

**MINUTES**  
**Of the Township of West Milford**  
**ZONING BOARD OF ADJUSTMENT**  
**October 27, 2009**  
**Regular Meeting**

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:35 p.m. The Board Secretary read the Legal Notice.

**Pledge**

The Secretary read the legal notice. The Chairman asked all in attendance to join in the Pledge of Allegiance. There was a full 7 man Board for the meeting. Chairman Brady explained the meeting process and introduced the Board Attorney. He also explained the Open Meetings Act and the appeal process and the agenda placement.

**Roll Call**

**Present:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, Vivienne Erk, and Robert Brady

**Also Present:** Stephen Glatt, Board Attorney, William H. Drew, Board Planner, Richard McFadden, Board Engineer and Denyse Todd, Board Secretary

**Absent:** James Olivo

**MEMORIALIZATIONS**

There were no resolutions available for memorialization this evening.

**DISCUSSION**

**PATRICIA NICHOLSON**  
**MINOR SITE PLAN #0820-0313**  
**BULK VARIANCE #0830-0799**  
Block 15803; 4  
4 Oak Ridge Road, CC Zone

Otto Blazsek, Clifton, New Jersey on behalf of Ms. Nicholson. Mr. Blazsek began to explain the concern that brings him here this evening. Mr. Glatt explained to the audience and the Board Members that the Passaic County Planning Board sent a letter to the Zoning Board dated October 6, 2009 regarding the plans that the applicant submitted. The Passaic County Planning Board wants the Zoning Board to give a written explanation of why this Board was not requiring Ms. Nicholson to install sidewalks, which is why they are back.

Mr. Drew responded by stating that the Board Secretary forwarded the letter to all parties involved and when the County Planning Board referred to a transit stop, he made a site inspection of the property and found there is no designated New Jersey Transit bus stop within walking distance of the subject property. There was a previous request from the County Planning Board on another application several years ago that was to the Town Planning Board about the rationale for why the Board did not require sidewalks and there is a section in the Town Ordinance that addresses the installation of sidewalks in non-residential areas at the Board's discretion. It is clear that the Board has the discretion under our local ordinances to either require them or not require them. It would not be his recommendation to have sidewalks installed because there are no other sidewalks anywhere in the area either on Route 23 or Oak Ridge Road. The intersection has no pedestrian crosswalks or any apparatus assisting pedestrians at all and it is 6 lanes at its intersection with Route 23. He would not recommend sidewalks along the frontage of this property terminating at an intersection like that without some sort of pedestrian considerations for crossing the County road. It is not reasonable to have this applicant make those sorts of improvements to the County road.

Mr. Drew continued that there is a grade consideration and a minimal distance between the curbing on Oak Ridge Road and the guide rail that runs along the right of way of Oak Ridge

Road on the subject property. It is his opinion that it would not be a proper location for the installation of sidewalks. He would not recommend the Board consider that. Mr. Brady confirmed it would only be fronting the applicant's property and Mr. Drew said that was correct. Mr. Brady also asked if it would attach to any other sidewalks in the area and Mr. Drew said there were none in the area. Mr. Hannan agreed with Mr. Drew and mentioned that this was a unique case and would be a detriment to the safety of any residents or pedestrians in the area. To encourage people to cross Route 23 or crossing Oak Ridge Road at the light by the property would be a detriment to the public safety.

Mr. Glatt asked if it would be reasonable to say the reason there was no testimony relating to the sidewalk or anything mentioned in the resolution or fact finding by the Board was simply because of the fact that it was a non-issue. Mr. Drew agreed with Mr. Glatt. The section of the ordinance being referred to is Section 18-9.20, Mr. Drew said it would be the same verbiage but since the Ordinance was codified it might not be the correct nomenclature. Mr. Brady agreed with Mr. Drew since a sidewalk from nowhere to nowhere is unnecessary if there were sidewalks to attach to in this area or there was truly a bus stop there might be a reason for it but he fails to see any production of evidence by the County that this is necessary or prudent.

