

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

**MARCH 27, 2007  
Regular Meeting**

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at **7:54 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, Arthur McQuaid (7:55), 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:** Ed Spirko and William Lynch.

Following roll call, Mr. Brady asked Mr. Wieser to sit in for regular Board member Ed Spirko, who was absent. Mr. Brady then reviewed the Zoning Board of Adjustment procedures.

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**MEMORIALIZATIONS**

**JAMES PAWOL**

**Resolution No. 6-2007**

**Appeal #0680-0751**

Block 4011; Lot 7

26 Wanaque Road, LR Zone

Affirming the Zoning Officer's decision regarding side-yard setback for the construction of an addition to a single-family house.

**Motion** by Mr. Jurkovic to approve Resolution No. 6-2007.

**Second** by Ms. Erik.

**Roll Call Vote:**

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

No: None

Absent: Ed Spirko

**Motion carried.**

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**TIME EXTENSION**

**SHILOH BIBLE CAMP, INC.**

**Use Variance #0440-0663**

**Preliminary & Final Site Plan #0420-0180AB**

**Bulk Variance #0430-0664**

Block 6002; Lot 47

753 Burnt Meadow Road; R-4 Zone

Time extension requested by E. David Becker, attorney for applicant, in anticipation of a two year statutory deadline following Board approval for Use Variance; Preliminary and Final Site Plan; and Bulk Variance; for Block 6002; Lot 47; 753 Burnt Meadow Road, regarding the construction of a multipurpose building/church/gymnasium. Satisfied by statements made by

Mr. Becker regarding reasons for delays in the project's commencement resulting from N.J. D.E.P. and Highlands Act approval delays, the Board granted a one (1) year time extension.

**Motion** by Mr. McQuaid to approve a one (1) year time extension for **SHILOH BIBLE CAMP, INC.** for Use Variance #0440-0663; Preliminary & Final Site Plan #0420-0180AB; and Bulk Variance #0430-0664; Block 6002; Lot 47; 753 Burnt Meadow Road; R-4 Zone.

**Second** by Ms. Erik.

On a **Voice Vote**, all were in favor of the one (1) year time extension.

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**APPLICATIONS CARRIED FROM PREVIOUS MEETINGS**

**ALAN TLUSTY**

**Bulk Variance #0630-0754**

Block 403; Lot 5

17 Hamilton Drive; LR Zone

Requested: Relief pursuant to MLUL c.40:55D-70c for side yard setback and for addition to existing single-family house.

Mr. Brady reported that following further review of this application by the Planning Director William Drew, Zoning Officer James Lupo, and the applicant's Planning Consultant Ken Ochab, it was determined that the applicant's property met the grandfathering provisions of the Township's Zoning Ordinance. Board Attorney Stephen Glatt advised that this application has been granted an Administrative Dismissal.

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**VINCENT LANZA**

**Bulk Variance #0630-0753**

***De Minimis* Exception**

Block 2702; 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.; and also

Requested: Bulk variance 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.

Mr. Brady reported that Mr. Lanza had appeared before the Board on February 27, 2007 and requested that the application be carried to the April 24, 2007 meeting. He subsequently granted the Board a sixty (60) day extension. Mr. Glatt advised that any person present wishing to address this issue may come to the April 24, 2007 meeting to be heard.

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**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.

Richard and Michelle Schaefer appeared before the Board, and upon being sworn in, proceeded to give testimony regarding their request for bulk variance relief for the construction of a storage garage, that would serve as a woodworking shop and car storage. The Schaefers stated that the 17' x 15' building is in keeping with the surrounding properties, that it is designed to be

aesthetically pleasing, will enhance the property, and meets most criteria for approval. Mr. Glatt questioned the proposed building being situated in the front yard. The applicants explained that the subject property is in the lake residential zone and has a narrow side yard that could not accommodate construction of the storage garage, noting that this is common in the lake communities.

A Board member questioned the applicant about the Township Engineer's line of site concerns that were raised in a recent memo. The applicant submitted exhibits including a site plan survey that he prepared of the lot and proposed building, and several photos of the surrounding lots and the subject property. He testified that he used his survey to produce the site plan, but the Board questioned whether the dimensions on the site plan and survey were compatible. The Board reviewed the site plan and inquired about proposed use of the building, possible electrical and plumbing service, and the applicants' consideration of building size reductions in width and height. A Board member clarified that the applicants' corner property had two front yards.

Mr. McFadden, Township and Board Engineer, stated his concerns with the proposed building site. He noted that the subject property is located at the intersection of two public streets and that site distance is a main concern. He suggested the applicant consider attaching the storage garage to his existing house, eliminating any potential problems with site distance on the corner lot.

