MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
September 23, 2008
Regular Meeting

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:36p.m. The Board Secretary read the Legal Notice.

Pledge

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

Roll Call

Present: Ada Erik, Francis Hannan, Daniel Jurkovic, William Lynch, Arthur McQuaid, Gian Severini, Barry Wieser, Frank Curcio, Robert Brady

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

Absent: none

The Chairman explained the Open Meetings Act. There is a regular board. Mr. Brady explained the procedure for the Zoning Board of Adjustment as well as the appeal process. Mr. Brady discussed the format for the meeting and explained the Open Public Meetings Act.

MEMORIALIZATIONS

PLANNING SERVICES-William H. Drew, P.P., AICP
RESOLUTION NO 25-2008

Motion by Ada Erik to memorialize Resolution No. 25-2008.
Second by Arthur McQuaid

NO OTHER MEMORIALIZATIONS WERE AVAILABLE.

CARRIED APPLICATIONS

ROCCO AND ROSANNE RICCARDI
Bulk Variance #0530-0719
Block 3401; Lots 23 and 24
Lakeside Road; R-2 Zone

The applicants were present to request a carry. Mrs. Riccardi explained that they needed to wait for their Engineer to speak with the fire marshal and there wasn't enough time to get new plans within the 10-day period requested by the Planning Department. Mr. & Mrs. Riccardi were asked to sign a time extension which will extend the application deadline through October 31, 2008. Carried September 23, 2008.

The applicants were present to request an additional carry for the reason that the Town Engineer was unable to review the plans. Mr. Glatt explained that if the Board was unable to hear the application by the extension date than they could be granted approval by default. It was explained that this doesn't happen often because the Board

would call a special meeting rather than have that occur. Mr. and Mrs. Riccardi chose not to sign an extension.

Motion by Daniel Jurkovic to approve the carry to the next scheduled meeting.
Second by Ada Erik

All in favor to carry the application to October 28, 2008

SCOTT LEONESCU
USE VARIANCE # 0840-0789A
Block 15401; Lot 51
187 LaRue Road, R4 zone

Mr. Leonescu was present to request a carry because the Planner for this application was not available to come to the meeting tonight.

Motion by Daniel Jurkovic to carry the application to October 28, 2008.
Second by Gian Severini

All in favor to carry the application to October 28, 2008.

MICHELLE SCHLETTE-HARDING
Bulk Variance #0830-0797
Block 6101; Lot 21 R1 zone
1 George Street

The Board Attorney swore in Michelle Schlette-Harding and Jesse Harding, of 1 George Street. Mr. Brady asked Mr. Wieser to sit at the dais in place of William Lynch as he was not at the previous meeting where testimony was taken. They are requesting a bulk variance for an addition because they are starting a family and there house is very small, and they would like to have the house up to the standards of the neighborhood and bring up the house value. There were new plans submitted and they were sent to the professionals and the Board Members. Mr. Mark Palus was brought in as the applicant's professional. Mr. Glatt swore in Mr. Palus and he recited his credentials and the Board accepted them. He is located at 170 Kinnelon Road, Kinnelon.

Mr. Palus said it is a single family, 2 bedroom home. The footprint is approximately 623 square feet and they are proposing an addition on the west side of the current home with a 2 car garage with living space above it. The result footprint will be 1,404 square feet. They are allowed a building coverage of 10 percent. They are proposing building coverage of 13.30 percent they are over by 3.3 percent that translates to 348 square feet on their 10,559 square foot lot. They are in the R-1 zone, which requires 1 acre or 43,560 square feet of lot area, and their property size is approximately 25 percent of that lot area. The maximum allowable footprint based on the lot area would be 1056 square feet. The other homes on the street are considerably larger and he feels that the applicant's home is the smallest foot print on the street. Only one other home does not have a garage, the applicant parks their vehicles outside the home.

The side yard setback requires 30 feet, and the property could never conform for the setbacks no matter where the addition goes other than going up but they would lose living space. The architect feels the foundation isn't adequate to handle another floor. They want to expand laterally and the side yard set back they are proposing is 12.2 feet instead of the required 30 feet. The neighbor's home is still over forty feet away. There is enough room for construction vehicles to get around to the rear of the home if needed. The front yard setback requires 50 feet the existing home is 19.4 feet and the proposed addition will run along with the house. At the extreme west of the addition the setback changes to 19.16 feet.

