineer would be speaking as well. Mr. Affinito talked about a right of way that was dedicated to the Township of West Milford but not accepted. Mr. Affinito said that the Right of Way belonged to the Ottens because neither the Upper Greenwood Lake Property Association nor the Township wanted it.

Mr. Glatt asked about the right of way he confirmed there would be pipes under it and then grass would be replanted since it isn't a road. Mr. Glatt asked if it would encroach on either Lot 5 or lot 2, since it would be an accessory use on Lot 4 without a principle structure. Mr. Glatt asked if the owners would need to get a right of way from the town. Mr. Affinito said no because the Township rejected it. Mr. Hannan confirmed that since the owners on both sides of the street owns one half of the right of way that Mr. Ottens owned both of it since his two lots are across from each other. It is not a dedicated road. Mr. Drew said with regard to Township approval that the applicant would need to go before the Council. The Council usually is involved in the approval of unimproved Township roads, and that the Council would need clarification. Mr. Glatt confirmed that Mr. Affinito understood Mr. Drew's comments and he said that the meeting tonight was strictly a zoning issue. If their application was granted they would need to go through other approvals.

Mr. Brady asked if Parlin Court was a road. Mr. Affinito said that it only exists on paper and it isn't a road it's just grass and trees. Mr. Brady then asked how people get to Parlin Court and Mr. Affinito said it was accessed from Dover Road.

Mr. Affinito understands that it is only zoning issues being discussed. A Board Member asked about vacant lots 2 & 6, and asked if buy/sell letters were sent. Mr. Affinito said no. He already owned lot 4. Mr. Jurkovic pointed out if merged with Lot 6 that it would reduce variances. Lot 2 & 3 are conjoined, a member of the audience said that they were purchased at a tax sale. Mr. Affinito doesn't think the owner should need to purchase more land. Mr. Brady said that buy/sell letters are the regular protocol for this type of situation. Mr. Affinito said that this isn't a new project; the previous owners started it. He is calling the Engineer Mr. Ballister to testify to the usage. There is a dwelling on Lot 1 it is the Applicants property. A board member asked where the septic is located now. Mr. Affinito said it is on the property with the dwelling. Mr. Affinito said both properties were purchased together for the purpose of having the seepage field on the other property. A Board member asked where the present field is since it is not shown on the map. Mr. Affinito said that if that information was needed to grant the application then they would locate it. The Board wants the field delineation. They also want to know if the septic can be built on lot 6 instead. If the owners of Lot 6 were agreeable and it was affordable for the owner, that might be a choice for the septic. Mr. Glatt asked the Board if they were agreeable to hear testimony. Mr. Glatt said with the understanding that the testimony presented if all testimony is heard, before a vote is taken, the Board may require the applicant to notify other owners.

Mr. Glatt swore in the Engineer, Claude Ballester. He has an office at 1811 Union Valley Road, West Milford his credentials include licensed engineer and professional planner in New Jersey and Florida. A septic plan was filed 12/29/04 and approved by the Health Department subject to relief of crossing road. This was marked A-1. It depicts septic field and drywell. Mr. Ballester explained the area around Parlin Court. Lot 6 Location is 50-60 feet from lake, a straight shot down. Lot 2 is Lakeshore; Lot 3 is bordering that lot. Not good because the well would be too close to neighbors and it would encroach. That is why they arrived at the lot being discussed. Existing lot's septic is located under cement patio and it couldn't be repaired for this reason rest of lot is rock. The lot available across the street seemed to work. The map wasn't submitted because it was not part of the checklist for the variance. Mr. Jurkovic said Lot 2 looked like it would be ok Mr. Ballester said that 10 feet from the property line was the minimum for neighboring properties and it wouldn't work. All that would be left would be a corner of Parlin Court and Lakeshore Drive. Mr. Jurkovic asked if it was measured. Mr. Ballester said no not surveyed. If lot 3 was purchased it wouldn't pass for being too close. Mr. Jurkovic said Lot 3 would be unbuildable if septic went where it's proposed. Mr. Ballester thinks the lot is already unbuildable. A Board Member asked how it could be relocated. He also asked what would happen if Zoning Board Of Adjustment got sued for allowing this variance. Mr. Ballester was asked if we don't allow the building of the septic there, where else could it go. Mr. McQuaid said that it would require notification of the property owners. Mr. Glatt said the Board's concern is that we would be zoning the adjoining property. Ms Erik asked about the location with regard to Lot 5 & Lot 7 in 1907. Mr. Ballester said about 150 feet. Parlin Court has a ledge there really

