

**TOWNSHIP OF WEST MILFORD  
ZONING BOARD OF ADJUSTMENT  
Re-Organization Meeting Minutes  
February 28, 2023**

7:30 p.m.

**MAIN MEETING ROOM OF TOWN HALL**

The meeting was called to order at 7:10 Pm

The Secretary read the legal notification.

**ROLL CALL**

**7:12 PM**

**Present:**

Michael DeJohn, Daniel Jurkovic, Frank Curcio, Russell Curving, Stacy-Ann Webb, Daniel Goodsir

**Also Present:**

Pamela Jordan, Board Secretary, Steven Glatt, Esq., Attorney, Patrick McClellan, Engineer, Kenneth Ochab, Planner

**Absent:**

Arthur McQuaid, PeterMcGuinness, Michael Hensley,

**Late:**

4 regular members present, Stacy-Ann Webb and Daniel Goodsir were appointed as voting members.

The Board Attorney advised Applicants there was a 6 member Board. Any Bulk Variance would require a majority ( 4 of 6 ) a tie would not be in favor of the applicant. A USE Variance requires enhanced proofs and a minimum of 5 votes of 6 for a favorable outcome. Each Applicant has the right to request an adjournment.

**I. MEMORIALIZATIONS**

**RESOLUTION 6-2023**

**ISRAEL KATZ**

**ZB 09-22-16**

**54 Old Lakeside Road South**

**Block 3406 Lot 12 R-1 Zone**

**Decided-** Bulk Variance for ( L ) Side Yard, Lot Coverage for the expansion and remodel of an existing dwelling and installation of an in ground pool.

**Eligible to vote:** Michael DeJohn, Michael Hensley, Daniel Jurkovic, Peter McGuinness Frank Curcio, Stacey Ann Webb, Daniel Goodsir

**A motion** to approved Resolution 6-2023 by Daniel Jurkovic and **second** by Stacy-Ann Webb

**Roll Call:**

**Yes:** Michael DeJohn, Daniel Jurkovic, Frank Curcio, Stacy-Ann Webb, Daniel Goodsir

**No:**

**Abstain:**

**Complete: 11/30/2022**

**Decided on: 01/24/2023**

**RESOLUTION 7-2023**

**COUNTRY COTTAGE, LLC**

**ZB 12-22-20**

**145 Macopin Road**

**Block 8401 Lot 1 R-2 Zone**

**APPROVED, Side yard setback,** Planted buffer, Buffer to side yard Buffer to residential use Distance to side line for a deck & **Use Variance** for the expansion of a non-conforming use for existing restaurant and parking area behind the building.

**A motion** to approved Resolution 7-2023 by Daniel Jurkovic and **second** by Stacy-Ann Webb

**Eligible to vote:** Michael DeJohn, Michael Hensley, Daniel Jurkovic, Peter McGuinness Frank Curcio, Stacey Ann Webb, Daniel Goodsir

**Roll Call:**

**Yes:** Michael DeJohn, Daniel Jurkovic, Frank Curcio, Stacy-Ann Webb, Daniel Goodsir

**No:**

**Abstain:**

**Complete: 12/29/2022**

**Decided on: 01/24/2023**

**I. NEW APPLICATIONS**

**GREG FITZGERALD**

**ZB 12-22-22**

**1892 Greenwood Lake Turnpike**

**Complete: 01/06/2023**

**Block 3705 Lot 7 Zone LR**  
**SEEKING**, Bulk Variance for a 6 foot fence in a front yard where 4 feet is permitted. **Deadline: 05/06/2023**

Greg Fitzgerald came forward stating his name and address, 1892 Greenwood Lake Turnpike. Mr. Fitzgerald desires to install a 6 foot fence on a retaining wall on the street side (front) and stated; The wall is setback approximately 18 feet from the road. A 4 foot fence is permitted. The retaining wall “goes 8 foot to 12 foot” and presents a liability and fall risk. There is a gas station across the street. The lights from the overhang are on, they shine in his windows. Drivers by park in the driveway to take pictures of the lake. The fence would provide privacy.