The reports of the Township Professionals were discussed, the last Township Engineer's memo said the latest revised plans have addressed any of the concerns he had.

Mr. McQuaid asked if the applicant parked their car on stone or if it was paved the applicant said stone. Mr. Jurkovic asked if the applicant had a shed and how big it is and they said 10 X 10 the garage will go there will they still need the shed? 10 % house 3% accessory structure. The shed is not a necessity they use it because they only have a crawl space no basement. The will obtain more storage space if granted the addition and not need the shed. If it comes down it will reduce the impervious coverage on the property. Mr. Jurkovic said if they come back for an additional variance for any other additional accessory structures, it is easier for the Board. It will be a variance only on the house. Ms. Harding said they would be will to do that. Mr. Jurkovic said that he agrees that a second story would not work well on their house.

Mr. Brady asked more specifically if they would be willing to remove the shed and Ms. Harding said they would remove it. Mr. Brady asked if there were any other questions of the Board Members. Mr. Brady explained the Open Meetings Act and opened the meeting to the public. There was a motion and a second to close the public portion and all were in favor.

Motion by Daniel Jurkovic to approve the variances first variance for side yard setback and they are not conforming at this time so shifting addition would not alleviate the need for the variance. It would not be feasible for the addition to be placed above. This is a reasonable addition to make it conform to the surrounding community and the size of the houses within the community. The side yard setback is warranted. The front yard setback is deminimus it appears to be ¼ of a foot for architectural reasons. The biggest variance has to do with the maximum building coverage, 10 % is required and the applicant is requesting 13.3 percent however the applicant has offered to remove an existing shed and to further restrict the property of any further accessory usage and will return to the Zoning Board if they wanted to add any type of an accessory structure. This will be 13 % building coverage and the .3 percent is deminimus and he supports the application.

Second Ada Erik

Roll Call Vote:

Yes: Ada Erik, Francis Hannan, Daniel Jurkovic, Arthur McQuaid, Gian Severini, Barry Wieser and Robert Brady
No: none

KURT GARDENIER
BULK VARIANCE #0830-0802
Block 6204; Lot 16, R-1 Zone
83 McKinley Place

Bulk variance relief requested for a side yard setback where 26.8 ft. is existing and 6.8 ft. is proposed; building coverage where 13.6% is existing and 16.8% is proposed; distance between buildings where 20 ft. is required and 15.6 ft. is proposed, and such other variance relief as the Board deems necessary, so as to permit the construction of a garage. The Board carried the application because information regarding an easement was required.

The Chairman asked Mr. Wieser is sit for Mr. Lynch as he wasn't present for all testimony. The Board Attorney swore in Mr. Gardenier. Kurt Gardenier of 83 McKinley Place. Greg Gloor, Land Surveyor, 153 Lakeview Avenue, Ringwood, NJ. The Chairman reminded the Board that the point of contention was over an easement.

Mr. Gloor is a licensed land surveyor since 1990 in the State of New Jersey, he also gave his license number. Mr. Glatt asked if he ever testified in other matters and he said in West Milford once before and was qualified as an expert. He was contacted to

perform a survey with topography, location of wet lands flags. He also discussed his original survey map, which the Board had, and there was an easement of record omitted in error. Mr. Glatt asked if he was familiar with the previous survey dated May 17, 1997. He said yes it was provided to him. There is an easement on the 1997 survey. The easement was on the prior survey and it should be shown and it is not on 7/11/08 revision but it is in the most recent survey. A-2 is the survey that was brought to the Planning Department and A-3 is the original survey from Mr. Rex. A-1 is Mr. Gloor's map dated 7-11-08. The revised map is A-4. Mr. Brady asked if the Board had any questions. The issue now is how can an addition go through the easement. Mr. Gloor has a copy of the 1964 subdivision map and they mapped the location of the stream. He cannot testify to the location of the stream. A-5 is the 1964 map being discussed. The subdivision labels it as brook easement. (filed 6-25-64) It goes through all of the lots on that side of the street. The surveyor feels that the stream has been moved. He is testifying that the intent of the easement was so that the stream was not built in and it has now moved.