isn't a place. Mr. Glatt said the Board was asking about Lot 3 with regard to noticing Lot 3 for a buy/sell to give them an option. Mr. Glatt asked to continue with other testimony and between now and next meeting to send a buy/sell to the owners of Lot 3. Mr. Jurkovic said Lot 2 & 6 should get buy/sell also. The Engineer is testifying to things not measured. Block 1907 Lots 2/3, Lot 3 and Upper Greenwood Lake property Lot 6. Mr. Brady confirmed that the location of seepage field is not exactly known. The wells in the area bisect other wells. Confirmation of ownership of certain lots will be looked into. Mr. Affinito said he will send letters to 1907 lots 2,3 &6. Mr. Affinito was finished with the testimony of Mr. Ballester.

Mr. Glatt swore Neil Ottens in, he resides at 7 Parlin Court, Hewitt New Jersey. Mr. Affinito asked if he knew how old the home was. Mr. Ottens said that he thought it was built around 1950. Mr. Affinito confirmed that this house and the vacant land were purchased simultaneously, Mr. Ottens said yes. He asked about the placement of the septic now. It was placed under a concrete patio. The only property not on solid rock is the vacant land in question. The end of Parlin Court is a dropoff then Upper Greenwood Lake. The tanks would be up a little and have to be pumped up. Mr. Ottens was asked how the people in lot 5 could get to Parlin Court. He said off Lakeshore. Mr. Affinito asked if anyone else had questions since he was finished. Mr. Ottens was asked if the land is suitable if location could be changed or turned around, he said yes. Mr. Brady asked if there were any plans to build any structure he said the only use would be a leech field. Mr. Jurkovic asked if he would be willing to put deed restrictions on both properties so not to build on lot 4, restricting both. Mr. Ottens said at first no. Mr. Ballester was asked if he did a Topographical. Yes it is on surveyors and variance maps but only for Lot 4 and only first floor because that's all that was needed. Mr. Ballester said because of the cost they didn't do more than first floor. There is at least a 12-foot drop. The Ottens are 50 feet from Lake and 85 stairs to go up. Mr. Glatt asked if there were any other questions.

Mr. Brady opened the meeting to public.

Mr. Glatt swore in Stan Frey, 27 Dover Road, Block 1911, Lot 7. He has been trying to find out who was responsible for unimproved or private roads. According to the tax map of 1933 The residents are paying taxes. They are getting garbage pick up, snow removal...The access to 10 Parlin Court is through deeded property to all owners. The end of Dover Road is the access to 10 Parlin Court, confirming where 10 Parlin Court which is Lot 5. The Township has taken over private roads. All roads should be taken care of. If granted, it would increase the value of the Otten's home and they should be partially responsible for improving the road. Since Frey's home would be next to their home any changes or approvals are requested to be in writing to him and also to be notified of any changes.

Mr. Glatt swore in Joann Jordan, 1911, Lot 7, 27 Dover Road.

If the road is improved it would increase the value of 7 Parlin Court and it would allow 27 easement payers a right to go to the Lake. All roads to go to Lake. 10 Parlin Court needs access to his home on Parlin Court. He walks through foot path on Dover Road which is parkland owned by UGL. At top of Parlin Court they would have access. The owners should insist on improvement. Her concern is if it were to grant the use of the road for one family, and if it were to be improved it could risk damaging the septic lines and the Zoning Board of Adjustment would be liable for allowing the variance. Unfair to tax payers and bad example for other private roads. No questions.