Mr. Glatt said that Mr. McKittrick is here and has not been sworn in and would like to say something but the Board has been asked to give a written decision relating to its fact finding which is not testimonial in nature. The minute he testifies it becomes a matter of opening a public meeting and notification so unless there is something really important that has not been addressed, he does not need to say anything. Mr. Blazsek agreed. Mr. Glatt explained there is no need to open the meeting to the public we can either do a resolution or Mr. Drew could send a letter directly to the Passaic County Planning Board with the Board's direction reiterating what was said at this meeting giving the County Planning Board the written explanation as to why the Board did not say anything about the requirements of sidewalks.

**Motion by Ada Erik** to direct Mr. Drew to do what Mr. Glatt stated which was to send a letter directly to the Passaic County Planning Board reiterating what was said at this meeting giving the County Planning Board the written explanation as to why the Board did not address anything about the requirements of sidewalks.

**Second by Arthur McQuaid**

Mr. Brady explained more succinctly the motion is to ask Mr. Drew to send a letter to the County explaining why given the fact finding we had as to our reasons why it was not required to put a sidewalk on the property included on this application. A yes vote would affirm the letter to be sent to the County.

**Roll Call Vote:**

**Yes:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, Robert Brady  
**No:** none

**HECTOR ROJAS**

**USE VARIANCE, #0840-0818**

Block 11102; Lot 6.03

850 Westbrook Road, R-4 Zone

Drew Murray spoke on behalf of Hector Rojas. Mr. Murray brought Ken Ochab, Planner and Mr. Glatt swore him in. 1216 Fairlawn Avenue, Fairlawn, NJ, Planner's License in the State of New Jersey, 2149, 30 years experience, 1982-1987 Planner for West Milford. Bergen County Planning Board, Township of West Milford and the Meadowlands Commission, for the past 20 years he has been a private consultant with his own business, Planner for Ridgefield Park and Mahwah Board of Adjustment. His credentials were accepted.

Mr. Murray asked Mr. Ochab if he had the opportunity to review the application and he did. He also went to the site. Mr. Ochab began to explain the application it concerns the construction of an accessory apartment. Under the current zoning ordinance, accessory apartments are not permitted when they are separated from the primary residence. In this case it is an accessory apartment to replace an existing garage building, which requires a use variance. There is a variance because of the size of the accessory apartment exceeding the ordinance provision of 600 square feet or 30% of the primary unit whichever is less. The proposed construction is

approximately 1200 square feet including the garage on two levels. There are 2 variances relative to the accessory apartment provisions of the ordinance. Accessory apartments are permitted in the R-4 Zone but two of the provisions are not met. One is that the apartment would not be connected to the primary residence, which is the reason for the D or use variance. He took photographs of the area he also explained the photographs. The buildings are not visible from the road. The existing garage will be transformed into an accessory apartment, the left garage bay will remain the rest of the façade will be the residence and there will be an upper level added as well. This is for Mr. Rojas' elderly parents.

It is on a little plateau on the way to the house, there is a paved area in front of the garage, cleared in the past for the construction of the garage. If approved there will be no additional clearing everything is ready to go. Photographs show the placement of the garage with regard to the other buildings. Also shows where the sewer and septic lines run. Water will be fed from the main house into the accessory building. Sewer is already there. There is a cleared area, which will be the lines to the apartment from the main house. The main access road is shown it comes off Westbrook Road, about 800 feet before the driveway and goes off to the left and the main access is to the right. Access is in place, nothing needs to be done to make this happen other than the transformation of the garage. Mr. Glatt asked that the photo board be marked into evidence as Exhibit A-1 and marked with the date of 10-27-09.

