

**TOWNSHIP OF WEST MILFORD (2)**  
**ZONING BOARD OF ADJUSTMENT**  
**Regular Meeting Minutes**  
**April 23, 2024**  
**7:00 p.m.**  
**MAIN MEETING ROOM OF TOWN HALL**

The meeting was called to order at 7:08 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:* Michael DeJohn, Michael Hensley, Daniel Jurkovic, Arthur McQuaid, Daniel Goodsir  
*Chairman:* Frank Curcio  
*Secretary:* Pamela Jordan  
*Absent:* Russell Curving, Peter McGuinness, Stacy-Ann Webb  
*Also Present:* Stephen Glatt, Esq., Kenneth Ochab, Kenneth Ochab Assoc., LLC  
Patrick D. McClellan, P.E., MCB Engineering

Alternate Daniel Goodsir was appointed voting member for this meeting.

The Board Chairman greeted the Board and went over the introduction and guidelines the Board follows.

The Chairman stated the Board had a total of six members, appointing Daniel Goodsir as a voting member.

The Board Attorney explained to the all in attendance the if there was a tie an approval would not be granted. A majority vote must be received to be successful. The Applicant has the right to request an adjournment until the next month when 7seven members should be present.

No Applicants chose to request an adjournment at this time.

The Chairman made a standard procedural statement and greeted all in attendance.

**I. MEMORIALIZATIONS**

**RESOLUTION 09-2024**

**ZB-11-23-21**

EAST FIFTY-FOUR, LLC.

9, 15 & 17 Cross Road

Block 15508 Lot(s) 5, 6 & 10 HC Zone

**RESOLUTION WAS NOT READY**

**Complete:** January 30, 2024

**Decided:** March 26, 2024

**RESOLUTION 10-2024**

**ZB-11-23-22**

Mark Roeloffs

86 Point Breeze Drive

Block 2602 Lot 8 LR Zone

**Complete:** February 26, 2024

**Decided:** March 26, 2024

**APPROVED**

**BULK Variance**

- Side yard setback, 30 ft required 7.46 ft approved for an addition to an existing dwelling.

**Eligible to vote:** Russell Curving, Frank Curcio, Michael Hensley, Daniel Jurkovic, Peter McGuinness, Arthur McQuaid, Daniel Goodsir

**Motion to approve:** Daniel Jurkovic

**Second:** Michael Hensley

**Roll Call**

**Yes:** Frank Curcio, Michel Hensely, Daniel Jurkovic, Arthur McQuaid, Daniel Goodsir

**RESOLUTION 11-2024**

**ZB-02-24-03**

Wayne Rowe

22 Vreeland Road

Block 9001 Lot 19 R2 Zone

**Complete:** March 8, 2024

**Decided:** March 26, 2024

**APPROVED**

**BULK Variance**

- Side yard setback (left)- 40 ft required, 13.9 approved for the construction of a garage addition with a bedroom to the existing dwelling.

**Eligible to vote:** Russell Curving, Frank Curcio, Michael Hensley, Daniel Jurkovic, Peter McGuinness, Arthur McQuaid, Daniel Goodsir

**Motion to approve:** Daniel Jurkovic

**Second:** Arthur McQuaid

**Roll Call**

**Yes:** Frank Curcio, Michel Hensely, Daniel Jurkovic, Arthur McQuaid, Daniel Goodsir

**NEW APPLICATIONS**

**Matthew Russo**

Application ZB-02-24-06

11 Rutgers Ave

**Block 6502 Lot 13 R1 Zone**

**Complete:** March 27, 2024

**Deadline:** July 25, 2024

**SEEKING Bulk Variances** to construct a 14' x 22' 8" garage addition to an existing garage.

- Front yard setback 50 ft required, 40.3 exists, 26 ft proposed
- Side yard setback 30 ft required, 15 ft proposed
- Building coverage 10% permitted, 13.1% proposed

Mr. Russo was sworn in by the Board Attorney. He resides at 11 Rutgers Road. Mr. Russo stated he understood the explanation from Board Attorney regarding the 6 member and voting for a Bulk Variance this evening.

Mr. Russo stated he would like to build a 14 ft x 20 ft. attached single car garage addition. The garage size would exceed the permitted lot coverage and trigger a side yard setback and front yard setback. The existing structure currently exceeds front and side yard setbacks. . The current side yard setback will not change. Lot coverage will increase 2%.

The lot is pie shaped and located on a bend in the road with two side yards and a front yard. The location of the proposed garage is restricted. There is no rear yard due to the shape of the property. The applicant's property is the only one on Rutgers that does not have a two car garage. The septic is located on the west side of the house. The purpose of the addition would add to the aesthetic appeal and accommodate the needs of the family.

The Board Planner stated Mr. Russo provided revised plans after his report was complete.

Mr. Russo stated he has met with the West Milford Health Department and the survey on record shows the well at a satisfactory distance from the proposed addition.

The Board Engineer stated he didn't feel a lot development plan would be needed based on the size of the project. A condition of approval could be made if the Engineering Department requires one.

The Environmental Commission suggested gutters. Mr. Russo stated he intends to add gutters and leaders. The grade of the property (slopes down) would not likely cause any runoff water to enter neighboring yard.