Mr. Glatt swore in Richard Ashley, 14 Orange Road, owner of Lot 5. He met with the owners, Health Office and Engineers. His biggest concern was the pipe under the road. Mr. McFadden explained to him that the pipe would be far enough back to not cause a problem. Lot 6 has a very large drop. It probably won't be completed. It shouldn't have had the address it had for Emergency purposes. The Engineering aspect all rock, it would be a possible blow out if it switches to another location. Upper Greenwood Lake Property Owners Association's property can be crossed but you can't leave a car there overnite. The previous owners had let it overgrow and put rocks to block the road which

should be taken care of. Other land is not perkable, he does not think it should be any closer, and has no other objections. Mr. Brady asked if anyone had any questions. Mr. Jurkovic asked if he had a right of way, he said all residents did but walking Parlin Court would not be easily done. He asked if he thought it could be improved. He said with a lot of blasting. By way of Dover Road he can drive to his house and leave it overnight. Mr. Ashley said in the past no there was no need to change things.

Mr. Glatt swore in Douglas T. Dalton, he resides at 548 Lakeshore Drive. He was on Board of Trustees not here for that capacity. Doesn't feel Parlin will ever be completed. Feels it is a straightforward approach for use of this property. He does not object to the variance. He said the owner of Lot 2 & 3 have a shed containing garden supplies on the property. A Board member asked if Mr. Dalton has a recollection of the owner of Parlin Court, he doesn't think it was ever decided, since the Township never accepted it.

Mr. McQuaid asked Mr. McFadden how you go about getting a road put in. Mr. McFadden said there was a packet available in Clerk's office which consisted of a petition...but no new roads since 2002. Clarifying the pipes, no profile on this, if improved that no affect on the profile.

Mr. Jurkovic asked if the Residential Site Improvement Standards apply to this application since it crosses road Mr. Drew does not think so.

Ada Erik moved to close public portion
Daniel Jurkovic second.
None opposed.

Mr. Glatt said that after letters were sent and if there was a response, the public could address certain issues when we return for the September meeting. Mr. Affinito said that he will give his summation at the next meeting and the public could address it at that time.

Mr. Brady asked if he would like to request a postponement, Mr. Affinito said he would like to postpone until the next meeting.

Ada Erik made the motion to carry the application

Mr. Glatt said that any new testimony could be addressed at the September 25, 2007 meeting however everyone was noticed initially so the new testimony taken would involve the new noticing.

At 8:57p.m. The Board took a brief break and returned at 9:21p.m.

RICHARD AND KAREN SUMMERS

Bulk Variance #0630-0755

Block 6902; Lot 29

1771 Union Valley Road; CC Zone

Request for a Bulk Variance for a Rear Yard setback, where 50' is required, 51' existing and 26.55' is proposed.

Mr. Glatt swore in Mr. Richard Summers, he resides at 1771 Union Valley Road. Mr. Summers thanked the Board for having this meeting after all. Mr. Summers explained that they wanted Mrs. Summers' mother to live with them but their house is too small it is a 3-bedroom ranch and it has 1 large bedroom and 2 smaller. They want to put 2 other bedrooms into 1 and build a three car garage with rooms on the second floor since their son is getting older also will be driving. It is an odd shaped property, on the

side seemed to be better area than the others. The gas meter will be the only thing moved utility related. This garage will be 10 feet back from the house. Present garage isn't wide enough to hold a car and built on a slope, they have the cars outside presently.

Frank Hannan asked about the plan and said that the variance requested and the application doesn't match up, 12.75% for the coverage and the coverage is 8% existing. Mr. Glatt said that the application will have to have to be amended but he doesn't have to renote. He will have to explain the hardship for that reason as well. He also asked what was behind the property and it is Evergreen Farms.

Mr. Glatt needs to know why they need the variance. He explained what had to be proved. Mr. Summers said that he is on a right of way easement property. They drive through neighbor's property, so they can't put it anywhere else. Back yard is where the septic is, small front property. Mr. Glatt brought up that some of his plans are proposed 2-car garage and some say 3-car garage. Mr. Summers said that it was an error, and that the architecture plans are correct dimensions. The only easement showing on plan is from Union Valley Road to back of property and that there are no other easements on property. Waiver may be required as a condition of approval that there are no easements. Mr. Brady had Mr. Summers confirm verbally that there were no easements.

