

**MINUTES**  
**Of the Township of West Milford**  
**Zoning Board of Adjustment**

**July 25, 2006**  
**Regular Meeting**

7:38 p.m.

Linda Lutz, Principal Planner/Board Secretary, opened the meeting with the reading of the legal notice.

**1. Pledge**

Mr. Brady asked all attendees to join him in the recitation of the Pledge of Allegiance.

**2. Roll Call**

Present: Ada Erik, Daniel Jurkovic, Arthur McQuaid, Gian Severini and Robert Brady.  
Stephen Glatt, Board Attorney; Richard McFadden, Township Engineer;  
Linda Lutz, Board Planner and Secretary.

Absent: Francis Hannan, Ed Spirko and William Lynch.

Mr. Brady, Board Chairman, indicated that there is a five-member Board for this evening. He then gave an overview of Board procedures.

**3. Requests for Carries**

**Martin Nordsvan**

**Bulk Variance #0630-0743**

Block 4403; Lot 4

21 Phillip Rd.; LR Zone

The applicant did not meet the deadline for submitting proof of notice and advertising. Applicant requested a carry to the August 22, 2006 meeting.

**Motion** by Ms. Erik to carry the application to August 22, 2006.

**Second** by Mr. McQuaid.

On voice vote, all were in favor.

Motion carried.

No further notice or advertising is required.

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**Sprint Spectrum, L. P.**

**Use Variance #0640-0730**

**Preliminary & Final Site Plan #0620-0226AB**

Block 1701; Lot 59

776 Warwick Turnpike; LR Zone

Mr. Brady read a letter from the applicant's attorney, Mr. Czura, who requested a carry, because they have a new radio frequency expert. The letter made no mention of an extension of time, yet the Board's deadline in which to hear the application is August 4, 2006. As no one was present to represent the applicant, the Board dismissed the application without prejudice.

**Motion** by Ms. Erik to dismiss the application, without prejudice, for lack of prosecution due to the fact that it is the Board's requirement that a representative of the applicant be present to explain the reason for the request for carry and to address the issue of extension.

**Second** by Mr. McQuaid.

Roll call vote:

Yes: Ada Erik, Daniel Jurkovic, Arthur McQuaid, Gian Severini and Robert Brady.

No: none.

Motion carried.

**Kristen Goldberg**

**Bulk Variance #0530-0705**

Block 7506; Lot 1

10 Compass Avenue; LR Zone

Ms. Goldberg requested a carry to September 26, 2006 because her professionals are away and she cannot assemble them until that time. She agreed to an extension through October 31, 2006.

**Motion** by Ms. Erik to carry the application to September 26, 2006.

**Second** by Mr. Jurkovic.

On voice vote, all were in favor.

Motion carried.

No further notice or advertising is required.

**4. Memorializations**

Mr. Glatt indicated that the following resolutions have not been prepared and should be carried to the August 22, 2006 meeting.

**Resolution 13-2006**

**Vincent Lanza**

Bulk Variance #0430-0673

Block 2708; Lots 1, 5 & 6

27 Flanders Road; LR Zone

**Resolution 14-2006**

**Vincent Lanza**

*De minimis* exception

Block 2708; Lots 1, 5 & 6

27 Flanders Road; LR Zone

**Resolution 17-2006**

**Omnipoint Communications, Inc.**

Use Variance #0540-0706

Block 12501; Lot 26

666 Macopin Road; R-3 Zone

**Resolution 18-2006**

**Omnipoint Communications, Inc.**

Preliminary and Final Site Plan #0520-0214

Block 12501; Lot 26

666 Macopin Road; R-3 Zone

**Resolution 20-2006**

**Scott Leonescu/Your Home Team, LLC**

**(Case originally filed by Edward Van Eeuwen)**

Use Variance 9740-0278

Block 703; Lot 1

Warwick Turnpike; NC Zone

Modification to Use Variance Resolution 17-1998, to delete condition requiring subdivision, which was approved.

**Motion** by Mr. Jurkovic to memorialize the resolution, with a clarification to the language in the draft resolution that was presented for review. Mr. Jurkovic suggested that the resolution specifically state that the requirement for subdivision be deleted.

**Second** by Ms. Erik.

On voice vote, all were in favor.

Motion carried.

7:55 p.m.