Mr. Glatt said there is a problem, from the maps shown the applicant is already encroaching in an existing brook easement and the board shouldn't compound the problem and extend the encroachment further into the easement, questions need to be answered such as was the brook moved what is the ramification of it. He needs additional guidance. Mr. Glatt doesn't feel there is enough information for the Board to decide. Mr. Glatt would like the applicant to get more information. There might be an extinguishing of the easement if the brook was moved. Mr. Glatt said the title binder should have the information needed. Also who the easement is in favor for and also what is the purpose of it.

Mr. Gloor said that the survey maps the 100 year flood plain would be around existing stream which is shown and his proposed construction does not encroach.

Motion by Daniel Jurkovic to carry the application
Second by William Lynch

All in favor to carry the application to the October 28, 2008 meeting.

Mr. Glatt asked the applicant to sign a 60 day extension which puts his deadline to January 27, 2009. It was explained that if there is no information to give to the Board he would still need to appear to request an addition carry.

THOMAS HORSURGH
Bulk Variance # 0830-0809
Block 13703, Lot 3, LR Zone
21 Navajo Trail

Mr. Horsburgh appeared to request a carry because his Engineer had a medical emergency. Mr. Brady asked for any questions or a motion.

Motion by Daniel Jurkovic to carry the application to the October 28, 2008.
Second by Ada Erik

All in favor to carry the application.

PATRICIA NICHOLSON
INTERPRETATION #0870-0814
Block 15803; Lot 4
4 Oak Ridge Road, CC Zone

Otto Blazsek is representing Ms. Nicholson 1035 Route 46 East, Clifton, NJ, wants an interpretation of the ordinance as it pertains to her property. In September, 2005 at the intersection of Route 23 and Oak Ridge Road. The property was occupied as a mixed use. There are two structures and occupied as a mixed, commercial residential use.

When she purchased the property number 8 downstairs was occupied by a motorcycle repair shop. Bottom of first building was occupied by a massage parlor which was number 4. Shortly after purchasing the property she requested that the motorcycle repair shop move because he made the property a mess. She fixed it up and in that time the massage parlor came into question and Ms. Nicholson requested that the massage parlor leave as well. After substantial improvements such as replacing sheet rock and floors she fixed up the motor cycle shop and tried to rent it and found tenants and then applied for a Certificate of Occupancy. They were directed to get a minor site plan.

She submitted a minor site plan and had several meetings with Mr. Drew while still the Planning Director and also Mr. Ferriero, the Engineer and Mr. McKittrick also met with them. Mr. McGroarty of Banisch Associatees suggested that the might require a variance. Mr. Blazsek said he did not require a Use variance because they wanted to rent a commercial use that has been a commercial use since at least 1987; he found proof that both buildings were mixed uses since that time. It changed tenants at least 7 or 8 times. There was never a problem getting a Certificate of Occupancy. Mr. Blazsek was asked what variance the Planner wanted him to apply for and he said they were looking to rent the downstairs premises of number 4. They resurfaced the parking lot as requested and the agreed to put in barriers which are in the front of the parking spaces and that was all of the improvements there were no structural changes. The wanted to use it for the same purpose as it has been used for 30 years. He brought along cards which were obtained from the Township showing the prior history. They are seeking determination that they do not need a use variance. Mr. Glatt confirmed that the Planning Board sent him to the ZBOA to apply for a use variance for minor site plan approval. The Planning Board made the determination, the Planner for the Planning Board Mr. McGroarty, not necessarily the whole Planning Board. There was no resolution memorializing an action from the Planning Board. Mr. Glatt asked if it would be alright if our Planner spoke about the application.

Mr. Glatt swore in William Drew, Professional Planner, and asked him for his credentials for the record, licensed planner in the State of N.J., American Institute of Certified Planners, licensed planner since 1988, worked as a municipal planner for 20 plus years, 17 years in West Milford Township, daily planning activities. Mr. Glatt confirmed that Mr. Drew was familiar with this matter and he said yes. He was the Planner at the time it came to the Planning Board under a site plan waiver process. The Ordinance requires that someone who wishes to reoccupy an existing commercial building comes before the Planning Board to receive a site plan waiver and that is an administrative function where the Board reviews the property and determines the criteria of the site plan ordinance and if it does satisfy it then a waiver is granted and the applicant is able to proceed with the occupancy of the structure.

