

MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
September 24, 2019
Regular Meeting

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:47 p.m. The Board Secretary read the Legal Notice. The Pledge of Allegiance was recited.

Roll Call

Present: Daniel Jurkovic, Frank Curcio, (arrived late), Michael Gerst, Matthew Conlon, Robert Brady

Also present: Deidre Ellis, Board Secretary, Stephen Glatt, Board Attorney, Ken Ochab, Board Planner and Patrick McClellan, Board Engineer

Absent: James Olivo, Arthur McQuaid, Russell Curving and Steven Castronova

The Chairman, Mr. Brady indicated that we have 4 members and an alternate this evening. The Chairman greeted the Board and the public. Mr. Brady explained the Zoning Board and Open Public Meetings Act. The meetings are advertised in the Herald News. The Board operates in accordance with the Open Meeting Act of the State of New Jersey, which means discussions and decisions are made in public. Under normal circumstances the Board follows a printed agenda. There are no new applications after 10:30 pm and no new testimony after 11:00 pm, after the applicant speaks then anyone can speak for or against that application. If it is needed there will be a break at approximately 9:00 pm. The appeals of this Board go directly to the Superior Court of the State of New Jersey.

MEMORIALIZATIONS

B&B ORGANIC WASTE RECYCLING, LLC
RESOLUTION 11-2019

USE & BULK VARIANCE & PREL. &
FINAL SITE PLAN ZB06-18-05

Block 6002; Lot 29
280 Marshall Hill Road; LMI Zone

Decided: Approval of a preliminary and final site plan and use and bulk variance for an organic recycling facility with accessory composting, topsoil production and mulch manufacturing, retail sales and offices for the front building and additional variances for 2 wall heights and driveway grade.

Approved: August 27, 2019

Eligible to vote: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova, Robert Brady, Michael Gerst, and Russell Curving

A motion by Michael Gerst to memorialize application ZB06-18-05. Second by Daniel Jurkovic.

Roll call vote:

Yes: Daniel Jurkovic, Michael Gerst, Robert Brady

No: None

Abstain: Matthew Conlon

**JEFF GUNTHER (Amended to Ana Su)
RESOLUTION 12-2019**

BULK VARIANCE ZB06-19-09

Block 601; Lot 14
15 Allaire Rd; LR Zone

Decided: Approval of a bulk variance for side yard setback where 30 feet is required and 6 feet is proposed for a 11'7" by 24' carport, (with a wall on one side to block wind/snow).

Approved: August 27, 2019

Eligible to vote: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova, Robert Brady, Michael Gerst, and Russell Curving

A motion by Michael Gerst to memorialize application ZB06-18-05. Second by Daniel Jurkovic.

Roll call vote:

Yes: Daniel Jurkovic, Michael Gerst, Robert Brady

No: None

Abstain: Matthew Conlon

**JOSEPH GENEROSO
RESOLUTION 13-2019**

BULK VARIANCE ZB06-19-11

Block 6002; Lot 9.01
578 Morsetown Rd; R-4 Zone

Decided: Approval of a bulk variance for a front yard setback where 125 feet is required and 80 feet is proposed to replace an existing deck and to add a roof.

Approved: August 27, 2019

Eligible to vote: Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Steven Castronova, Robert Brady, Michael Gerst, and Russell Curving

A motion by Michael Gerst to memorialize application ZB06-19-11. Second by Daniel Jurkovic.

Roll call vote:

Yes: Daniel Jurkovic, Michael Gerst, Robert Brady

No: None

Abstain: Matthew Conlon

The Board Chairman indicated that once Frank Curcio arrives there will be 5 members able to vote and asked if there were any applicants that would request to carry their applications.

Darryl Siss representing his client Union Valley Associates, LLC requested to carry application ZB03-19-04.

The Board Attorney indicated that the deadline for the application was October 2, 2019 and Mr. Siss agreed to give an extension of 30 days. (Making the new deadline November 1, 2019.)

A motion by Michael Gerst to carry application ZB03-19-04 and to accept the extension. Second by Matthew Conlon.

Roll call vote:

Yes: Daniel Jurkovic, Michael Gerst, Matthew Conlon, and Robert Brady

No: None

The Board Attorney indicated that anyone interested in the Union Valley Associates matter should come to the next meeting as the application will be heard at the October 22, 2019 meeting and there would be no need for further notice on behalf of the applicant.