Mr. Glatt asked the Chairman for the floor. Mr. Glatt discussed various items having to do with finding a substitute attorney in his absence in the case of sickness, vacation or conflict of interest; the dissentious atmosphere in the Township; the frivolous law suits; and the elimination by the Council of the Township's Principal Planner. He further stated he will be resigning at the end of his term owing to the cited atmosphere in the Township.

The Board opened this portion of the meeting to the public. Mr. Donald Partington, Snake Den Road, West Milford wished to be heard. He agreed with Mr. Glatt about the elimination of the planner. He asked if there is some kind of emergency provision for a substitute attorney. Mr. Jurkovic explained that the Municipal Land Use Law states the ZBOA is an autonomous body that has the right to hire its own attorney and he thinks someone is improperly interfering with the functioning of the Board.

It was clarified that the following case is to be carried to the August 22, 2006 meeting.

<b>Siobhan and Donald Partington</b>	Complete	April 26, 2006
Appeal #0680-0736	Deadline	August 24, 2006
Block 11103; Lot 5.02		
Snake Den Road; R-4 Zone		
Appeal of a decision of the Zoning Officer pursuant to the MLUL C.40:55D-70a.		

## 5. Applications

Case called at 8:23 p.m.

<b>Vincent Lanza</b>	Complete	December 8, 2005
<b>De Minimis Exception</b>	Deadline	August 8, 2006
<b>Bulk Variance #0530-0717</b>		
Block 206; Lot 14.02		
Lookover Drive; LR Zone		

Request for *de minimis* exception from the Residential Site Improvement Standards N.J.A.C. 5:21-3.1 and request for bulk variance relief for lot area, lot frontage, lot depth, front yard setback, rear yard setback 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 new home.

Testimony was taken at the April 25, 2006 public hearing. Five (5) members who were present to hear testimony or listened to the recording include Ada Erik, Francis Hannan, Arthur McQuaid, Gian Severini and Robert Brady. With Mr. Hannan being absent, there are four eligible voting members.

The applicant appeared without an attorney. Mr. Lanza, previously sworn, summarized by stating that the easement issue has been resolved and buy/sell letters were sent out and submitted. He summarized the testimony of the April 25, 2006 meeting.

Owing to the tax office generating the certified notification list from the incorrect lot number, Mr. Lanza took it upon himself to obtain the correct list and notice therefrom. Mr. Glatt ruled that the applicant was entitled to rely on the initial list generated by the tax office. Now that interested people, who were not initially notified, are present to hear the case, Mr. Glatt asked Mr. Lanza to summarize the previous testimony.

Mr. Lanza summarized the previous testimony heard at the April 25, 2006 meeting. Mr. Lanza referred to Mr. McFadden's report and stated he could comply with the recommendations.

The matter was open to the public, at which time the Board heard from one person.

Richard Wirth, 1812 Clinton Road, was sworn. He raised questions regarding the easement, the drop of 12 feet on the property and the runoff, the turn around on the property. He feels the house is too large for the area.

**Motion** by Ms. Erik to close the public portion.

**Second** by Mr. McQuaid.

On voice vote, all were in favor.

Motion carried.

Mr. Glatt reviewed the May 2, 2006 from Mr. Lanza's title company. The letter suggests that Mr. Lanza file new deeds to extinguish the easement. Mr. Lanza agreed to have the Quitclaim deeds filed as a condition of any approval.

**Motion** by Mr. McQuaid to approve the bulk variance because of excessive topography, which forces where the house and septic system can be built, grading will take care of some of the steep slopes, it is an isolated lot, the applicant offered to buy/sell and no one was interested. Conditions include the filing of the Quitclaim deeds to extinguish the easement on lots 14.01 and 14.02.

**Second** by Ms. Erik.

Roll call vote:

Yes: Ada Erik, Arthur McQuaid, Gian Severini and Robert Brady.

No: none.

Motion carried.

**Motion** by Mr. McQuaid to approve the *de minimis* exception because the applicant will install a turnaround at the end of the road within the right-of-way of the road for easier access. Conditions include the recommendations of the Township Engineer in his report.

**Second** by Ms. Erik.

Roll call vote:

Yes: Ada Erik, Arthur McQuaid, Gian Severini and Robert Brady.

No: none.

Motion carried.