In this case there are two buildings on the property. The Board found that the parking on site was adequate to provide for the improved parking and access for one of the buildings but the parking was not sufficiently maintained on the other portion of the site to provide for safe and adequate parking for occupancy for the second building. Therefore, the applicant was advised that a minor site plan was required in order to make the necessary site improvements to provide for the improved parking as required by Town Ordinance, so the building could be occupied for commercial purposes. The applicant made application for the minor site plan and in the interim there was a change in the Town Planning position and the current planner determined that this property was not a conforming use to the Ordinances and this matter needed to be before the jurisdiction of the Board of Adjustment. Mr. Glatt asked if Mr. Drew knew why the Planner felt this way, Mr. Drew said there was a letter regarding his opinion *on maximum density. The uses on the site are permitted but there are more apartments than what are allowed based upon the size of the property.* However, it was the opinion of the Planning Board prior that this was not an expansion of a pre-existing non-conforming use it was simply repaving an existing parking lot for safe and adequate parking for the tenants of the property. Mr. Drew said that the ZBOA also has the ability to make a determination on the application that has been made and hear the applicant's

request. It is not properly noticed for tonight but should the Board find in that regard this matter could be re-noticed and come back at a future date.

Mr. Glatt asked if it was Mr. Drew's opinion that a use variance would be required, then asked prior to Mr. McGroarty's determination what was Mr. Drew's opinion? Mr. Drew said it was his opinion that it was not an expansion and what they were trying to do was to make improvements to the property to allow for safe and adequate parking and not to redo everything. His opinion is that the applicant does not need a use variance for the density issue but does need a minor site plan approval and that this Board could hear it without going to the Planning Board and Mr. Drew indicated that it would be best that the Board of Adjustment hear it under the authority of a D variance so that the applicant won't get caught between two professional opinions from two separate planners. There is no prior use variance on file. Until the last few years there was no requirement for site plan waiver applications and to reoccupy an existing building did not require a Continued Certificate of Occupancy. Mr. Drew confirmed a Board Member's statement that these types of buildings within the Community are fairly common. Mr. Brady asked if we were talking about a minor site plan for paving? Mr. Drew said that it was to provide improved parking with properly delineated circulation and identified parking spaces. Mr. Drew feels that this Board should hear the entire matter. Mr. Drew said the minor site plan application is already on file and should file for the use variance. We are specifically discussing the commercial part of the buildings not the residential aspect. Mr. Glatt asked if there was any purpose for the use variance and Mr. Drew indicated it was a jurisdictional issue. Mr. Glatt asked if it would be reasonable to assume that it was Mr. Drew's determination for jurisdictional purposes which Board an application goes to? Mr. Drew said yes. Mr. Glatt asked if Mr. Drew felt the ZBOA could hear this application and Mr. Drew said yes based upon the direction from the Planning Board. Mr. Blazsek had no questions of Mr. Drew.

Mr. Glatt confirmed that this Board has the right to hold the application under the ancillary powers of the Board of Adjustment and also proceed without the need of a use variance but just have the minor site plan heard.

Motion by Daniel Jurkovic to grant approval to the applicant for requested Interpretation, that there is no need for a use variance but there is a need for minor site plan approval and with Mr. Drew's testimony the Zoning Board of Adjustment will retain jurisdiction to hear the minor site plan application.

Second Francis Hannan

JAMES & PATRICIA GOBLE
Bulk Variance #0830-0805
Block 14113, Lot 47, LR Zone
Apple Lane

John Barbarula, Esq. of 1242 Route 23, Butler, NJ is representing the applicants. He explained the variance and introduced Mrs. Patricia Goble and Claude Ballester, Engineer and Planner for the applicant. Mr. Glatt swore in Patricia Goble and Claude Ballester, whose office is located at 1811 Union Valley Road. Mr. Ballester recited his credentials and the Board accepted them.