Mr. Jurkovic explained that if he made it a 2 car garage 26X22 he wouldn't need a lot coverage variance. There needs to be good zoning reasons to grant the variance since lot coverage is such a big issue. Mr. Summers said that he was zoned commercial and didn't realize it. All surrounding properties are zoned commercial as well. Mr. Glatt said that Mr. Drew was checking on zoning for commercial buildings and that his lot coverage could be greater so it would work out to his advantage. Mr. Glatt said since Mr. Summers is zoned commercial although having a residential property we would need to find out which would be the correct zoning for lot coverage. Mr. Jurkovic asked about going up instead of building a garage. Mr. Summers said that it would be hard for the elderly lady to go up. Mr. Jurkovic said that if the garage was smaller it would take off a variance. What is decided now will follow the premises in perpetuity. By changing size, he could remove one variance and reduce the other greatly. Mr. Summers said that they never considered going up. Mr. Drew brought the Ordinance for the Community Commercial, 25% total building coverage is allowed, and Mr. Summers is requesting 12.75%. Nothing specific in code about a residential dwelling in the Community Commercial Zone.

Mr. Glatt said that the application does not need to be amended in light of this. The drywell information will be added to the plan. Mr. Hannan asked about the stone around the drywell and said it should be 2" not 1 1/2". The last item of the Engineer's memo will be addressed.

No other questions, open to the public.

Mr. Glatt swore in Mr. Liukus 1773 Union Valley Road, he has no objections and looks forward to the addition.

Public portion closed

Mr. Jurkovic moved to approve the application for bulk variance # 0630-0755 for a rear yard setback, it is the easiest and with the conditions of the Engineer's reports of 8/20 and 5/16.

Ada Erik: second

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

Opposed none

DALE FLORES

Bulk Variance #0730-0786

Block 2014; Lot 20

452 Lake Shore Drive, LR Zone

Request for a shed in the front yard, permitted in side or rear yard only.

Mr. Glatt swore in Dale Flores, he resides at 452 Lake Shore Drive. Mr. Flores built a shed on his property for a lawn mower and a motor cycle. He feels that this is the only possible location for the shed, there is a retaining wall directly behind where the shed is presently, the other side has his well and then a septic tank. He is on a corner lot, it has three front yards. He didn't realize that he needed a zoning permit. He picked a shed that matched the house, he was told to apply for the permit, and he would have to either knock it down or apply for a variance. He showed on the plans where it is located. (Pictures were introduced as Exhibits A-1 through A-4)

His retaining wall's behind the shed and heads upward in three feet increments four of them up to about fifteen feet. A Board member asked what equipment would be in there, and he said a push mower a custom motorcycle, hedge trimmer. Mr. Flores was told by the builder that the shed needed to be about 6" elevated for ventilation purposes. Mr. McFadden was asked after looking at one of the pictures what his concern was and he said that the grade was steep heading into the right of way but it is too close to the road. If he hadn't already had it built they would have suggested a different location. It would have to be dug underneath to lower the shed and lessen the grade. It was a stick built shed. Mr. Flores asked about the right of way doesn't feel the shed is in the right of way because the shed is located 4 feet behind the right of way. The wall is located on the right of way. The gravel is in the right of way. Mr. Flores didn't realize he couldn't utilize this area. Mr. McFadden's biggest concern is that with the steepness of the ramp because of items on wheels could roll or items could slide out into the road. Mr. Flores said the wall was 10 feet from the road (Exhibit A-5 added) to the line. The shed is 4 feet beyond that. The bushes are impossible to trim. The shed is a roll down. There is 14 feet from the roll down to the road. The hardship is that he already built it. Mr. Brady asked what the shed was mounted on he said 4" blocks. The back of the shed is nearly touching the ground, only one small block under it in the rear. The ramp is four feet long. The builder already changed the steepness of the ramp. Ms. Erik asked about the weight of the bike, he said about 600 pounds. He walks it in and out. It is a low bike. Mr. Jurkovic asked if the ramp could go towards one of the sides he can't make the turn it is 9 feet long. Mr. Flores said the ramp could be removed it won't resolve the issue with regard to the stone. Mr. Glatt asked again what was going to be stored on wheels, he said the lawn mower, and the bike. A car wouldn't fit. The dimensions of the shed are 8 X12 100 square feet. Mr. Brady said that this is the reason that they want residents to go through the process because the Engineers are helpful. Mr. Glatt said his choices are that he did it in error and the application if the motion is granted would be approved with Mr. McFadden's conditions have it approved with a resolution with the conditions or put forth the application and deny it. Mr. Flores when asked if there was anything else that it was an honest mistake he thought he could put it up as long as it wasn't bigger than 100 square feet. Mr. Jurkovic asked if there was any way it could be turned 90 degrees, Mr. Jurkovic understands Mr. Flores position but when the Engineer has concerns with the safety issue and even though he may have control over his motorcycle, but what if the next homeowner lets something roll out into the street. Mr. Flores said that there is no room anywhere. Trees would need to be taken out and dug out. The shed would have to be removed. Mr. McFadden was asked if a berm or a speed bump would help. Maybe if it was dug underneath, what if crushed stone to raise it up. Mr. McFadden said the grade is what is the problem. Mr. McFadden was asked what the pitch or degree of steepness is. What is the elevation. Perhaps 20%, 5% driveway grade is recommended would this apply in this instance. Mr. McFadden said it was for the Board to consider. Not any standards for a shed. He used driveway as the reference, if it was 10% he probably wouldn't have a problem. What if there was a fence to force walking it out. It is a blind corner. The biggest concern would be future owners if a child got a bike out that would be a problem. He has good sight distance in both directions. Mr. Glatt said the dilemma is they would like to have it stand where it

