

**TOWNSHIP OF WEST MILFORD
ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
August 27, 2024
7:00 p.m.
MAIN MEETING ROOM OF TOWN HALL**

The meeting was called to order at 7:05 p.m.

LEGAL

In accordance with Chapter 231, Public Laws of the State of New Jersey of 1975, adequate advance notice of this meeting was sent to the Herald News for publication, is posted on the Bulletin Board in the main corridor of Town Hall and is on file in the Township Clerk's Office. The Main Meeting Room is ADA accessible. Special needs can be accommodated by contacting the Zoning Board of Adjustment at (973) 728-2798.

PLEDGE was recited

ROLL CALL

Present: Russell Curving, Frank Curcio, Michael Hensley, Peter McGuinness
Chairman: Frank Curcio
Secretary: Pamela Jordan
Absent: Michael DeJohn, Stacy-Ann Webb
Late: Daniel Jurkovic
Also Present: Stephen Glatt, Esq., Kenneth Ochab P.P., Patrick D. McClellan, P.E., MCB Engineering

*There are 5 members of the Board present.

The Chairman greeted the Board and members of the public stating guidelines and the role and responsibility of the Board.

I. MEMORIALIZATIONS

Resolution 18-2024

Nicholas Lengares

ZB-05-24-14

Ellisdale Road

Block 2003 Lot 3 LR Zone

APPROVED: USE VARIANCE

For storage of personal equipment, trailer, & boat without a primary dwelling.

Eligible to vote: Frank Curcio, Russell Curving, Michael DeJohn, Michael Hensley, Daniel Jurkovic, Peter McGuinness, Stacy-Ann Webb

Motion to Approve Resolution 18-2024: Peter McGuinness

Second: Russell Curving

Russell Curving, Frank Curcio, Michael Hensley, Peter McGuinness

Complete: June 14, 2024

Decided: August 27, 2024

Resolution 19-2024

Mark & Alexandra Brand

ZB-05-24-11

20 Olcott Road

Block 3705 Lot 67 LR Zone

APPROVED: BULK VARIANCE for the construction of a 16 foot x 21 foot addition to an existing, non-conforming dwelling.

Rear Yard Setback, 30 feet is required, 34.5 feet exists, 18.60 feet approved

Eligible to vote: Frank Curcio, Russell Curving, Michael DeJohn, Michael Hensley, Daniel Jurkovic, Peter McGuinness, Stacy-Ann Webb

Motion to Approve Resolution 19-2024: Russell Curving

Second: Peter McGuinness

Russell Curving, Frank Curcio, Michael Hensley, Peter McGuinness

Complete: June 19, 2024

Decided: August 27, 2024

*The Board Attorney stated Mr. Jerkovic was present bringing the Board count to 6 voting members.

Mr. Glatt requested the Matter of Michele Golding be addressed first going out of turn from the Agenda.

Stating, the Board does not have jurisdiction at this time, The Applicant did not send Notice to the entities listed on the 200 foot list from the West Milford Tax Department. Mr. Glatt suggested the Board motion to carry the matter allowing the Applicant time to notice the entities on the list. The property owners that were noticed would not require re-notice for September 24th public meeting.

No members of the public were present to speak on this matter.

Michele Golding

ZB-05-24-14

1025 Union Valley Road

Block 7701 Lot 9 R1 Zone

SEEKING: BULK VARIANCE Relief for an existing pool

Side yard pool setback – 10 ft required, 7 ft proposed

Side yard deck setback – 7.5 ft required, 1 ft proposed

Motion to Adjourn ZB-05-24-14: Peter McGuinness

Second: Russell Curving

Roll Call

Approve: Russell Curving, Frank Curcio, Michael Hensley, Daniel Jurkovic, Peter McGuinness

Oppose:

Abstain:

Complete: July 2, 2024

Deadline: October 30, 2024

The Board Attorney explained to the remaining applicants; their applications were Bulk Variances. A Bulk Variance requires a majority vote. A tie vote would be a denial. Each Applicant should consider if they would like to proceed considering the Board count. Applicants may stop proceeding at any point during testimony to adjourn. Absent Board members could listen to the recording and proceed at the next meeting.

