

**MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT**

**November 28, 2006
Regular Meeting**

7:37 p.m.

Tonya Cubby, Acting Board Secretary, opened the meeting with the reading of the Legal Notice.

1. PLEDGE

Robert Brady, Board Chairman, asked all in attendance to join in the Pledge of Allegiance.

2. ROLL CALL

Present: Regular Members Ada Erik, Francis Hannan, Daniel Jurkovic, Arthur McQuaid
(arrived at 7:39), Gian Severini, Ed Spirko, and Robert Brady.
Alternate Members William Lynch and Barry Wieser

Also Present: Stephen Glatt, Esq., Richard McFadden, P.E. and Tonya Cubby, Acting Board Secretary.

Absent: William Drew, P.P., AICP

Mr. Brady gave an overview of the Zoning Board of Adjustment procedures.

3. MEMORIALIZATIONS

Mr. Glatt, Board Attorney, noted that **Resolution 34-2006** and **Resolution 35-2006** were not available for Memorialization as the conditions had not yet been included in the Resolutions. He requested that the Board carry the Memorializations until the next regular meeting.

Resolution No. 35(34)-2006

ROBERT & RENEE PASEK

Bulk Variance #0630-0737

Block 4005; Lot 4

25 Board Road; LR Zone

Action: Relief pursuant to MLUL C.40:55D-70c granted.

Decided: October 24, 2006.

Carried to November 28, 2006.

Resolution No. 36(35)-2006

SPRINT SPECTRUM, L.P.

Use Variance #0640-0730

Preliminary & Final Site Plan #0620-0226AB

Block 1701; Lot 59

776 Warwick Turnpike; LR Zone

Action: Relief pursuant to MLUL C.40:55D-70d and relief pursuant to MLUL C.40:55D-49 and 52 granted.

Decided: October 24, 2006.

Carried to November 28, 2006.

Resolution No. 34(33)-2006

SIOBHAN & DONALD PARTINGTON

Appeal # 0680-0736

Block 11103; Lot 5.02

Snake Den Road; R-4 Zone

Action: Relief pursuant to MLUL C.40:55D-70a granted

Motion by Mr. Hannan to approve **Resolution 34(33)-2006**.

Second by Mr. Severini.

Roll Call Vote:

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

No: None

Motion carried.

4. NEW APPLICATIONS

7:52 p.m.

Elaine S. Kramer

Bulk Variance #0630-0749

Block 4301: Lot 1

751 East Shore Road; LR Zone

Requested: Relief pursuant to MLUL C.40-55D-70c for side yard setback for construction of a new house.

Mr. Brady asked Mrs. Kramer to approach the dais. Mr. Glatt noted, for the record, that he had met Mrs. Kramer at another event and asked if she had any objections to his serving as Attorney for the Board of Adjustment in this case. Mrs. Kramer replied that she had no objection.

Mr. Brady requested that Douglas McKittrick, P.E., be sworn in as expert witness for Mrs. Kramer regarding Bulk Variance #0630-0749. It was noted that the application was for Block 4301, Lot 11, not Lot 1 as noted on the agenda.

Mr. McKittrick gave testimony regarding the application, including the desire on the part of the applicant to demolish the existing older home and replace it with a new, modest home, slightly larger than the existing structure. The front to back setbacks would remain the same, but the new house would be wider (26-ft.) than the current 18-ft. wide house, requiring a variance on the narrow, 50-ft. lot. Lot coverage would be 6.9%, which is well below the maximum lot coverage allowed. He testified that there is no opportunity for eliminating the need for a variance due to the location of the lot, and the fact that the surrounding properties are all developed and unavailable. Mr. Brady questioned Mr. McKittrick about the differences in setbacks between the plan submitted and the application, and Mr. McKittrick replied with an explanation on the original versus the proposed setbacks.

Mr. Jurkovic questioned the witness about why the house was not being straightened on the lot since the foundation was being rebuilt, and Mr. McKittrick testified that the original structure would be demolished, but the intent was to allow room for access to the lake for possible bulkhead repair. He also noted that D.E.P. permits are necessary due to the close proximity to the lake.

Mr. Jurkovic questioned the location of the septic, and Mr. McKittrick replied that it was to be moved behind the garage, out of the flood plain. Mr. Brady, noting, for the record, a discrepancy in the calculations, questioned whether the map or the application was correct. Mr. McKittrick replied that the calculations were exactly 18 ft., but that he included 18.9 ft. to allow for house expansion.

Mr. Brady asked the Board if they had any more questions of Mr. McKittrick prior to opening the meeting to the public.

Mr. Brady opened the meeting to the public for discussion. No one present wished to be heard on this matter.

Motion by Ms. Erik to close the public portion of this hearing.

Second by Mr. Hannan.

On a voice vote, all were in favor of closing the public portion of this hearing.

Motion carried.

Mr. Brady asked for discussion by Board members.