**JOSEPH BARDI
USE & BULK VARIANCE ZB01-19-02**

**Complete: 6/10/2019
Deadline: 10/8/2019**

Block 507; lot 2
11 Laramie Trail; LR Zone

Use variance approval requested for a garage where there is no primary structure. Bulk variance requested for a front yard setback where 40 feet is required, 15.4 feet is existing and 25 feet is proposed.

Douglas McKittrick spoke on behalf of Mr. Joseph Bardi indicating that he had eye surgery today and would like to carry the application. Mr. Bardi had contacted the Board Secretary and has signed a 90 day extension, with the request to be heard at the October 22, 2019 meeting.

A motion by Michael Gerst to carry application ZB01-19-02 and to accept the extension . Second by Matthew Conlon.

Roll call vote:

Yes: Daniel Jurkovic, Michael Gerst, Matthew Conlon, and Robert Brady
No: None

**RONALD RUTZ
USE VARIANCE ZB06-19-12**

**Complete: 8/2/2019
Deadline: 11/30/2019**

Block 3301; Lot 3
Fox Island; R-2 Zone

Use variance requested where there is no primary structure and the use is not permitted for a 10' by 9'6" shed built prior to the submission of the application.

The Board Attorney indicated to Mr. Rutz who came to the podium, that because he is requesting a use variance, in order to prove his case he must receive 5 affirmative votes and normally there are 7 Board Members eligible to vote, and Mr. Curcio is not yet present. If when Mr. Curcio shows up and the Board proceeds, Mr. Rutz would need to receive all 5 votes. The Board Attorney indicated that the more Board Members to hear an application the better the chances of an approval because you have "wobble room" only having to convince 5 of the 7 to vote in the affirmative. There are other bulk variance applications on the agenda ahead of him, and they are dimensional in nature and require less affirmative votes. It is up to the applicant to carry it or proceed with the application tonight. Mr. Rutz elected to carry the application to the October 22, meeting. The Board Attorney explained he would not lose his place that the Board goes in order of the Agenda.

Board Member Mr. Frank Curcio arrived at 8:03 pm.

A motion by Michael Gerst to carry application ZB06-19-12 and no extension was needed yet. Second by Matthew Conlon.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Michael Gerst, Matthew Conlon, and Robert Brady
No: None

The Board Attorney indicated that anyone interested in the Rutz Application matter should come to the next meeting as the application will be heard at the October 22, 2019 meeting and there would be no need for further notice on behalf of the applicant either by mail or public notice. The same applies to the Joseph Bardi application.

**EDITH SAUTER
BULK VARIANCE ZB07-19-15**

**Complete: 8/16/2019
Deadline: 12/14/2019**

Block 4301; Lot 40
27 Forest Lake Drive; LR Zone

Bulk variance requested for side yard setbacks where 30 feet is required, 22.5'/8.0' is existing, 10.3'/10.0' is proposed. Rear yard setback where 60 feet is required, 46.8' is existing and 37.1' is proposed, and primary building coverage where 10% is required, 10.9% is existing and 18.9%, is proposed and accessory building coverage where 3% is required, 0% is existing and 3.7% is proposed for an addition to an existing dwelling.

Vincent Lanza, the builder on the matter spoke on behalf of the applicant and requested to carry the application to the October 22, 2019 meeting and indicated that there were some issues with the Engineering and Health Departments and they were being addressed, but had not been resolved yet.

A motion by Michael Gerst to carry application ZB07-19-15 and no extension was needed yet. Second by Matthew Conlon.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Michael Gerst, Matthew Conlon, and Robert Brady

No: None

The Board Attorney indicated that anyone interested in the Edith Sauter Application matter should come to the next meeting as the application will be heard at the October 22, 2019 meeting and there would be no need for further notice on behalf of the applicant either by mail or public notice.

The Board Attorney indicated as stated on the Agenda the matters of Battinelli Enterprises had been requested to carry to the October 22, 2019 meeting and Michael Darmstatter had previously requested to carry to the November 26, 2019 meeting. Anyone interested should attend the meeting on those respective dates and there would be no need for further notice on behalf of the applicants either by mail or public notice.