*Case ended at 8:41 p.m.*

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*Case called at 8:43 p.m.*

**Marten Richardsen**

Complete April 26, 2006

**Variance #0630-0735**

Deadline August 24, 2006

Block 1604; Lot 1.02 (West Milford)

Block 61; Lot 19 (Vernon)

Lebanon Road; LR Zone

Request for 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 construction of new single-family home.

The applicant appeared without an attorney.

Sworn witnesses: Marten Richardsen, applicant, 25 Riegler Rd., Hewitt.

Paul Polo, 1687 Union Valley Road, West Milford.

List of exhibits presented: A-1 easement agreement with Paul Polo.

Mr. Richardsen explained that his building lot is in Vernon, but access is through West Milford using Lebanon Road and a portion of Mr. Polo's lot in West Milford (Block 1604; Lot 1.02). He stated that emergency vehicles can access the lot.

Previously sworn, Mr. Polo stated that he intends to give to Mr. Richardsen an easement in perpetuity across his property.

The matter was opened to the public. No one wished to be heard.

**Motion** by Ms. Erik to close the public portion.

**Second** by Mr. McQuaid.

On voice vote, all were in favor.

Motion carried.

**Motion** by Mr. Jurkovic to approve the request for relief from § 35 of the MLUL. While Lebanon may be a public road, the need still exists to enable safe access to Mr. Richardsen's lot (Vernon Block 61; Lot 19) across Mr. Polo's (WM Block 1604; Lot 1.02). Mr. Richardsen has demonstrated that emergency vehicles have adequate ingress/egress and that vehicles can safely maneuver within the property. He suggested that a condition should be that the 60-foot turnaround be part of the requirement for the variance.

**Second** by Ms. Erik.

Roll call vote:

Yes: Ada Erik, Daniel Jurkovic, Arthur McQuaid, Gian Severini and Robert Brady.

No: none.

Motion carried.

*Case ended at 8:56 p.m.*

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*Case called at 8:56.*

**Nancy and Roy Ruys**

Bulk Variance #0630-0738

Block 6503; Lot 1

19 Coolidge Terrace; R-1 Zone

Request for bulk relief for fence height in a front yard.

Complete

May 1, 2006

Deadline

August 29, 2006

The applicants appeared without an attorney.

Sworn witnesses: Roy Ruys, applicant, 19 Coolidge Terr., West Milford

Nancy Ruys, applicant, 19 Coolidge Terr., West Milford

List of exhibits presented: A-1 two photos with explanations

A-2 two photos with explanations

A-3 one photo with explanation

Mr. Ruys explained they are seeking permission to replace an existing 6-foot-high fence that was around the property when they purchased the house 13 years ago. That fence was erected without a permit. They are also seeking to extend the fence around the rest of the property. He explained that the house is on the corner of Marshall Hill Road and Coolidge terrace, which is a busy intersection. He also described some of the unsightly neighboring properties, such as Rockland Electric's maintenance yard, Rockland Electric's power station and the intersection itself. He stated the fence would be for privacy and safety for their son. It would be to keep their dogs fenced in, as well. Mr. Ruys presented Exhibits A-1, A-2 and A-3 and explained them. The pictures also showed that the fence would not be visible from the main road, owing to existing foliage.

The matter was opened to the public. No one wished to be heard.

**Motion** by Ms. Erik to close the public portion.

**Second** by Mr. McQuaid.

On voice vote, all were in favor.

Motion carried.

**Motion** by Ms. Erik to approve the bulk variance due to the property having two front yards. The fence would be a great improvement to the yard but would also be a safety improvement for children and the dogs.

**Second** by Mr. McQuaid.

Roll call vote:

Yes: Ada Erik, Daniel Jurkovic, Arthur McQuaid, Gian Severini and Robert Brady.

No: none.

Motion carried.

*Case ended at 9:06 p.m.*

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*9:06 p.m. to 9:28 p.m. Break.*

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*Case called at 9:28 p.m.*

**David and Kimberly Borer**

Complete

June 5, 2006

**Bulk Variance # 0630-0739**

Deadline

October 3, 2006

Block 5604; Lot 2

30 Vine Street; LR Zone

Request for accessory structure (pool) in a front yard.

The applicant appeared without an attorney.

Sworn witness: David Borer, applicant, 30 Vine Street, West Milford.

Mr. Glatt indicated that the applicant and Mr. Jurkovic worked with each other approximately 20 years ago. Mr. Jurkovic and Mr. Borer indicated that they had no problem with Mr. Jurkovic hearing the case as there would be no conflict.