Mr. Glatt advised the applicants to reconsider their options, and arrange to meet with the Board Engineer to arrive at a solution for an acceptable location of the garage that would alleviate any site distance issues. It was suggested that the applicant contact the Health Department for septic distance requirements. After the Board Chairman advised the applicants to review their application and consider their options, Mr. and Mrs. Schaefer requested that the Board carry this application to the April 24, 2007 meeting. The Board Attorney, Mr. Glatt subsequently directed them to submit an original sealed survey at least 10 days prior to the next meeting.

**Motion** by Ms. Erik to carry this application, Bulk Variance #0730-0766, Block 7512; Lot 4 33 Pinecliff Lake Drive; LR Zone, to the April 24, 2007 meeting.

**Second** by Mr. Severini.

On a **Voice Vote**, all were in favor of carrying this application.

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**PETER ESPOSITO**

**Mountain Lakes Auto Wash**

**Amended Preliminary & Final Site Plan #0620-0120AB**

Block 6701; Lot 13

1946 Union Valley Road; CC Zone

Requested: Amendment to the Preliminary and Final Site Plan Approval for a change in the landscaping plan.

Mr. Esposito, applicant, appeared before the Board without experts to give testimony. Upon being sworn in, Mr. Esposito, 40 Panoramic Drive, Warwick, NY, proceeded to address the Board, noting that his company is a Limited Liability Corporation, and was subsequently advised by the Board Attorney that a corporation needs an attorney present for a public hearing. Mr. John McNally, attorney for another applicant, offered his services to Mr. Esposito so that his application could be heard. Mr. Esposito continued with the explanation of his request to alter his approved landscaping plan. He stated that he purchased the adjoining property to the rear of the Mountain Lakes Auto Wash facility and that he is requesting the landscaping buffer be eliminated as the need for separation of the two lots that he owns is no longer necessary. Mr. Glatt inquired whether the applicant would install a landscaping buffer in the event that he developed the adjoining property and Mr. Esposito stated that he had no problem doing so.

The Board Chairman opened the hearing to the public, and with no persons wishing to be heard on this matter, closed the public portion on a motion by Ms. Erik and a second by Mr. McQuaid.

**Motion** by Mr. McQuaid to approve the Amended Preliminary and Final Site Plan #0620-0120AB for a change in the landscaping plan.

**Second** by Mr. Severini.

**Roll Call Vote:**

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

No: None

**Motion carried.**

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Following a short break, the Board members returned at 9:10 p.m. Mr. Severini left the meeting at this time due to an emergency.

**JOHN BAROUNIS**

**Bulk Variance #0630-0763**

Block 1816; Lot 10

685 Lakeshore Drive; LR Zone

Requested: Bulk Variance relief for side yard setback; front yard setback; maximum building height and building coverage; for the construction of a new single-family dwelling.

Mr. Brady advised the applicant, Mr. Barounis and his engineer/planner Douglas McKittrick, that there were only six (6) members on the Board for this application and that he needed a majority for approval. The applicant indicated his desire to proceed with the hearing. Upon being sworn in by Mr. Glatt, Mr. Barounis and Mr. McKittrick gave testimony on this application following Mr. McKittrick's review of his credentials for the Board.

Mr. McKittrick reviewed the history of the subject site, and the plans for a proposed new single-family dwelling, noting that the house was consumed by a fire in 2005 and stating that the structure was not recoverable. He reviewed the plans for demolition of the structure, stating that the current septic, and the deck on the lake, will remain. The stone wall on the site would be replaced by a more stable structure. He explained that the applicant is essentially seeking three bulk variances for construction of a new house with side yard setback; front yard setback; and maximum height and building coverage, noting that the existing house does not meet setback requirements. He reviewed the topography, stating that the property has very steep slopes and rock outcroppings, and followed his review with six photo exhibits (A-1 to A-6) to substantiate his testimony.

Mr. McKittrick further testified that due to the steep slopes and rock formations, a hardship is present for construction with the present setbacks. He also explained the necessity for a height variance due to the topography.

The Board Engineer and Board members questioned Mr. McKittrick and the applicant, Mr. Barounis, about the existing and proposed structures, driveway slope, deck encroachments, possible reduction in the proposed structure, and accessory structures. Following consultation with his client, Mr. McKittrick noted that the applicant has agreed not to build any more accessory structures on the lot. He further stated the need for variance approval for construction of a house that will accommodate the occupants and also have additional storage facilities within the proposed structure. Discussion with Board members followed, that included questions about encroachments, and maximum height requirements based on the slopes. The applicant confirmed that the proposed dwelling would remain a three-bedroom house, that there were no plans to increase the septic, and additionally, the existing fourteen-foot wall would be replaced.