The site meets the criteria that the site is suitable for the accessory garage, the property is 14 acres, cannot be seen from the road, cannot be seen from adjoining buildings, site has been prepared, all utilities are basically in place. There is no major construction required in order to make this happen. That makes this area of the property suitable to house the accessory building. The accessory apartment is consistent with the Township's Master Plan, which encourages construction of accessory apartments not only for the elderly but for young folks trying to get started, diversify neighborhoods, keep families together and provide all kinds of housing. The Master Plan indicates it would be acceptable to have accessory apartments as separate buildings, which was done in 1987 it is just that when the zoning was written subsequent to the Master Plan, that provision did not filter down into the zoning ordinance because the Planning Board was not sure what the impact would be. There could have possibly been a run on the Building Department for everyone to have accessory apartments.

The proposal he feels conforms with the purposes of why accessory apartments are in the Zoning Ordinance to begin with, which is to provide for affordable housing, limit sprawl development by providing alternative housing on existing developed lots as opposed to providing another small house on another lot with separate well and septic system. It is Mr. Ochab's opinion that the provisions other than the 2 mentioned which require variances are met. The 600 square foot size was for a 1-acre lot and there are 14 acres in this parcel and the apartment would be 1200 square feet, which is miniscule in comparison. They must have approved water and sewer and in this case, water and sewer would connect from main system. Only one accessory apartment allowed. Setback requirements are all met. This completes the positive criteria.

Negative criteria was addressed there is no detriment to the adjoining neighbors. There is not a substantial impairment to the zone plan. Since the Master Plan intended to institute a provision to have separate apartments but just never filtered down. He checked with the Building Department to see if there was a run on these types of apartments and was told there were a few but not a large demand. He does not feel that granting this would substantially impair the zone plan or zoning ordinance. They meet the positive and negative criteria, it is a good use, a big piece of property and should be acceptable from a zoning and from a site standpoint.

Mr. Brady asked about the water and sewer and they are common to main house. Mr. Ochab agreed. The apartment will be on two levels consisting of one garage and other two garages will be living room, dining room, kitchen and two bedrooms above.

Mr. Hannan mentioned the concern of two primary uses on a single lot and it has been a big issue. Mr. Ochab's mention of the provision to allow accessory apartments by the Planning Board. Mr. Hannan mentioned a new Master Plan in the future and there have been problems applications over the years. Mr. McQuaid interjected that years ago there was a similar application at the top of Stephens Road and for the same reasons. Problems are when they are smaller properties but with 14 acres this could easily be 3 or for lots subdivided before the Highlands with 3 wells 3 septics. Mr. Glatt pointed out that in this case it is whether in fact the applicant has presented a case where it has satisfied the criteria for a use variance. It is not an

extensively large building, 14 acres, not be seen by anyone else, either it is a second primary use or an accessory use, it is still a use variance, same burden of proof and criteria needed. That is what should be voted on. Each case is site specific. Mr. Brady said mitigating factors including common water and septic preclude it from being subdivided also by the Highland's Act from being separate entity unto itself. Mr. McQuaid asked if there was an addition to his personal home would there be an environmental impact since he would need excavation, relocation of various things, compared to this building. Mr. Ochab said yes because the primary home is landscaped, has driveways and to try to add an addition on the main house there would be major excavation, slope issues, drainage, and this seemed to be a course of least resistance from an impact standpoint.

Mr. Hannan asked if approved if it could be stipulated that it uses same septic and main water? Mr. Glatt feels it would be within the prerogative of the Board since that is one of the reasons that the approvals were given, if approved. No expansions as a use variance because it would be an expansion of a preexisting nonconforming use so they would have to come back before the Board. The Board in the future would see the criteria this Board used to decide to make their decision. There is a 600 square foot footprint. Mr. Hannan asked if decided in the affirmative if the property could be stipulated that it is never used as a rental property and Mr. Glatt said no. Considering the location of this property, he could have done whatever he wanted and the world would never have known about it and unlike other people, he came before the Board with the proposal. It is deminimus when you look at the size of the parcel and it is a special reason.

