

**MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
November 22, 2011
Regular Meeting**

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

Pledge

The Chairman asked all in attendance to join in the Pledge of Allegiance.

The Chairman asked Vivienne Erk to take a place at the dais since two regular members and one alternate were absent, there was a 6 member board. Chairman Brady explained to the public about the Board of Adjustment and the publication of the dates in the Herald News Newspaper and posting in the Town Hall. He also explained the Open Public Meetings Act of the State of New Jersey. The Board Attorney was introduced. The meeting will follow a printed agenda that is on the podium in front of the dais and hanging on the bulletin board. Any appeals go to the Superior Court of the State of New Jersey. There are no new applications after 10:30 p.m. and no new testimony after 11:00 p.m. If it becomes necessary there will be a break at 9:00 p.m.

Roll Call

Present: Ada Erik, , James Olivo, Frank Curcio, Arthur McQuaid, Vivienne Erk, Robert Brady

Also Present: Stephen Glatt, Board Attorney, William H. Drew, Board Planner, Michael Cristaldi, Board Engineer, Denyse Todd, Board Secretary

Absent: Steven Castronova, Gian Severini, Russell Curving

MEMORIALIZATIONS

ARVE DYVIK

RESOLUTION NO. 21-2011

BULK VARIANCE ZB04-11-05

Block 4201; Lot 16

41 Lake Park Terr.; LR Zone

Motion by Ada Erik to memorialize Resolution No. 21-2011

Second by Frank Curcio

Roll Call Vote:

Yes: Ada Erik, Frank Curcio, Arthur McQuaid, Vivienne Erk, Robert Brady

No: none

RONALD HEDDY

BULK VAR. ZB07-10-09

Bl. 7515; Lot 2

7 Ash Road, LR Zone

The Chairman announced that this application was carried to the December 13, 2011 meeting and was placed on the agenda to hold the place. If anyone is interested in the Hedly matter there will be no further notice.

LUPANO, CARLO & ELIZABETH

BULK VARIANCE #ZB05-11-08

Block 4401; Lot 12

837 E. Shore Rd., (aka Storms Island Road)

LR Zone

Bulk Variance approval requested for location of a 2 car garage. Allowed is side or rear yard, proposed is the front yard. Variance approval for size, maximum allowed is 600 square feet and 784 square feet is proposed.

This application was carried from the October 25, 2011 meeting at the applicant's request.

Mr. Lupano was sworn in by the Board Attorney he lives at 6 Park Place, Waldwick, NJ. Mr. Lupano began to testify and brought pictures with him. A-1 is a part of a site plan, the applicant marked a photo as A that will be A-2, B photo will be A-3 and C will be A-4.

East Shore Road goes down to a dirt road called Storms Island Road. Exhibit A-1 is looking from the applicant's back yard to where the garage is proposed to go. He would have to go to the top of the mountain to get to East Shore Road. Neighbors park on Storms Island Road not on East Shore Road. Exhibit A-4 shows where the garage will go. The rear of the applicant's house is on the lake. That is why the garage needs to go in the front yard. The Exhibit A-3 depicts his neighbor's garage, Mr. Lupano would place his on the same side of Storms Island Road but on his property. The neighbor's garage is 30 X 30 feet and the applicant wants 27 X 28 feet. He will be over 600 square feet, and testified that it will be ***724 square feet* (applicant erroneously testified 724 square feet when in actuality the square footage is proposed to be 756)**. He wanted extra room to put a boat in there. Mr. Lupano he explained the two variances. Ms. Erik asked about the size of the garage whether it was 724 or 784 square feet. Mr. Lupano explained it was decreased because the Health Department wanted it 5 feet away from the proposed well. It was originally 28 feet wide and it is reduced to 27 feet wide so the actual proposed square footage will be 756.

Mr. Lupano brought up the meeting with the Environmental Commission and decided to take their advice and install leaders and gutters and also rain barrels for the water run off. The rain barrels will be used to hold the water then the applicant will water his garden with it. It will be in a convenient place and then he will not put too much wear on his well. It will be a two-story garage. The second floor will be for storage and the first floor for the boat. The applicant indicated that he planned to move to this address. He has owned the house for 26 years. He lived here for two years but for the last 19 years he has lived in Waldwick. As soon as his son goes into college, he is a junior; they plan to move to this house. He needs a garage for his stuff. Presently, he does not plan to have electricity in there, he has windows so will not require it. There will be no heat or plumbing. It will be a building to keep his car out of the snow.

Mr. McQuaid confirmed there was no vacant property for the applicant to purchase. Mr. Lupano added on the lake everyone builds on everything they can.