CHARLES SCHNEIDER
BULK VARIANCE ZB04-19-08
Block 3007; Lot 10
1 Kushaqua Trail North; LR Zone

Complete: 7/11/2019
Deadline: 11/8/2019

Bulk variance approval requested for front yard fence height where 4 feet is required and 6 feet is proposed.

Joe Affinito Esq. spoke on behalf of the applicant, Charles Schneider, indicating that the application was rather straight forward. Mr. Schneider had a 4 foot fence that his dog jumped over and ended up getting in a fight with a neighborhood dog. Mr. Schneider then built a 6 foot fence to contain his dog. Mr. Affinito indicated that property is oddly shaped and has what is considered several front yards. 1 Kushaqua Trail is the front of the property but from the street it does not look like it. Exhibit A-1, a survey of the property was submitted into evidence and a series of photos of the 6 foot fence and the property was labeled Exhibit A-2. Mr. Affinito indicated that the front of the property, and access to the driveway and front steps is actually on Valley Road it is a peninsula shaped yard.

Matthew Conlon asked if there were any negative effects and Mr. Affinito indicated there had been no complaints, the fence was solid and fulfilled the purpose of containing the dog.

Charles Schneider, 1 Kashaqua Trail, Hewitt was sworn in and indicated that there was a 4' fence there prior for 20 years and his dog discovered that he could get over the fence and there was an unfortunate incident. Mr. Schneider indicated that he built the fence to prevent a recurrence. Then Mr. Schneider went to get a (zoning) permit, (subsequently was denied) and the variance application process began. Mr. Schneider indicated there was no negative impact created and the dog was contained by a full enclosure, perhaps all not visible (on the submitted materials) because there was a portion not subject to the variance.

Mr. Affinito summarized that while the fence was legally in the front of the property. It has no negative effect to the neighborhood and was a best for safety.

Chairman Brady opened the application to the public, no one requested to speak.

**A motion by Michael Gerst to close the public portion of application ZB04-19-08.
Second by Matthew Conlon.**

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Michael Gerst, Matthew Conlon, and Robert Brady

No: None

A motion by Matthew Conlon to approve application ZB04-19-08. Second by Daniel Jurkovic.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Michael Gerst, Matthew Conlon, and Robert Brady

No: None

The Board Chairman indicated that usually the 45 day appeals period is discussed but since the fence has already been constructed, anyone interested in appealing the application would probably have been at the meeting.

**PROCOPIOS TSAKOTELIS
BULK VARIANCE ZB07-19-14**

Block 3402; Lot 2
66 Reidy Place; R-1 Zone

**Complete: 7/31/2019
Deadline: 11/28/2019**

Bulk variance requested for rear yard setback where 50 feet is required, 54.8' is existing and 45.5' is proposed, and lot coverage where 10% is required, 10.14% is existing and 13.57% is proposed for a kitchen expansion.

Procopios Tsakotelis, 66 Reidy Place, Hewitt, NJ and Brian Murphy, 179 Cahill Cross Road, Suite 202, West Milford, NJ, Architect for 15 years with a degree from New Jersey Institute of Technology, licensed in New York and New Jersey, having appeared before Boards were sworn in.

Procopios Tsakotelis testified that he has been in the home since 1995 and the layout for the house no longer works for the family. Mr. Tsakotelis currently uses the third bedroom as a place to eat because the kitchen is simply too small. Mr. Tsakotelis is not looking to add any bedrooms, but to have the kitchen function. The houses around his are larger.

Daniel Jurkovic asked about the layout of the house and how many units were in the house. Mr. Tsakotelis indicated that there were two units and that the house is built into the mountain. The ground floor is basically a basement and he wishes to only expand the second level, and would agree to the condition of keeping the addition to the one level, as that is all the space he would need.

Mr. Jurkovic asked how many bedrooms the home had and Mr. Tsakotelis indicated that it is listed as having two bedrooms downstairs and three bedrooms upstairs. The Health Department had issued a memo referring to DEP permits, Freshwater and Wetlands, transition areas and flood hazard areas, and Mr. Jurkovic asked if Mr. Tsakotelis was aware of it and if he realized that even if the Board approved his application for the variance that he would still be responsible for these other conditions. Mr. Tsakotelis indicated that he was aware and would comply and had not had prior issues with septic or water, or well etc. other than basic maintenance.