Mr. Wieser asked about emergency vehicles on the winding driveway and if angles were good enough, Mr. Ochab thought it would. Mr. McFadden wanted confirmation that there would be no area of disturbance in making this a two story two bedroom apartment and Mr. Ochab said that was correct. Mr. McFadden asked if approval was received from the Health Department for use of the existing septic for the existing and proposed two-bedroom apartment. Mr. Rojas came forward and was reminded that he was under oath from the previous meeting. The septic needs to be reviewed by the Health Department; they were waiting for the variance before going to the Health Department. If they cannot, they will still not have an impact because of the leeching fields on the property. Mr. McFadden's concern is that it would not be large enough for two additional bedrooms. If it needs to be expanded, there will be additional disturbance. Mr. Drew read the Health Department report. Mr. McFadden waived some items for completeness, which were wetlands and transition zones, he does not know if there are any. This could impact the expansion of the septic system and wanted this on the record. Mr. McFadden informed the applicant that if approved a site plan would need to be submitted to show parking and other details. Since it is an existing driveway he does not know what the grades are and the information was not provided. If any section is over 12% 2 parking spaces would be required outside the right of way at the beginning of the driveway and if it is over 16% then that exceeds the maximum and they might want to wave those requirements since it is an existing paved driveway. Mr. McFadden attempted to visit the site and the gates were closed and he has not seen it so cannot offer an opinion if it is near 12% or not and there were no grades supplied with the information reviewed. Mr. Glatt asked Mr. Ochab if it was his understanding that the septic would be satisfactory and there would be no further disturbance and Mr. Ochab said it was his understanding that the septic either will be acceptable or can be expanded without any additional clearing to the natural area. This was one of the special reasons.

Mr. Glatt indicated that this was one of several reasons that Mr. Ochab indicated you should consider when deciding to grant this application or not. It is not the quantity of special reasons but the quality of the special reasons. If the Board feels based on what they heard that there are appropriate special reasons to grant this application, he indicated that they should vote and get a resolution. If they feel for some reason this one issue of the septic whether satisfactory or if there is a need for further change in the septic without disturbance, they could if necessary require the applicant to give the Board the proofs. The septic is a Board of Health issue but the lack of disturbance because the septic is satisfactory is being put forth as a special reason. The Board has to decide if expansion of the septic is required if it could be done as the applicant and Mr. Ochab stated, without further disturbance. Mr. Hannan asked about the septic area and the applicant and his professional said it was extensively clear and flat.

Mr. McQuaid added that the common water and common septic as one of the main reasons under the special reason for an accessory apartment.

Mr. Brady was concerned with the septic field and would need assurance in writing or in the deed and does not want a second septic. Wording would need to require the terminology

“application conditioned upon the existing septic system or an expansion of it” if a new one is installed they want them back before the Board to explain it to the Board and allow them to decide if it would be satisfactory to the Board. Mr. Glatt wanted to know from Mr. McFadden how to word it. Mr. McFadden said the use of the existing system being approved for both dwellings, existing and proposed or expansion of the existing system but not a new system.

Mr. Glatt said to Mr. Rojas that the Board is trying to help him; certain information is preferable up front. If the property was not 14 acres and he did not have the clearing there is no doubt the Board would not consider it, they would send him home and tell him to come back after submitting to the Health Department. Mr. Rojas has no problem with expanding the existing septic system but is not sure how they work and if could be expanded he will.

The criteria used for the granting of the variance are that there will be no additional disturbance, how does the board get that assurance unless it is from the professional. The variance was the biggest hurdle in Mr. Murray’s opinion and the septic will be resolved.

Mr. Drew brought up the Fire Marshal’s report and it cites Chapter 5 of the Fire Service Features with regard to minimum fire apparatus access road width and the section highlighted is an unobstructed width of not less than 20 feet. There is no indication of the width of the driveway on the plan. Any approval should require an updated review from the Fire Marshal. Mr. Rojas asked if that was paved and gravel and Mr. Drew said it did not specify. His Engineer should contact the Fire Marshal. Mr. McFadden pointed out that a 20-foot width is wider than some Township roads. Ms. Erik said she was up there with the ambulance and it is like driving up a road. Mr. Glatt said Mr. Wieser brought up a very important matter of emergency vehicles since the elderly parents are to live there.