Mr. Borer, previously sworn, indicated that his lot has frontage on Vine Street and Ridge Road. Therefore he has two front yards. The house fronts on Vine Street and he sees his back yard as the portion of the yard that fronts on Ridge Road. There is no adjoining property he can purchase to alleviate the variance. Visibility of the pool from Ridge Road would be minimal.

The matter was opened to the public. No one wished to be heard.

**Motion** by Ms. Erik to close the public portion.

**Second** by Mr. McQuaid.

On voice vote, all were in favor.

Motion carried.

**Motion** by Mr. Jurkovic to approve the variance for the front yard pool for, what the applicant perceives to be his back yard, but, under the law is a front yard.

**Second** by Ms. Erik.

Roll call vote:

Yes: Ada Erik, Daniel Jurkovic, Arthur McQuaid, Gian Severini and Robert Brady.

No: none.

Motion carried.

*Case ended at 9:33 p.m.*

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*Case called at 9:34 p.m.*

**Robert & Renee Pasek**

Complete

June 27, 2006

**Bulk Variance #0630-0737**

Deadline

October 25, 2006

Block 4005; Lot 4

25 Board Road; LR Zone

Request for bulk variance relief for side yard setback and maximum lot coverage for an addition to an existing residence.

The applicant appeared without an attorney.

Sworn witness: Robert Pasek, applicant, 25 Board Road, West Milford.

Mr. Pasek explained he is taking off the top of his house and putting an addition on the top floor and extending it to an existing, detached garage. This would make the garage part of the principal structure on the lot, thereby changing the setback and coverage requirements. He indicated his is a corner lot; there is no available property to purchase to alleviate the variance. Confusion ensued regarding the statistics provided on the sealed drawings. It was determined that he would return to his professional to get those statistics clarified.

**Motion** by Ms. Erik to carry the application to August 22, 2006.

**Second** by Mr. Jurkovic.

On voice vote, all were in favor.

Motion carried.

No further notice or advertising is required.

*Case ended at 9:52 p.m.*

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*Case called at 9:52 p.m.*

**Mark and Dawn Nowacki**

Complete June 27, 2006

**Bulk Variance #0630-0733**

Deadline October 25, 2006

Block 14901; Lot 20

85 Timber Lane East; R-4 Zone

Request for bulk variance relief for side yard setback for an addition to an existing single-family home.

The applicant appeared without an attorney.

Sworn witness: Mark Nowacki, 85 Timber Lane E., Newfoundland.

Mr. Nowacki stated there is no additional property he can purchase to alleviate the variance. On the other side of the house is located the septic system, precluding him from putting the addition on that side. He cannot go out the back of the house for aesthetic and functionality reasons. Further, he would not be able to meet the rear yard setback requirements. He indicated he can remove the existing stone wall with no problem. The 24-foot width is necessary for a two-car garage and it aesthetically matches the existing width.

The matter was opened to the public. No one wished to be heard.

**Motion** by Ms. Erik to close the public portion.

**Second** by Mr. McQuaid.

On voice vote, all were in favor.

Motion carried.

**Motion** by Mr. Jurkovic to approve the bulk variance based on the testimony of the applicant: there is no adjoining property he can purchase to alleviate the need for a variance. The other side of the house, which may be more suitable to an addition, is compromised by the fact that the septic system exists on that side of the house; the rear of the house is not suitable from an aesthetic point of view, but also, more importantly, it does not alleviate the variance request – it just shifts it to a different type of request. The addition would be a benefit to the community.

**Second** by Ms. Erik.

Roll call vote:

Yes: Ada Erik, Daniel Jurkovic, Arthur McQuaid, Gian Severini and Robert Brady.

No: none.

Motion carried.

*Case ended at 10:02*

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*Case called at 10:02*

**Donald Weise and Connie Burton**  
**Bulk Variance #0630-0742**

Complete June 28, 2006  
Deadline October 26, 2006

Block 7605; Lot 5

81 Pinecliff Lake Drive; LR Zone

Request for bulk variance relief for side yard setback and maximum lot coverage for an addition to an existing single-family home.

The applicants appeared without an attorney.

Sworn witnesses: Connie Burton, applicant, 81 Pinecliff Lake Drive.  
Donald Weise, applicant, 81 Pinecliff Lake Drive.