The Engineer's report was the next item to be discussed. The applicant explained that Storms Island Road was accessed by everyone whose house is there. The applicant explained it has been that way for 26 years probably 100. It is a 15 foot easement and he gave at least 21 feet. it goes back to the days of the railroad. It is a dirt road and not maintained by the Town. A neighbor plows the road. People who live on Storms Island use the road as well. Every lot has a house on it there are 29 lots. The applicant placed the tax map on a bulletin board for the Board to see. The applicant explained where Storms Island Road. The parking area for Storms Island resident was shown. The applicant's home is Number 12. His deed has an easement for use of the road. It was shown that the location of the garage will be on the other side of Storms Island Road. He will have to come out of his house which is on the lake, go up the stairs and cross the road to get to his garage.

Mr. McQuaid asked about the mailing address of 837 East Shore Road, the applicant explained that there are no mailboxes are on East Shore Road they are all on Storms Island Road. His house is between Storms Island Road and the Lake. Mr. Glatt asked about other garages and there is a picture of a neighbor's who is #10. That garage is on the other side of the road on lot 10. It was confirmed there would be a second level for storage.

The attorney asked if there would be any thought in the future of using it as a guest place. Mr. Lupano explained it could never be converted for plumbing, there is no room for a septic system. Mr. Brady explained that there are some people who would use something for

a legal dwelling. If approved it would need to be put in the resolution that it will never be used for living space. Mr. Lupano had no problem with it since he could never have a toilet there or running water. Mr. Glatt asked if the applicant would have a problem with recording the resolution in the Book of Deeds in the County Clerk's office, it may cost a few dollars. The reason is if the Board grants the variance, the variance runs with the land. It is good for everybody forever. If the applicant sold his property in the future and the garage is there, the next person might build something like an apartment above. By recording the resolution, when a title search is done, they are put on notice that it cannot be a residence and will protect the Township in the future just in case. Mr. Lupano would agree to record the resolution and asks for a little direction. Mr. Glatt will explain to the Secretary about the proper acknowledgments, it would then go to the County Clerk's Office for recording, it would be returned to the applicant and a copy would be required in the file. Anybody in the future cannot come in and claim they did not know. Mr. Lupano was in complete agreement with recording the resolution. Mr. Brady asked for any questions.

Mr. Lupano asked what he needs to with regard to the drainage questions of the Engineer. Mr. Brady explained that the Engineer will need to approve the completion of the project with regard to the rain barrels. If the Engineer feels that is sufficient to solve the problems, he will sign off on it and that would be it. Mr. Lupano will need to speak with the Senior Engineering Aide, Eric Miller.

Mr. Brady opened the meeting to the public.

Motion by Ada Erik to close the public portion after seeing nobody present for or against the application.

Second by Vivienne Erk

All in favor to close the public portion

Motion by Arthur McQuaid to approve Bulk Variance Application #ZB05-11-08; Block 4401; Lot 12; 837 E. Shore Rd., (AKA Storms Island Road), LR Zone. There is no place to put a garage on the side of the property where the house is, there is no room on the sides, the lake is behind the house. The applicant agreed there would be no plumbing, it will not be used for residential purposes and he would go ahead and file the resolution with the County Clerk's Office, he will comply with the Environmental Commission with using rain barrels to help off set drainage on the building.

Second by Ada Erik and she added that he has the fortune to have a lake front house but unfortunately, the lake is in his back yard.

Roll Call Vote:

Yes: Ada Erik, James Olivo, Frank Curcio, Arthur McQuaid, Vivienne Erk,
Robert Brady

No: none

The 45-day appeal period was explained. If the permits are pulled within that time and construction commences, and someone appeals it the applicant is doing it a their own peril. After the 45-day appeal period the public cannot appeal.

The Attorney explained that the December meeting was the 13th and since so close the minutes and the resolution may not be prepared, hopefully it would, it is only a couple of weeks between meetings. Mr. McQuaid added there is a branch of the County Clerk's Office is in Haskell so he will not need to travel to Paterson to record the resolution. Mr. Lupano thanked the Board.

Motion by Ada Erik to approve Mr. Glatt's invoices.

Second by Jim Olivo

All in favor to accept the invoices.

Motion by Ada Erik to approve Mr. Drew's invoices

Second by Vivienne Erk

All in favor to accept the invoices

Mr. Brady mentioned the NJ Planner as Board Member received it in their packet; there were a couple of good articles.

Pending Litigation

Mr. Glatt reiterated the previous update and originally it was supposed to be heard last Friday. When Mr. Glatt contacted the Judge's Chambers, it was realized that it was a Prerogative Writ and

could not be heard last Friday. The case was sent to the Assignment Judge and sometime in the future it would be heard.

Motion by Ada Erik to approve the Regular Meeting Minutes of October 25, 2011

Second by Vivienne Erk

All in Favor to approve the minutes

Motion by Ada Erik to adjourn the meeting of October 25, 2011.

Second by Vivienne Erk

All in favor to adjourn

Meeting adjourned at 8:22 p.m.

Adopted: December 13, 2011

Respectfully submitted by,

Denyse L. Todd, Secretary
Zoning Board of Adjustment