NEW APPLICATIONS

James Flaherty

ZB-04-24-09

145 Country Road

Block 101 Lot 4 R4 Zone

SEEKING BULK VARIANCE

- Front yard setback 125 ft. is required, 40 ft. is proposed for an existing shed

Complete: April 25, 2024

Extended Deadline: November 20, 2024

Mr. Flaherty stated he understood the majority vote explained by Mr. Glatt.

Mr. Flaherty stated he resides at 145 County Road.

He “put in” a 10’ x 16’ shed a couple of years ago.

The shed replaced one that was old and fell down.

He did not get a permit for the new shed.

He is before this Board to get a variance for non-conforming setbacks

He stores lawn equipment in the shed.

He lives on a private gravel road.

His property backs Wawayonda State park.

A variance is required in the front yard, 125 feet is required.

The lot size is a hardship.

The property is triangular in shape.

Referencing a report prepared by the Board Planner dated April 12, 2024

The shed is located 40 ft (+-) from the front yard.

The Board discussed the location of the Applicants property as being remote. The Application is straight forward. The shed replaced an existing shed. The distance from the shed and other homes is significant on an undersized lot.

There were no further questions from the Board.

The Application was opened to the public.

Seeing no one: Peter McGuinness made a motion to close

Second: Arthur McQuaid

Motion to Approve ZB-04-24-09: Daniel Jurkovic

Second: Peter McGuinness

Roll Call

Yes: Russell Curving, Frank Curcio, Michael Hensley, Daniel Jurkovic, Peter McGuinness, Arthur McQuaid

No:

Abstain:

John & Christine Derin

ZB-06-24-15

1293 Westbrook Road

Block 9303 Lot 5 R-3 Zone

SEEKING BULK VARIANCE Relief for construction of a 490 sq ft, 2 story addition to an existing dwelling.

Front yard setback – 100 ft is required, 36.1 ft exists, 35.5 ft is proposed

Rear yard setback – 100 ft is required, 86.7 ft exists, 82.5 ft is proposed

Complete: July 25, 2024

Deadline: November 22, 2024

The Board Attorney examined an envelope provided by the applicant. The certified letter had been returned to the applicant. The letter was marked insufficient address by the USPS. The address was part of the 200 foot radius list provided by the West Milford Tax Department. The applicant and West Milford tax department were not successful in finding a forwarding or sufficient address.

EXHIBIT A1 dated August 27, 2024 – Returned certified mail sent to the Estate of Walter Vreeland, RETURN TO SENDER, Insufficient address.

John and Christine Derin were sworn in by the Board Attorney, stating they reside at 1293 Westbrook Road.

There was discussion from Board members siting the application appeared to be de minimus. The proposed addition has very little impact on neighboring properties being municipal and a land conservatory.

Mr. Derin stated the proposed addition is to aid the applicants while aging. The existing stairway is steep and not safe. The bathroom is proposed to expand and laundry facilities re-located upstairs.

The variance is required in the front and rear yard of the dwelling to expand on pre-existing non-conformities.

The Board Planner offered

The Lot size is 0.8 acres.

Property located within the R3 zone require 3 acre minimum.

The existing structure does not meet the current setback requirements.

The home is a 1960's style ranch.

The dwelling is 960 square feet.

The addition is modest.

The front of the home will be changed cosmetically.

The addition is to the side.

There are no neighbors to be impacted.

The Board Engineer offered

The home is located within close proximity to a tributary stream.

It is not located in a Riparian Zone or a flood zone by his measurements.

NJ GIS indicates wetlands in the back.

The addition does not impact the land.

A recommendation to have a wetlands specialist walk the property for an opinion and write a letter.

If a letter is obtained, a copy should be submitted to the Board Secretary for the file.