List of exhibits presented:

- A-1 Photo showing character of neighborhood
- A-2 Photo showing character of neighborhood
- A-3 Photo showing character of neighborhood
- A-4 Photo showing character of neighborhood
- A-5 Photo showing character of neighborhood
- A-6 Photo showing character of neighborhood
- A-7 Photo showing character of neighborhood

Ms. Burton explained that the main door to their house is on the side of the house and they wished to make an entryway. This entryway would also shield them from the elements as they enter the house with packages. Also, the house is southwest-facing and gets too much sun, such that the doorknob burns their hands. Accordingly, they wish to install the overhang over the existing deck/patio. There is a fire lane access to the lake on that side of the house, which adds a buffer. There is no additional land to purchase to alleviate the variance. The project is in-keeping with the character of the neighborhood and she presented exhibits A-1 through A-7 to support her statement.

The matter was open to the public, at which time the Board heard from one person.

Doris Millan, 22 Echo Lane, Drive, was sworn. She raised questions regarding her view to the lake being blocked. The Board explained that this project is small – it is and overhang – and her view would not be affected. In fact, the chimney protrudes to about the same point that the overhang will.

**Motion** by Ms. Erik to close the public portion.

**Second** by Mr. Jurkovic.

On voice vote, all were in favor.

Motion carried.

**Motion** by Mr. Jurkovic to approve bulk variance relief for side yard setback and maximum lot coverage for the addition, which is, in essence, covering the existing porch area. The applicant demonstrated, through pictures, that the addition is consistent with the look of many homes in the neighborhood, as many have the covered entranceway. The applicants' design is consistent with the neighborhood. As for coverage, the addition is *de minimis* in the size difference to what exists. Further, there is a natural buffer from Echo Lane.

**Second** by Ms. Erik.

Roll call vote:

Yes: Ada Erik, Daniel Jurkovic, Arthur McQuaid, Gian Severini and Robert Brady.

No: none.

Motion carried.

*Case ended at 10:18 p.m.*

## 6. Minutes

*10:18 p.m.*

**Motion** by Ms. Erik to approve the minutes of the June 20, 2006 special meeting, as presented in the draft by the Board Secretary.

**Second** by Mr. Severini.

On voice vote, all were in favor.

Motion carried.

**Motion** by Mr. Severini to approve the minutes of the June 27, 2006 meeting, as presented in the draft by the Board Secretary.

**Second** by Ms. Erik.

On voice vote, all were in favor.

Motion carried.

## 7. Communications

*10:19 p.m.*

Mr. Brady read a letter from Mr. Ronald Mondello, undated, received on July 5, 2006, offering emergency legal services. The Board asked the Board Secretary to send to Mr. Mondello a letter advising him it has received the letter, thanking him for his offer and will keep his letter on file in the event that the Board should need him.

## 8. Miscellaneous Items

*10:21 p.m.*

Mr. McQuaid raised the subject of the proposed "West Milford Sunshine Act," stating concerns that it is poorly crafted and will be extremely dangerous, extremely harmful and extremely costly to the community. Many Board members agreed. Mr. Jurkovic wondered where the idea came from that information is inaccessible. He also raised why his personal information needs to be on the WWW. It has nothing to do with volunteerism. As for the public portion, the Municipal Land Use Law precludes it. Particularly irksome is the supposition that the volunteers and employees in West Milford must be doing something wrong. Ms. Erik opined that the pool of volunteers will be reduced.

**Motion** by Mr. Jurkovic to send a letter saying the Board has issues with this Act.

- A) he doesn't know that compliance is feasible, given that all of the Board's staff has been/is in the process of being fired;
- B) we need to express our concerns about our ability to volunteer if they are going to require disclosure of all of the members' personal information on a website accessible by any one in the world;
- C) he is offended by the accusation of "back room deals."

Mr. Brady agreed and asked who would prepare the letter.

There was no **Second**, however, Mr. McQuaid indicated he would draft a letter/resolution on behalf of the Board, for the Board to consideration at the next meeting.

**9. Adjournment**

*10:40 p.m.*

**Motion** by Ms. Erik to adjourn.

**Second** by Mr. McQuaid.

On voice vote, all were in favor.

Motion carried.

Submitted by,

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Linda M. Lutz, P.P., AICP  
Zoning Board of Adjustment Secretary