is. The Board has to look at the application as new not already standing. If granting the variance they could be granting an unsafe condition and maybe not you but your family or the public could come back to the Board saying how could it be allowed when the Engineer said it wasn't safe. Mr. Glatt said that maybe he could go back and talk to the excavator, and move it back or lower it. If the application gets rejected they will require you to take it down. Mr. Glatt suggested he talk with everyone and maybe there would be a solution that everyone is comfortable with. Mr. Flores asked if he could be told the pitch they wanted. Mr. Glatt said maybe someone could drop it down. The property exists in perpetuity for a long time to come. Not that he would have a problem but future owners might, and he should consider carrying this over to the next meeting. Mr. Glatt was trying to help him. Mr. McFadden said possibly a 5% grade. Mr. Jurkovic said if the shed was a foot above the ground it would be 6 1/2% grade.

Mr. Flores requested an adjournment.

Mr. Brady asked if anyone wanted to make a motion.

Motion by Ada Erik
Second by Daniel Jurkovic

All in favor to carry the application. None opposed.

Anyone for or against can speak at the next meeting no re-noticing required.

APPROVAL OF MINUTES

Motion by Ada Erik to approve the minutes of the August 28, 2007 Regular Meeting of the Zoning Board of Adjustment.

Second by Daniel Jurkovic

Mr. Drew needs to recuse himself for an application, which will be before the Board in the future. Mr. Brady has explained that Robert Kirkpatrick will be the best choice for emergency (substitution) planning services. Mr. Kirkpatrick has all the credentials and is the Engineer for the Planning Board so everything needed to assume this position is already in place for the matter in question.

Ada Erik moved to close and confirm.

Motion by Ada Erik
Second by Francis Hannan

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

Resolution No. 22-2007 Indicates that the Board is ratifying the contract for RCK Enterprises, Inc., which Mr. Kirkpatrick is owner for planning services as, needed. Mr. Glatt read the full Resolution and confirmed that the Planning Board approves the fee schedule.

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

MISCELLANEOUS

Mr. Drew received the information from the New Jersey Planning Officials Mandatory Training Program. He asked that all members check their schedules and let us know when they plan to attend this for the 2007 year. Mr. Drew read the times and dates since they start as soon as October. Mr. Drew asked if anyone was available to let us know tonight. This is a re-certification and there will be a test. Frank Hannan and Barry Wieser have already taken this course and test. It is a five-hour seminar.

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 August 28, 2007.
Second by Daniel Jurkovic

On a voice vote all were in favor of adjourning the August 28, 2007 Regular Meeting of the Zoning Board of Adjustment.
Motion carried.

Meeting adjourned at 10:42 pm

Adopted: September 25, 2007

Respectfully submitted by

Denyse L. Todd, Secretary
Zoning Board of Adjustment