Motion by Mr. Jurkovic to approve Bulk Variance #0630-0749, Block 4301: Lot 1, 751 East Shore Road, LR Zone, for side yard setback for construction of a new house, as amended, to include as part of the resolution the conditions outlined by Township Engineer, Richard McFadden, in his November 2, 2006 letter. In commenting, Mr. Jurkovic noted that this was an improvement to the premises, that an older house in disrepair was being replaced with a new structure, and the use of the same footprint was an optimal solution for lots in lake communities that often encounter logistical problems with construction, and that the health and protection of a body of water was taken into consideration.

Second by Mr. Spirko.

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini, Ed Spirko, and Robert Brady
No: None

Motion carried.

8:10 p.m.

JAMES A. PAWOL

Appeal #0680-0751

Block 4011; Lot 7

26 Wanaque Road; LR Zone

Requested: Appeal pursuant to MLUL C.40:55D-70a of the Zoning Officer decision regarding side yard setback for the construction of an addition to a single-family house.

James Pawol, applicant, was present to give testimony, accompanied by Thomas Hitchins, his architect. Mr. Glatt stated that Mr. Pawol had a right to an appeal, but that the Zoning Officer, Jim Lupo, was not present due to a scheduling conflict. He further stated that Mr. Lupo's presence and/or testimony was necessary in order to proceed with this appeal. He noted that the Board of Adjustment needs to understand Mr. Lupo's reasoning in denying this application. For the record, Mr. Brady stated that Mr. Lupo had submitted an excerpt from a local zoning ordinance as the basis for his decision, but, following discussion, it was determined that this was not sufficient for the Board to evaluate this appeal.

Upon discussion by the Board to carry the application to the next meeting, including the suggestion by Mr. Glatt that the applicant may retain an attorney for representation in the applicant's absence, it was determined that this matter should come before the Board at the January 23, 2007 meeting. Mr. Hannan questioned the Board's required actions on this matter. Mr. Glatt replied that the matter needed to be researched and testimony be heard in light of the Zoning Officer's denial.

Upon request by the applicant, a **Motion** by Mr. Spirko to carry this appeal to the January 2007 meeting.

Second by Mr. Severini.

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini, Ed Spirko, and Robert Brady
No: None

Motion carried.

JOHN & GAIL COLLINS

Bulk Variance #0630-0746

Block 6605; Lot 22

30 Sophie Avenue; R-2 Zone

Requested: Relief pursuant to MLUL C.40:55D-70c for rear yard setback for an addition to an existing single-family home.

John Collins, applicant was sworn in by Mr. Glatt and testified before the Board regarding his application for a Bulk Variance for a minor addition to an existing structure. The applicant presented six photos as exhibits and reviewed them with the Board. Mr. Jurkovic questioned the applicant regarding the October 3, 2006 memo from the Health Department. Mr. Collins then referred to the July 28, 2006 Certificate of Incompleteness from the Health Department. The Health Department objected to the issuance of the Bulk Variance due to the well location not being determined on the site plan, and because the sub-surface sewerage system was for a two bedroom home, and the plans indicate the possibility of a third bedroom with the addition. A discussion ensued regarding the necessity of a Wetlands Delineation from the DEP. The Board noted that this needs to be determined before proceeding, and that the Township Planner would have to advise the Board regarding this matter.

Mr. Glatt apologized to the applicant and asked that this application be carried to the December 19, 2006 meeting, and he assured the applicant that he would be first on the agenda. He stated that the maps need to be reviewed for wetlands and whether DEP permits are necessary before proceeding with this application. Mr. Glatt advised Mr. Collins to speak to his engineer about making this determination before coming before the Board at the next meeting.

A request was made by John Collins, applicant for Bulk Variance #0630-0746, to carry this application to the December 19, 2006 meeting.

Motion by Ms. Erik to carry the application for Bulk Variance #0630-0746 to the December 19, 2006 meeting.

Second by Mr. Severini.

Roll Call Vote:

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

No: None

Motion carried.

5. APPROVAL OF MINUTES

Motion by Ms. Erik to approve the minutes of the October 24, 2006 Regular Meeting of the Zoning Board of Adjustment as presented.

Second by Mr. Severini.

Roll Call Vote:

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

No: None

Motion carried.

Motion by Mr. Severini to approve the minutes of the October 12, 2006 Special Meeting of the Zoning Board of Adjustment as presented.

Second by Mr. Hannan.

Roll Call Vote:

Yes: Francis Hannan, Daniel Jurkovic, Gian Severini, William Lynch, Barry Wieser, and Robert Brady

No: None

Motion carried.

Mr. Brady, noting that there were no new communications received, asked for a motion to adjourn this meeting.

Motion by Ms. Erik to adjourn the meeting.

Second by Mr. Spirko.

On a voice vote, all were in favor of adjournment at 8:51 p.m.

Motion carried.

Approved:

Respectfully submitted by

Tonya E. Cubby, Acting Secretary
Zoning Board of Adjustment