Mr. Drew informed the applicant that clarification is needed from the fire marshal about the fire apparatus access roads. Mr. Rojas said that as long as it is pavement and gravel they meet the criteria.

Mr. Brady asked if there were any questions of anyone. He opened the meeting to the public.

**Motion by Ada Erik** to close public portion after seeing no one for or against the application.  
**Second by Gian Severini**  
**All in favor to close public portion**

Mr. Murray said the whole story is that they are trying to convert an old garage into an apartment for his elderly parents. You cannot see past 30 feet of the driveway.

Mr. Brady asked for any additional discussion or a motion.

Mr. McQuaid reminded that testimony has been given that this is an accessory apartment and reiterated the previous application that was granted years ago.

**Motion by Arthur McQuaid** to approve Use variance #0840-0818, Block 11102; Lot 6.03, 850 Westbrook Road in the R-4 zone. The property consists of 14 acres of land and what is being proposed is to put an apartment above an existing garage where there will be no additional disturbance in the building, just close two of the bays and add a second level. One of the unique standards is that one source of water and one septic system for both the accessory apartment and the main home will be utilized. Thereby not having two separate primary uses with an accessory apartment. Our Master Plan allows for accessory apartments in areas where there is an acre or more. Some of the reasons were to provide affordable housing. In this case, this housing is for the applicant’s elderly parents, they would be close by if needed. If the apartment were attached to the house there would be more of an environmental impact, excavation and steep slopes would be an issue. There will be no ground disturbances, which will help all setbacks, were met. The negative criteria was addressed and there will be no impact to adjoining property owners because of the size of the lot and surrounding lots there will be no impact, any negative criteria zoning does encourage accessory apartments. An EMT whom is a member of the Board has been up the driveway with the ambulance and has stated that she had absolutely no problem in making the turns. The concern of the driveway will be addressed and the applicant will contact the fire marshal about the width of the driveway. He is asking for a waiver for the existing driveway requirements for the off road parking.

**Second by Ada Erik**

**Roll Call Vote:**

**Yes:** Ada Erik, Francis Hannan, Frank Curcio, Arthur McQuaid, Gian Severini, Robert Brady  
**No:** none  
**Abstain:** Barry Wieser

**Motion by Ada Erik** to take a break at 8:42.

**Second by Gian Severini**

**All in favor to take a break.**

Returned from break at 9:03

**Motion by Arthur McQuaid** to move the variance application of Mr. Wilhelm before the Sprint Application.

**Second by Gian Severini**

**All in favor to alter the agenda.**

**WALTER R. WILHELM**

**BULK VARIANCE #ZB08-09-06**

Bl. 16302; Lot 8

7 Cooper Rd. CC Zone

Walter Wilhelm of 7 Cooper Road, Oak Ridge, NJ was sworn in. He is permitted to put up a three foot fence and would like to install a 5 foot fence because it is to be for a dog who will jump over anything less than 5 feet. It will be a professionally installed fence fronting on Cooper Road, which is a small road. His property is about ½ acre and less than half would be fenced in. The corner, which is Cooper and Oak Ridge Road, would not be fenced. Across the way on the diagonal is the old nursing home. There will be no sight issues for vehicles. It is planned to be a vinyl coated chain link fence with posts, no slats, open with gates to adjoining property which is his and one on the other side.

There are no questions of any one and it was opened to the public.

**Motion by Ada Erik** to close public portion

**Second by Frank Curcio**

**Motion by Gian Severini to approve** bulk variance # ZB08-09-06, Block 16302; Lot 8, 7 Cooper Road in the CC Zone for a 5 foot fence where 3 feet is allowed.

**Second by Ada Erik**

**Roll Call Vote:**

**Yes:** Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, Robert Brady  
**No:** none

Mr. Brady explained that there is a 45-day appeal period after advertisement of the memorialization. The applicant was told if it was done sooner it is done at his own risk.