Mrs. Goble was asked to confirm Mr. Barbarula's explanation of the application, which is for a side yard setback. Mrs. Goble said she was the owner of the property and they were tearing down the present house and putting up a new home, it will be single family and a single story. Mr. Barbarula asked why she wanted a single story dwelling and she said because she was a senior and doesn't want to have stairs. She wants to be nearby her family for her retirement. Mr. Barbarula explained to the Board that the information given by Mrs. Goble was the only purpose for testifying.

Mr. Ballester was asked by Mr. Barbarula to answer some questions and confirmed he was the expert who prepared the plans and he said yes. Mr. Barbarula asked if Mr. Ballester read Mr. McFadden's memo and he said yes. Mr. Barbarula said there was

only one variance and Mr. Ballester said yes that the second variance was granted when the subdivision was granted which was when the entire subdivision was developed. The pre-existing variance was for frontage where 120 feet is required and 98.98 is existing. Mr. Ballester said the variance was for a side yard setback and described the shape of the property, which is triangular, or trapezoid shape. The original house will be torn down and the new house and its size will be comparable to the other homes in the neighborhood.

Mr. Barbarula mentioned the drainage and Mr. Ballester explained the drywells and confirmed that all were within the State and Township regulations. Mr. Ballester also was asked from a Planner standpoint about the property. It is a redevelopment of the site and their plan was to bring it up to the standards of the neighborhood. Mr. Ballester addressed the Engineer's memo, which follows:

1. Previously, the attorney representing the executor of the estate that owned this parcel stated that the stormwater discharge from the stormwater outlet on Germantown Road negatively impacted the property and caused the percolation test for a new septic system to fail. The Township denied the claim but recently extended the storm drain along Apple Lane and installed an inlet near the southerly property line so that the stormwater outlet from Germantown Road could be piped directly into the storm drain. This plan does not address that concern.
2. In order to alleviate any concern now, or in the future, I recommend that the applicant pipe the stormwater discharge from Germantown Road to Apple Lane and dedicate a 15-foot wide drainage easement along the southerly property line to the Township. However, if the Board feels that this may be too great a burden for the applicant, the proposed riprap swale should continue along the southerly property line, in the center of the easement, and a flared end section and an appropriate length of pipe constructed at the westerly end of the swale to direct the stormwater directly into the inlet. A profile of the swale, including the flared end section(s), shall be provided. The swale detail shall be revised to agree with the note for a riprap swale. The size of the storm drain outlet on Germantown Road shall be shown along with the invert of the storm drain and grate on Apple Lane. If the storm drain is not piped, flowage rights should be granted to the Township and it should be the applicant's responsibility to maintain the swale. In either event, the proposed septic system should be moved to the north and out of the proposed 15-foot wide drainage easement.
3. The roof leaders from the garage shall be piped to one of the proposed drywells and shown on the plans.
4. The driveway contours shall be revised to shed the stormwater runoff to the proposed swale(s).
5. The sight distance for the proposed driveway shall be shown.
6. The typical proposed swale, as detailed on sheet 2, will not fit between the driveway and the proposed rock wall and between the driveway and the northerly property line.
7. The 5-foot wide surface drainage easement as shown on the 1" = 30' plan, sheet one, does not agree with the filed map and shall be revised.

The soil logs from 2005 were mentioned and those soil logs failed because the previous owner planned to enlarge to three bedrooms. The applicant plans to keep it at two bedrooms so it is considered a septic repair. (The drainage easement will be brought up again). The driveway contours and swales were discussed and they agreed to crown the driveway for the runoff. The proposed swale detail of 4 x 6 inches would not be sufficient for all 3 proposed swales, as the flows will vary. Mr. McFadden wants a detail for each swale based on the calculated stormwater flow. There was discussion with regard to a fifteen-foot easement and Mr. Barbarula asked Mr. Ballester if that would benefit the applicant or their property and Mr. Ballester said no. Mr. Barbarula asked whom it would benefit and Mr. Ballester said it would benefit the town for drainage from Germantown Road to flow if a new inlet was be installed on Apple Lane. Mr. Barbarula confirmed that it would be an off site improvement that it would not benefit

this lot because the water would be handled for this property on this lot. Mr. Ballester couldn't confirm when the drain was put in on Germantown Road. Mr. Barbarula said that the request with regard to the easement in the Township's memo that according to state law an off site improvement that does not directly affect the applicant or the applicant's property cannot be made a condition. All other comments as explained will be added to the plan.