When questioned by the Board, Mr. Fitzgerald stated the reasons for the fence 1, for safety – the wall has an 8 foot to 12 foot drop. 2, block the lights from the gas station from shining in the windows from 6 am – 10 pm (dark hours) and 3, to keep trespassers off his property. No side fencing is proposed.

Mr. Fitzgerald described a tan vinyl fence (picture previously provided to the Board) is proposed. Responding to the Board Planner, evergreen trees are not proposed for lack of room and road entry and exit safety.

Mr. Fitzgerald brought forth pictures (previously provided to the Board members)

- Exhibit A1- side picture of the wall, no fence on the side. The fence is parallel to the road.
- Exhibit A2- wall picture taken from the side of the house showing wall heights
- Exhibit A3-lights from the gas station (across the street) shining on the house.
- Exhibit A4- taken from the gas station across Greenwood Lake Turnpike (the fence would go from “here to here”)The wall is below street level.
- Exhibit A5- how the fence is fastened
- Exhibit A6- Texture and design of fence

The Chairman opened the application to the public.

Mr. Rick Ashley, 14 Orange Road stepped to the microphone and was sworn in by the Board Attorney and stated; he lives across the street (on a diagonal) from the applicant. His grandparents came to West Milford in 1910. He is a community volunteer. The applicant should pull the shades down to avoid the light in his window. A four foot fence is standard. Mr. Ashley read his statement recapping some of West Milford history and dignitaries that have visited and reason for tourist coming to the lake. A four foot fence will allow for passersby, neighbors and himself to continue to view the lake. The view would be obstructed and he opines would be a detriment and against the township mission. He strongly opposes the approval of this application and ask the Board to consider his testimony. Mr. Ashley offered pictures as exhibits.

- Exhibit O1-1914 picture showing a view of the lake without an obstruction from his house
- Exhibit O2-1905-1920 original letterhead of the INN (his property)
- Exhibit o3-taken from Ashley property to the lake
- Exhibit o4- Taken from the gas station (left of Fitzgerald house) shows road railing
- Exhibit o5 (2 pictures) pictures of the lake from Ashley property, parking looks even with the road.
- Exhibit o6-same picture as exhibit o1
- Exhibit o7- taken from Ashley property view of like with parking and 2 car garage.

With no other members of the public, Daniel Jurkovic make a motion to close the public portion, second by Michael DeJohn.

**Yes:** Michael DeJohn, Russell Curving, Daniel Jurkovic, Frank Curcio, Stacy-Ann Webb, Daniel Goodsir

**No:**

**Abstain:**

Mr. Jurkovic stated there were 3 reasons provided by the applicant to approve this application. Safety, privacy and the light from the gas station. The light should be a zoning enforcement issue. He was unclear why a four foot fence would not address the needs of Mr. Fitzgerald. There are no Other 6 foot fences on this stretch of roadway. The Board member opines the 3 points raised supporting the application have not been met and may not be sufficient.

The neighbors Fitzgerald and Ashley have not met prior to this meeting.

Neighbors to the south of Mr. Fitzgerald have installed arborvitae trees. Mr. Fitzgerald stated; his property does not have adequate space to plant trees. Buildings and garages block the view along the road. The retaining wall is approximately 1 foot below the roadway. A four foot fence would be like having a 3 foot fence. The lights would not be blocked from the applicants windows.

Mr. Jacovic stated concern is for the community consistency. Comments about a view would not be for the Board.

The Board Attorney inquired if it was possible for Mr. Fitzgerald to go back to the fence company, consider finishing the retaining wall with added height, speak to the zoning official and gas station owner to address the bright lights. A Zoning Board decisions stays with the property and cannot be applied for again once denied.

Mr. Fitzgerald stated he would revisit options with the fence company. Mr. Fitzgerald will be out of town in March – the next available meeting date would be April 18, 2023 (proposed date)

Daniel Jurkovic made a motion to approve/change the April meeting date from April 25, 2023 to April 18, 2023, second by Stacy Ann Webb.