Mr. Jurkovic made a motion to approve the variance request, noting that the steep slopes on the applicant's property required adjustments and that this was the most appropriate place to situate a house. He stated that the lot coverage should not exceed 13.6%, and that the applicant has agreed not to place any accessory structures on this property. The principal structure would be 10.6%, in line with zoning in this area. Mr. McKittrick's testimony regarding height should be incorporated into the approval, and that approvals would be subject to Health Department and Board Engineer's memos. Mr. Hannan noted that the applicant has agreed to remove all encroachments that were a concern.

**Motion** by Mr. Jurkovic to **approve** the Bulk Variance #0630-0763; Block 1816; Lot 10; 685 Lakeshore Drive; LR Zone; for relief from side yard setback; front yard setback; maximum building height and building coverage; for the construction of a new single-family dwelling.

**Second** by Mr. Hannan.

**Roll Call Vote:**

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

No: None

**Motion carried.**

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**NEW APPLICATIONS**

**MERYL V. DAVIS**

**Bulk Variance #0630-0748**

Block 9710; Lot 3

10 Bergen Drive; R1 Zone

Requested: Bulk Variance relief for side yard setback; lot coverage; so as to permit the construction of a two-car attached garage with a second floor living area.

Applicant Meryl Davis, 10 Bergen Drive, appeared before the Board with John McNally, her attorney, to give testimony. Upon being sworn in by Mr. Glatt, Mr. McNally reviewed the application and the need for the variances based on the proposed construction that would include a garage and living area. A Board member inquired whether the applicant had seen the Board Engineer's memo noting five items of concern. The applicant replied that he had not reviewed the memo, and after reading the items, noted that item #1 was completed, #2 regarding calculations can be done; item #3 can be complied with. He stated that item #4 regarding the driveway slope could be problematic. A discussion ensued with the Board about the driveway's 25% slope being too steep, and possible remedies or waivers that may be needed. Item #5 included garage elevations proposed versus existing elevations. The applicant was advised to consult with his architect and engineer about reconfiguring the driveway to an acceptable 16% grade and also consult with the Township Engineer with any concerns he may have.

Mr. McNally requested that the Board carry this application to the April 24, 2007 meeting so that the applicant could consult with her architect/engineer about alteration of the proposed plans in order to address the concerns of the Board members. Mr. Glatt advised that plans need to be submitted 10 day prior to the next meeting.

**Motion** by Ms. Erik to **carry** this application, Bulk Variance #0630-0748, Block 9710; Lot 3 10 Bergen Drive; R1 Zone to the April 24, 2007 meeting.

**Second** by Mr. Jurkovic.

On a **Voice Vote**, all were in favor of carrying this application.

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**APPROVAL OF MINUTES**

**Motion** by Ms. Erik to **approve** the minutes of the February 27, 2007 Regular Meeting of the Zoning Board of Adjustment.

**Second** by Mr. Wieser.

On a **Voice Vote**, all were in favor.

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**COMMUNICATIONS**

The Board was advised of a Rutgers University publication entitled *Planning and Zoning in New Jersey*. Following discussion, the Board requested that issues be ordered and made available for members.

**Motion** by Mr. Hannan to order copies of this publication for Board members and Attorney

**Second** by Ms. Erik.  
On a **Voice Vote**, all were in favor.

Mr. Drew advised that the Township's Planning Department was attempting to arrange Board training sessions in West Milford to meet the New Jersey requirements for certification of all Planning Board and Zoning Board of Adjustment members.

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#### **MISCELLANEOUS**

The Board members received a resume for Alfred V. Acquaviva, a possible candidate for Substitute Board of Adjustment Attorney. Members were asked to consider Mr. Acquaviva's credentials and contact Mr. Brady or Mr. Jurkovic with any questions or concerns. Upon a motion by Mr. McQuaid and Board consensus, Mr. Brady and Mr. Jurkovic will contact Mr. Acquaviva for an interview and will make their recommendations to the Board at the next meeting.

Mr. Brady advised that all Board members were to submit their Financial Disclosure statements to the Township Clerk as soon as possible.

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#### **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 Ms. Erik.

**Second** by Mr. Jurkovic.

On a **Voice Vote**, all were in favor of adjourning the March 27, 2007 Regular Meeting of the Zoning Board of Adjustment.

**Motion carried.**

Meeting adjourned at 10:28 p.m.

Adopted: April 24, 2007

Respectfully submitted by

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Tonya E. Cubby, Secretary  
Zoning Board of Adjustment