Mr. Brady confirmed the information about the drain. Mr. Brady asked if the drain would benefit the soil logs and Mr. Ballester said no, that was a previous test when new construction with additional bedrooms was proposed. Mr. Ballester said the Board of Health approved this with a septic repair. There are two six foot dry wells proposed. Mr. Brady asked if there were any questions.

Mr. McFadden had a few questions and comments. Regarding the statement of the applicant that all drainage will being taken care of on the lot, he understands the apprehension of the applicants for the drainage easement in question with regard to flowage rights and the 15 foot easement to connect Apple Lane with Germantown Road. The proposed swale shows it flowing toward an adjacent lot, near the proposed wall for the septic.. The drywells are only about 3 feet off of the foundation. Mr. McFadden would like to reserve the 15 foot easement and obtain flowage rights. This is on the right side of the property. Mr. Barbarula asked Mr. McFadden if the easement and flowage rights would directly affect the subject property and Mr. McFadden said his basis for this request was because of the previous negative soil logs affecting the property and also because it would benefit the Township. Mr. Barbarula wanted to confirm that this would not benefit this lot. Mr. McFadden said it would be for the future if the connection was made. There was additional discussion regarding the 15 foot easement and flowage rights. It was asked, how a municipality normally would do this. Mr. Barbarula said Engineering would do it if needed and then go before the Council and the Township should purchase it as well as the flowage rights.

Mr. Brady feels there is concern of drainage and Mr. Barbarula should assist his client with the potential problem.

Mr. Glatt said the client wants to be a good neighbor and Mr. Barbarula wants to see that the client gets what he wants. If the client is still willing, it should be understood that the applicant is not being coerced, the applicant should not give the easement because they feel they will receive approval. Mr. Barbarula said he proposed what they want to do. Mr. Glatt wants the applicant called back to ask directly if she is doing it only for the weight of the request. Mr. Barbarula decided he submitted enough information for just variances. The Municipality will take care of the easement and flowage rights in another venue. There is no misunderstanding on his part. Mr. Barbarula said they are not offering the easement.

Mr. McQuaid asked about the septic, it is 2 ½ feet higher than the side yard; Mr. Ballester said there is no increase in runoff no disturbance to the neighbors. Mr. Glatt said the application is only for variances for side yard. Mr. Drew said the COAH obligation under the Developer's Fee may come into play, because of a new dwelling, future growth, may fall under the final determination of the Highlands Act and COAH. There is nothing definite with the Developer's Fee. The fee will reflect in the Building Permit fees, hopefully, their project will be completed before then. Mr. Barbarula said his presentation complete.

Mr. Brady asked if there were any questions and then opened the meeting to the public

Ada Eric made a motion to close the public portion since there was no one present for or against the application.
Gian Severini second.
There were no comments. All in favor to close the public portion of the meeting.

Mr. Barbarula reiterated the application and the testimony given for the Board to consider granting the variance for a side yard setback.

Mr. Jurkovic made a motion to approve the application for variance relief for side yard for 27.3 feet and 27.8 feet which is a deminimus variance caused by the shape of the property, location of the septic and need to have the house functional and esthetically pleasing to the neighborhood and the community. As a condition, the letter of September 15, 2008 of the Township Engineer as discussed with the exception of the drainage easement, the alternate suggestion is agreeable and will be added to the plans. There will be no 15 foot wide drainage easement. Mr. McFadden asked if the septic could be moved at least 5 feet to the north, in case the Township negotiates for an easement. Mr. Jurkovic added the 5 feet as an additional condition to his motion. Mr. Barbarula said this was feasible and Mr. Ballester agreed and it was agreeable to the client.

Second Gian Severini

Roll Call Vote:

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

No: none

EXXON ON THE RUN
USE VARIANCE #0640-0764
Preliminary & Final Site Plan #0620-0274
Bulk Variance #0630-0275
Block 15505; Lot 1
2899 State Highway 23

Letter dated August 5, 2008 and received September 17, 2008 from the applicant's attorney advising the Board of a withdrawal.