**SPRINT PCS IDEN UPGRADES**

**INTERPRETATION # ZB08-09-07**

BLOCK 14501; LOT 14 (Blakely Lane)

BLOCK 16901; LOT 2 (3520 Rt 23 N)

BLOCK 11401; LOT 8.05 (Larsen Road)

Constantine Stamos of the Law Firm of Price, Meese Shulman & D'Arminio on behalf of Sprint Spectrum, L.P. Mr. Stamos explained that at the prior meeting he was requested to bring the approved plans and the architect of the recently submitted plans to discuss the prior approvals. They are going to explain why the proposed additions will be in compliance with the previous approvals. Mr. Glatt explained that Mr. Stamos is here for Mr. Czura and their contention is to show there is no need for a variance application. If the Board says their experts are incorrect then Sprint will need to file variance applications for the properties in question. Mr. Stamos agreed. Mr. Glatt swore in Mr. Frank Colasurdo, 33 Wood Port Road, Sparta, NJ Architect. 1990 Graduate of New York Institute of Technology with a Bachelor of Architecture Degree, 1996 Licensed in NJ to practice architecture, for the past 16 years responsibilities include developing site plans with construction documents for the wireless telecommunications

companies including Sprint and Nextel. He has testified on hundreds of Boards in the state with respect to wireless communications and was accepted as a qualified witness. He did not originally testify in this matter. The Board accepted the qualifications of the witness.

Mr. Stamos began to question Mr. Colasurdo and confirmed that either he or someone under his direction prepared the construction documents that were submitted for the building permits, which the Board has, copies of. The architect has reviewed the previously approved site plans.

Mr. Glatt suggested that each property be discussed separately and have the witness compare the proposal to what was previously granted. For the record it is three different lots and blocks but all have the same issue, which is whether the applicant needs to file amended site plan applications.

Mr. Colasurdo began with 3520 Route 23, Block 16901; Lot 2, he took the approved plans from the original approval and compared with what the applicant is proposing to do. In 2000, 9 total antennas were approved, the plans (marked as A-1 with today's date) page Z-3 is being discussed which says 9 approved and 4 shown. The architect said on that basis he feels that 9 were approved and 4 were shown on the plan. Presently, there are 6 antennas and they would like to install the additional 3 that were approved for a total of 9. On sheet 3-Z 7 cabinets were proposed on original approved plans currently on the site 2 cabinets exist and Sprint would now like to install an additional cabinet for the 3 new antennas. The additional cabinet will go on the existing concrete pad with existing steel rods. There will be no expansion. Mr. Stamos confirmed that there is nothing additional only the coaxial cable that goes along with the antennas. So all they want to do is complete what was approved originally. In his opinion there is no deviation to original approval.

The Board Attorney conversed with the Planner and the Engineer and had a few questions. A-1 is an approved site plan with protections under Municipal Land Use Law. He is confirming that the site plan has never been built out and Mr. Stamos agreed. If in effect there was a change in zoning then would the client have lost their protection under Municipal Land Use Law. It would not expire but it would lose its protection. Mr. Glatt asked Mr. Drew if they need to come back to the Board or could they proceed. Mr. Drew commented that the originally approved plan shows the antennas, there is no need for further site plan approval because the protection has expired but the zoning has not changed that would prohibit it.