**Yes:** Michael DeJohn, Russell Curving, Daniel Jurkovic, Frank Curcio, Stacy-Ann Webb, Daniel Goodsir

**No:**

**Abstain:**

Stacy Ann Webb made a motion to carry **ZB 12-22-22**, GREG FITZGERALD to the April 18, 2023 meeting, second by Russell Curving.

**Yes:** Michael DeJohn, Russell Curving, Daniel Jurkovic, Frank Curcio, Stacy-Ann Webb, Daniel Goodsir

**No:**

**Abstain:**

Stacy Ann made a motion to adjourn the matter, second by Daniel Jurkovic.

**All were in favor**

The matter is adjourned, no additional notice is required unless there is an increase in the Variance. An Extension will be granted. The Applicant has not rested and has the right to provide Additional testimony.

#### **CANDICE SMITH & JOSEPH GAFFNEY**

**ZB 09-22-17**

**34 Rocky Point Road**

**Block 3512 Lot 11 Zone R-1**

**SEEKING, Bulk Variances;** for an addition / alteration to an existing dwelling and proposed new 280 sf garage.

**Side yard (right)** where 30 ft is required, 13.1 ft exists and 17 ft is proposed.

**Building lot coverage** where 10 % is required, 11.41% exists and 15.75% is proposed.

**ACCESSORY BUILDING**

**Front yard setback**, where 50 ft is required and 34 ft is proposed

**Side Yard setback**, where 15 ft is required and 5 ft is proposed

Joseph Gaffney came forward, stating his name and address. The Board Attorney swore Mr. Gaffney in. Mr. Gaffney stated he and co-applicant Candice Smith purchased the home at 34 Rocky Point in December 2020. The house is older and needs work. An addition is planned. This is currently a second home and will become the primary home. The variance is for the garage in the front of the house. There is not enough room on the side or back to place the garage. Facing the house from the street, the left side has a septic limiting the addition to the right side of the house. The addition is “off the back” where there is currently a deck. The back is lake side. It is not out of character for a garage to be on the road side in the lake community.

The Board Planner stated the addition triggers two variances for the primary structure,

- Side yard setback to the right (30 ft is required and 28 exists). The proposed porch (not screened or windowed in) is permitted on the side yard. The setback requirement for porches is half of 30 being 15 feet – this proposed porch does not require a variance at 17 ft. No variance for the porch, yes for the house.
- Lot coverage 11.4% exists, 15.7% proposed.

Existing conditions not changed by the application (existing non conformities) due to lot size in an LR zone;

- Lot area, frontage & depth.

The shape of the property is not rectangular. The “odd configuration” goes in and out on the right side generating the side yard variance.

The property line to the next house is approximately 70 ft or 80 ft. on the right side.

The Board Planner suggested that if the Board grants this variance a requirement be a hedge row of vegetation be planted along the property line to the right of the applicants existing driveway.

Mr. Gaffney presented pictures from his computer.

- Exhibit A1- Described as “The house” showing distance from the driveway to the road.
- Exhibit A2 Described as the side with shed and road

The Chairman opened the floor for comment.

Seeing no one Daniel Jurkovic **moved to close** the public portion, **second** by Russell Curving.

**Roll Call:**

**Yes:** Michael DeJohn, Daniel Jurkovic, Frank Curcio, Russell Curving, Stacy-Ann Webb,  
Daniel Goodsir

**No:**

**Abstain:**

The Board Planner stated if the Board votes to approve the Application, a hedge row from the front of the garage along the property line to the front of the house should be planted to soften the view.

Dan Jurkovic made a **motion** to approve ZB 09-22-17 for a 280 sq ft garage as described, subject to the hedge row recommendation from the Board Planner and **second** by Michael DeJohn.