NEIL OTTENS
RESOLUTION NO. 26-2007
Use Variance #0640-0759
Block 1907; Lot 1
7 Parlin Court; LR Zone

The applicant did not notice the properties on the 200 foot list within the time frame allowable. The request will not be heard at this time.

Attorney Report

Litigation-Lanza VS West Milford Zoning Board of Adjustment regarding the Interpretation application authorizing responsive pleadings to the complaint.

Mr. Glatt referenced a letter from Morris County Municipal Court. Mr. Glatt prepared the answer and it will be filed on September 24, 2008, pending Board authority. Mr. Brady responded that he appreciates the information but since Mr. Glatt is the Board Attorney, that he was hired for that purpose. He wanted to confirm that he should proceed with the litigation.

Motion by Daniel Jurkovic for Mr. Glatt to proceed with the litigation for the next 30 days with further discussion at the October regular meeting regarding the budget for litigation.

Second by Ada Erik

All in favor
Opposed: none

Mr. Jurkovic wanted clarification whether certified funds were required for this matter specifically. Mr. Glatt doesn't feel he would exceed the funds that have been provided for legal services however, Mr. Jurkovic feels that funds appropriated specifically for litigation matters should be certified. Mr. Glatt said if he exceeded the funds he would need to ask the Board for additional funds. Mr. Brady appreciated all of the comments and perhaps it should be added as an agenda item for the next month. Mr. Hannan confirmed the property and the application. Mr. Jurkovic asked if the secretary would check with the Treasurer whether or not an additional certification would need to be done for the litigation purposes. Mr. Glatt said no more than $5,000.00. Mr. Glatt explained the duties involved with the process. Subject to further review of the finances after review of the budget and whether a special certification of funds for litigation is necessary.

The secretary prepared spreadsheets with information containing the Board Professionals bills and she will do this monthly with the starting budgeted amount included.

Motion by Francis Hannan to approve the bills of the Board Attorney, Stephen Glatt
Second by Ada Erik

All in favor to approve the bills with the exception of Daniel Jurkovic who abstained.

Motion by Ada Erik to approve William Drew, Board Planner's bills
Second by Francis Hannan

All in favor to approve William Drew's bills

Motion by Ada Erik to approve the minutes of the regular meeting of August 26, 2008
Second by William Lynch

All in favor to approve the minutes
Opposed: none

Motion by William Lynch to approve the minutes of the special meeting of August 26, 2008.
Second by Francis Hannan

All in favor to approve the minutes.
Opposed: none

<u>Approval of dates for 2009</u>

Motion by Ada Erik to approve the dates with the change for the December, 2009 site inspection
Second by Daniel Jurkovic

All in favor to approve the dates
Opposed: none

Communications
The New Jersey Planner was very interesting

There was discussion with regard to the New Jersey Planner, which the secretary distributed at the beginning of the meeting. Mr. Brady asked for all to read, they have been interesting.

Mr. Drew began the discussion with regard to the Planning Office Checklists. Mr. Drew and Mr. McFadden reviewed the checklists independently and it will be a longer process. They need to review them together and make revisions.

Mr. Jurkovic commented that he recently needed to complete a Township checklist and a lot of the items didn't apply so it is difficult to respond to the checklist. Mr. McFadden

responded that if the checklists are divided by categories then only certain categories will be answered in relation to certain applications. Mr. Hannan suggested that these items perhaps will state this is for this application and so on. The checklist can say something explaining this process. Further discussion of the Board Members resulted in information unrelated to a project was being requested on the checklist. A lot of the information are for Engineers not for the average resident. Mr. Drew continued to state that streamlining the checklist would be helpful. Mr. McFadden suggested that Mr. Drew and Mr. McFadden meet to discuss and when they have information together they can discuss it with the Board.

Adjournment

Motion by Ada Erik to adjourn the regular meeting
Second by Barry Wieser
All in favor to adjourn the regular meeting of August 26, 2008

Regular Meeting adjourned at 10:26 p.m.
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Adopted: October 28, 2008

Respectfully submitted by,

_____
Denyse L. Todd, Secretary
Zoning Board of Adjustment