Mr. Drew commented that it originally looked like there were additional antennas and after speaking with Greg Czura asked for the site plans to see what the changes were and was under the impression that there were additional antennas over and above what was approved at the time of the original site plan. Mr. Glatt agreed that it was his understanding as well which prompted the request for the expert. Mr. Glatt explained that it is his understanding from the testimony that 9 antenna were approved, 6 were built out allowing 3 more, 7 cabinets were approved, 2 cabinets were installed and they want to build out 1 more so they are within the approvals. The applicant agreed. They have lost their protection under the Municipal Land Use Law and fortunately for the client the Township has not changed the ordinance therefore the argument is that they have the right to fulfill their approval of so many years ago. Mr. McQuaid asked if the zoning had changed and it possibly changed in height but no limitation in the number of antennae or the number of cabinets. They are just building out their site plan. Mr. Wieser asked if the letter of Mr. Drew's dated September 14, 2009 would be amended and Mr. Drew said no, his letter does not address the issue of new antennas. There was correspondence between Greg Czura and Mr. Drew addressing the matter. Mr. Stamos stated that they did not present it to the Board until this moment in terms of clarity.

Mr. Glatt suggested that other properties be discussed so that it can be decided if it is as easy to decide.

Larsen Rd. Site #NY54XC695/NJ459D, Exhibit A-2 is the copy of the approved plans. The architect explained the approval was granted for the installation of 3 antennas now and 3 future antennas, Sheet C-1, upper right corner. He read it from plan to confirm. Sprint received an approval for 6 total and they were letting the Board know that 3 were being installed now and 3 in the future. They installed 3 already and want to put the additional 3 in at this time. There are 2 cabinets currently, (c-4) 7 cabinets were approved and some are marked future. 2 currently exist but they only want 1 additional, all on same concrete pad. Mr. McQuaid confirmed that there would not be a change to the height and the architect agreed. The current mount accepts 6 antennas but the only had installed 3.

55 Blakely Lane Site #NY54XC688/NJ472 Exhibit A-3, Original site plans that were signed and approved showing the stamp. The second sheet will be discussed first. Tower elevation-note 9 proposed Sprint antennas 4 now plus 5 future. Same sheet detail site plan depicts 7 proposed cabinets. Currently there are 6 antennas installed and they are requesting the additional 3 to bring it to 9 antennas, which was what the approval was for. Two equipment cabinets currently exist and they are asking for one more to make a total of 3 cabinets, which is also within the original approval. The existing concrete pad and steel rod system would be used.

Mr. Drew agrees with the interpretation of the applicant based on the testimony that has been provided and is basically completing site plans that were originally approved but not built out to the fullest extent. This is now completing the site plans that were previously approved by the Board. Based upon the testimony site plan approvals don't expire as long as the zoning hasn't changed and the zoning that has been changed does not affect the prior approvals that were granted. He agrees with the applicant that there is no site plan approval required.

**Motion by Ada Erik** and second to move Mr. Drew's comments regarding all three properties that were on the application which are 3520 Route 23, Larsen Road, and Blakely Lane. Wherein he indicates that the applicant's Interpretation is correct, that there were previously approved site plans for each of the sites and the applicant is indicating to the Board that they feel they do not need to file a variance application because they are only completing the terms of the site plan relating to building out of the additional antennas and storage cabinets.

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Barry Wieser, Frank Curcio, Arthur McQuaid, Gian Severini, Robert Brady

No: none

The Building Department can check with the Board Secretary if they want to go for the Electrical permit before the resolution.

**Motion by Ada Erik** to approve invoices for Stephen Glatt

**Second by Gian Severini**

**All in Favor** to approve invoices

**Motion by Ada Erik** to approve invoices for William H. Drew

**Second by Barry Wieser**

**All in favor** to approve invoices

**Motion by Ada Erik** to approve invoices for Robert Kirkpatrick

**Second by Barry Wieser**

**All in favor** to approve invoices

**Communication NJ Planner some discussion regarding the COAH**

**Motion by Ada Erik** to approve the minutes for the September 22, 2009 meeting

**Second by Gian Severini**

**All in favor** to approve minutes

**Motion by Ada Erik** to adjourn the meeting

**Second by Gian Severini**

**All in favor** to adjourn the meeting of October 27, 2009

**Opposed:** none

**Meeting adjourned at 9:47 p.m.**

**Adopted: November 24, 2009**

Respectfully submitted by,

\_\_\_\_\_  
Denyse L. Todd, Secretary  
Zoning Board of Adjustment