The Board Planner, Kenneth Ochab questioned the back of the property, and where the addition was to be located. Mr. Tsakotelis indicated that the addition would go over the concrete patio, and that it would extend about a foot over the concrete patio. Mr. Tsakotelis indicated that the home was a two family style home at the time he purchased it.

Matthew Conlon asked what was behind the property and Mr. Tsakoltelis indicated that there were trees there and a rental property that is difficult to see from his house. The neighboring building behind looks out to the street and over his roof line.

Daniel Jurkovic clarified that the variance being sought was approximately 9.3 feet and that still leaves 45.5 feet and 50 feet is required. Procopios Tsakotelis indicated that the neighboring houses are larger by footprint. Exhibit (marked by the Board Attorney as A-1) 65 Reedy place was handed to the Board Attorney showing 1240 sq ft and A-2 , 64 Reidy Place was 1184 sq ft. The applicant is

looking for is less (square footage) than the neighbor's house. Mr. Tsakotelis has 717 sq ft downstairs 738 sq ft on the main floor.

In accordance with the Open Meetings Act, the Chairman asked if anyone would like to comment in the Public portion of the application process and no one spoke.

A motion by Michael Gerst to close the public portion of application ZBo7-19-14. Second by Matthew Conlon.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Michael Gerst, Matthew Conlon, and Robert Brady
No: None

A motion by Daniel Jurkovic to approve application ZBo7-19-14. Based on the testimony of the applicant and the nature of the community, and the size of the larger footprints of the houses around the site presented, the addition being to the rear of the property, and not offensive to anyone, the front of the property to remain the same. **Second by Matthew Conlon.**

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Michael Gerst, Matthew Conlon, and Robert Brady
No: None

The Board Attorney explained the application was granted and a resolution would likely be forthcoming at the next meeting and then a 45 day appeals period would begin once published in the newspaper. The applicant indicated he would likely be doing the project next spring.

The Board Chairman indicated that the next item on the agenda was the discussion of the Annual Report. The Board Planner, Kenneth Ochab addressed the Board and indicated that each year a report is issued to the Planning Board, Mayor and Council. The Board Planner went on to speak about accessory buildings and decks. As it stands now, there are no set backs on decks. The Board Chairman asked if the Board Planner would mind advising the Planning Board, Mayor and Council and the Board Planner indicated that it is not our role to do that and secondly he did not want to make a recommendation and then be put in a position to make an interpretation. Discussion occurred regarding whether people complained about decks and lake front homes and shed locations, driver visibility and setback adjustments and accessory garages. The job of the Annual Report is to raise issues for the Planning Board, Mayor and Council when there are repetitive issues or multiple applications for the same type of request. There was more discussion regarding placement of applicants on the Agenda and perhaps separating residential applications and larger commercial and complex applications, and special meeting fees. The subject of having the applicant's planner and engineer meet with the Board Planner and Engineer ahead of time in hopes of having everything ready to go and correct before the meeting takes place was discussed. The Board Planner considers it a good way to streamline the application but care would need to be taken not to infringe upon the Board's authority, and at the discretion of the Board Planner and only for the applications that were not single family residential homes. The Board Planner indicated that he was going to update the draft for the next meeting.

A motion to approve all invoices for the Board Professionals by Matthew Conlon. Second by Michael Gerst.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Michael Gerst, Matthew Conlon, Robert Brady
No: None

A motion was made to approve the August 27, 2019 minutes by Daniel Jurkovic. Second by Michael Gerst.

Roll call vote:

Yes: Daniel Jurkovic, Frank Curcio, Michael Gerst, Robert Brady
No: None
Abstain: Matthew Conlon (because he was not at the last meeting.)

**Motion for adjournment of the September 24, 2019 meeting by Matthew Conlon.
Second by Michael Gerst.**

All in favor. None opposed.

ADJOURNMENT at 9:17 PM

Next regular meeting October 22, 2019 at 7:30 p.m.

Respectfully submitted by,

Deidre Ellis, Secretary
Zoning Board of Adjustment