With no further questions from the Board, the Chairman opened the matter to the public in accordance with the Open Meetings Act.

Seeing no one Peter McGuinness moved to close

Second: Arthur McQuaid

Roll Call

Yes: Russell Curving, Frank Curcio, Michael Hensley, Daniel Jurkovic, Peter McGuinness, Arthur McQuaid

Motion to approve ZB-06-24-15: Daniel Jurkovic

For bulk variances for a 490 square foot 2 story addition to the existing dwelling.

The dwelling will have a more modern look and have better curb appeal.

Recommended the property owner meet with a wetland specialist

Second: Russell Curving

Roll Call

Yes: Russell Curving, Frank Curcio, Michael Hensley, Daniel Jurkovic, Peter McGuinness, Arthur McQuaid

No:

Opposed:

The Board took a 10 minute break

Vincent Lanza for Cuzenza

ZB-05-24-13

Lake Park Terrace

Block 4303 Lot 1 LR Zone

SEEKING: BULK VARIANCE

Front Yard setback – 40 ft required, 32.9 proposed (porch)

Front Yard setback – 40 ft required, 21.4 ft proposed (porch)

Side Yard setback – 30 ft required, 20.8 ft proposed

For the construction of a new 1 1/2 story dwelling

Complete: June 18, 2024

Deadline: October 16, 2024

Vincent Lanza was sworn in by the Board ATTORNEY. Mr. Lanza stated he is the contractual owner of the subject property. The sale of the property was contingent on a treatment works approval from the DEP. All contingencies have been resolved. A condition, if the application is approved, Mr Lanza to provide to the Board a copy of title upon closing.

Mr. Lanza stated he is proposing to build a house on Lake Park Terrace, Block 4303 Lot 1. The property is located in the LR Zone. Relief requested is for front yard(s) setback (corner lot), side yard setback and other variances the board deems necessary to construct the 1 1/2 story home.

Zone designation was changed from R10 to Lake Residential zone.

Setback requirements for R10 and the current LR zone are much different.

The house is proposed at 27 feet x 48 feet.

The property is very narrow at 83 feet deep.

The location of the septic system restricts the location of the home.

The applicant was required to get NJDEP approval for the treatment works system.

There is a vacant lot on the corner of East Shore Road and Forest Lake Drive.

Mr. Lanza attempted to reach the owners of the vacant lot.

The buy sell letter was sent to the owners of the vacant property to purchase the land with no response.

EXHIBIT A1 described as a buy sell letter and certified receipt to Eino & Fred Salo, block 4303 lot 28.

Mr. Lanza has lived in the neighborhood for over 30 years.

He has built 12-15 homes in this neighborhood.

The proposed home conforms with the neighborhood.

The porch is 5 feet.

The property is a corner lot with two front yards.

The septic is located to the left of the proposed house.

Several test holes were done.

The well is located on the corner.

The well, septic location and irregularities of the property limited the location of the house.

Mr. Lanza did not have issue with the Planner memo and Engineer report.

There is one home directly behind the property.

Mr. Lanza stated he will leave vegetation at the rear of the property for a natural buffer between the houses.

Mr. Lanza clarified the house is 1 story living area and roof with a portion “sunk in the ground” with a garage under.

The Board Planner suggested a solid fence along the adjacent property line to the rear to separate the two properties.

The septic is approved by NJDEP.

The Board Engineer added, he noticed two tanks for the septic, one is for pre-treatment. The system is considered state of the art and an asset for the property.

If approved, the Applicant will submit a lot development plan to the West Milford Engineering department for review. There will likely be an evaluation for storm water management.

With no further questions from the Board, the Chairman opened the application to members of the public.

Benjamin Nelson, 645 East Shore Road was sworn in by the Board Attorney.

Mr. Nelson stated;

His house borders the proposed construction.

His partner’s health is serious.

The noise and dust are a concern as she is “stuck in the house”.