**Yes:** Michael DeJohn, Daniel Jurkovic, Frank Curcio, Russell Curving, Stacy-Ann Webb,  
Daniel Goodsir

**No:**

**Abstain:**

The Board Attorney advised the Applicant of the procedure after this vote, advertising and the 45 day appeal period.

**8:33 PM The Chairman called for a 10 minute recess**

**8:48 PM The meeting was called to order**

**MICHAEL GOBLE**

**ZB 12-22-21**

**155 OAK RIDGE ROAD**

**Block 15901 Lot 11 Zone LMI**

**SEEKING, Use Variance** for the expansion of a pre-existing nonconforming residential home in the LMI zone.

Bulk Variance for **Lot frontage** where 300 ft is required and 0 exists, **Side yard setback** where 75 ft is required 6.02 & 16.48 exists and 9.6 & 16.48 is proposed, **Rear yard setback** where 75 ft is required 78.2 ft exists and 74.6 ft is proposed and possibly **impervious coverage and building coverage**.

**Complete: 02/14/2023**

**Deadline: 06/14/2023**

Mr. Goble was sworn in by the Board Attorney stating his name and address, 290 Morristown Road. Mr. Goble stated the following, he would like to rehab and add a small addition to the property for his son. The building is located behind Freedom Church with little/no road frontage. The current house is situated on the driveway/road on the left side of the building.

Mr. Ochab stated the Application is for an addition to a single family home. The home is located in the Industrial zone. The expansion of the non-conforming use triggers a USE Variance. Two Variances for the side yard (for the expansion) and an existing accessory building located approximately 5 feet from the rear yard and a rear yard setback from the property addition.

Mr. Goble was uncertain if the existing shed would remain on the property. There is a new septic proposed at the location.

The application was opened to the public.

Seeing no one Daniel Jurkovic moved to close the public portion, second by Stacy Ann Webb.

**Yes:** Michael DeJohn, Daniel Jurkovic, Frank Curcio, Russell Curving, Stacy-Ann Webb,  
Daniel Goodsir

**No:**

**Abstain:**

Daniel Jurkovic made a **motion** to approve ZB 12-22-21, 155 Oakridge Road for a USE Variance for the expansion of a pre-existing residential home in the LMI Zone and Bulk Variances, **second** by Stacy Ann Webb.

**Yes:** Michael DeJohn, Daniel Jurkovic, Frank Curcio, Russell Curving, Stacy-Ann Webb,  
Daniel Goodsir

**No:**

**Abstain:**

The Board Attorney advised the Applicant of the Resolution and 45 day appeal period to follow.

**ANNUAL REPORT**

The Board reviewed and discussed the annual report prepared by the Board Planner, Mr. Ochab.

This report is required to submit to the Governing Body. The report is a recap of Variances. Recommendations to the Council and Planning Board would be to address lake communities with garages in the “front” of the property/road side and a carry over from last year that would require wireless applicants, if possible, to pursue township property first. A brief discussion took place with pros and cons of the suggestion.

A **motion** was made by Russell Curving to approve the Annual Report, **second** by Michael DeJohn.

**All were in favor**

Russell Curving declined the appointment of Vice Chair. The chairman suggested postponing The appointment of a Vice chair until a full Board was present.

**All were in favor**

The Board Attorney stated Board members could access the cannabis ordinance Chapter 500 – 191 and Ordinance 2022-30 to become familiar with the content.

Russell Curving made a motion to approve professional invoices, second by Stacy Ann Webb.

**All were in favor**

Russell Curing made a **motion** to approved January 23, 2023 minutes, **second** by Stacy Ann Webb

**Yes:** Michael DeJohn, Daniel Jurkovic, Frank Curcio, Russell Curving, Stacy-Ann Webb,  
Daniel Goodsir


**No:**

**Abstain:**

Russell Curving made a motion to adjourn, second by Stacy Ann Webb.

**All were in favor**

9:17 PM

  
Respectfully Submitted,  
Pamela Jordan, Secretary  
Zoning Board of Adjustment

Approved March 28, 2023