The construction will block his view of the lake and will decrease his property value.
His mother lived in this house in the 90's.
There is a lot of wildlife that go through the property to the lake.

Debra Henstock, 645 East Shore Road was sworn in by the Board Attorney.
Ms. Henstock stated;
Mr. Nelson is her fiancé.
He has lived in the house approximately 20 years.
She has lived in the house for 12 years.
Her health and proximity of the new construction is a concern.
The applicant's lot is thick with trees and will take a long time to clear.
She is afraid of the wood dust as her lungs are compromised.
She is concerned their property value will go down.
The house will lose privacy and the lake view.

The Board Attorney reminded the room the subject property is private, not state land.
If in the future (hypothetically speaking) the owner of lot 28 (the vacant lot Mr. Lanza attempted to purchase) comes before the Board wishing to build a house on an undersized lot, this Board could say no because the hardship was self-created (by refusing to respond to the letter from Mr. Lanza).
There was an opportunity to sell the lot or buy the subject property.
The Board has to consider what hardship a property owner faces for an undersized lot in a residential area. It is the responsibility of the applicant to prove their case. Recommendations by the public may be considered as part of the resolution. The Board may consider valid detriment to the community in their determination.

Mr. Lanza indicated the home is modular. Prefabrication is done off offsite and assembled on the parcel. The foundation is installed in one day. The house is installed in one day.

Discussion with Board members addressing Mr. Lanza's testimony about the size of the home, the meaning of two front yards and the rear yard setback. The proposed house is 21.4 feet from the property line of Mr. Nelson (645 East Shore Road). It was determined by "best guess" and from the Board Planner, Mr. Nelson's home appears to be 40 feet from house to house.

Ms. Hancock and Mr. Nelson stated they would like to have a conversation with Mr. Lanza.

Motion for a 10 minute recess: Russell Curving
Second: Peter McGuinness
All were in favor

The meeting resumed at 9:01 PM

Mr. Lanza stated he would work with the neighbors and "do what he could for them". The neighbor stated he did not have any other legal objectives.

Motion to close the public portion: Peter McGuinness

Second: Russell Curving

Roll Call

Yes: Russell Curving, Frank Curcio, Michael Hensley, Daniel Jurkovic, Peter McGuinness, Arthur McQuaid

No:

Opposed:

Motion to Approve by Peter McGuinness, ZB-05-24-13 Lake Park Terrace Block 4303 Lot 1 LR Zone, corner lot for a bulk variance for the construction of a new 1 1/2 story dwelling with 2 front yard setbacks and a side yard setback. Attempts were made to purchase an abutting lot. DEP has approved the home location in relation to the septic. The lot is undersized with two front yards (corner) conditioned with receipt of a copy of the title to the Board once conveyed

Second: Russell Curving

Roll Call

Yes: Russell Curving, Frank Curcio, Michael Hensley, Daniel Jurkovic, Peter McGuinness, Arthur McQuaid

No:

Opposed:

The Board Attorney stated the application was approved. There would be a written Resolution at then next meeting and published in the newspaper. There is 45 day appeal period after publication. Appeals are filed in Passaic County Court.

II. APPROVAL OF INVOICES

Motion to Approve: Peter McGuinness

Second: Russell Curving

Roll Call

Yes: Russell Curving, Frank Curcio, Michael Hensley, Daniel Jurkovic, Arthur McQuaid, Peter McGuinness

III. APPROVAL OF MINUTES

July, 2024

Motion to Approve: Peter McGuinness

Second:

Eligible to vote: Russell Curving, ~~Michael DeJohn~~, Michael Hensley, Daniel Jurkovic, Peter McGuinness, ~~Stacy Ann Webb~~

Roll Call

Yes: Russell Curving, Frank Curcio, Daniel Jurkovic

Motion to adjourn 9:14 PM: Peter McGuinness

Second: Russell Curving

All were in favor



Respectfully Submitted,
Pamela Jordan, Secretary
Zoning Board of Adjustment

Approved September 24, 2024