The Board Engineer suggested not making a seepage pit a requirements as they have setback requirements from the well and septic – it may not be physically possible. The amount of runoff would not likely affect any neighbors. Rain barrels can be a maintenance issue. The change to the rainfall is d' minimus.

The existing garage peak is taller than the proposed addition.

The Board Planner added, an attached garage becomes part of the principal structure dimensions changing the setback and lot coverage requirements to be greater than a detached (accessory) building.

The Chairman opened the Application to the public.

**Seeing no one,** Daniel Jurkovic, moved to close the public portion

**Second:** Michael Hensley

**Roll Call**

**Yes:** Frank Curcio, Michael DeJohn, Michel Hensely, Daniel Jurkovic, Arthur McQuaid, Daniel Goodsir

**Motion to approve** Application ZB-02-24-06, for an attached two car garage by Arthur McQuaid. .

**Second:** Daniel Goodsir

**Yes:** Frank Curcio, Michael DeJohn, Michel Hensely, Daniel Jurkovic, Arthur McQuaid, Daniel Goodsir

The Board Attorney stated the Resolution should be ready for memorialization and the matter advertised. There is a forty-five day appeal period after the publication. The Applicant should consider the appeal period.

**Alexander Bernardi**

Application ZB-01-24-01

4 Clubhouse Trail

**Block 504 Lot 1 LR Zone**

**SEEKING Bulk Variances** to construct a two-story, two bedroom, two car garage and to improve Clubhouse Trail to 25 ft in width up to the driveway entrance to the property.

- Lot width 120 ft required, 52.8 ft proposed
- Lot frontage 120 ft required, 74 ft proposed
- Lot depth 150 ft required, 73.7 ft proposed
- Front yard setback 150 ft required, 24.7 ft proposed
- Side yard setback (left) 30 ft required, 25.7 ft proposed
- Rear yard setback 60 ft required, 25.1 ft proposed

Mr. Bernardi and James P. Mauer from L2A Land Design, Engineer for the Applicant were sworn in by the Board Attorney. Mr. Mauer stated he is a Professional Engineer in NJ and NY, practicing for 13 years and has been qualified as an expert and

Mr. Bernardi stated he is here for a variance. The property is vacant property. He has owned the property for 3 years.

James Mauer, Engineer presented a smaller version of the originally submitted plans.

EXHIBIT A1- April 23, 2024

The Application is for a single family residence proposed on a vacant lot.

Mr. Mauer stated he and the Applicant were aware the property had history with prior zoning challenges and environmental constraints.

An OPRA request produced a prior treatment works approval.

The flood hazard permit has been obtained. A copy of the approval has been provided to the Board Secretary.

The C- Variance requested are for lot width, lot frontage, lot depth, front yard setback, side yard setback (left) and rear yard setback.

The lot is uniquely shaped with constraints due to the flood hazard area line and the location of the neighbors septic. The northerly and southerly property lines are in the water.

Lot frontage is on Clubhouse Trail- a paper street and public right of way.

Variances relief being sought:

- Lot width 120 ft required, 52.8 ft proposed
- Lot frontage 120 ft required, 74 ft proposed
- Lot depth 150 ft required, 73.7 ft proposed
- Front yard setback 40 ft required, 24.7 ft proposed
- Side yard setback (left) 30 ft required, 25.7 ft proposed
- Rear yard setback 60 ft required, 25.1 ft proposed

Referencing Sheet A 201 –

2 story structure

Approximately 1000 ground square footage

Second floor – 2 bedrooms, office, bathroom and closet

Basement – garage

Roof Plan – limits of the deck and front porch

The house was designed around constraints of the property.

There is water on both sides of the property

The Applicant would like to build a paved road in the right of way. There is a small stone wall in the right of way – to be removed for access to the property. The applicant is willing to work with the neighbor to reconstruct something in its place, gratuitously.

The Board Engineer stated the survey indicated the right of way is public, presumed to be a municipal road.

Mr. Bernardi represented he spoke with a township Engineer about the road improvements.

The Environmental Commission stated concern of excessive tree removal in a memo. Mr. Mauer stated, on the west side (middle of the peninsula) is the location of the proposed well. Trenching from the well to the house resulted in the removal of 10 – 15 trees. The removal of the trees is shown on the plans to the DEP and approved. A mitigation plan is not required when disturbance is kept under ¼ acre.

The Board Planner stated the criteria for approval are the hardship and improvements to the property will be beneficial to the neighborhood and community. The Applicant has testified the shape of the property is a hardship. The site is unique and care should be taken to prevent disturbance to the lake and the neighbors.

Mr. Mauer responding, referenced Sheet C05 – Soil Erosion and Sediment Control Plan. Stating the Plan has been approved by Hudson, Essex, Passaic Soil Conservation District. Proposed on the Plan  
Silt fence stabilizing construction entrance  
Limited work hours  
Dust control  
Soil decompaction testing

The Board Planner was satisfied with testimony from the Applicants Engineer.

The Board Engineer stated disturbance has been kept to under 7000 square feet and it is his understanding that no mitigation plan is required. The permit from HEPSD mentions mitigation – though he opined it was not necessary at all or to the degree mentioned and a conversation with the DEP may be necessary.

The existing evergreen trees shown on the plans are located on the applicant's property, planted by a neighbor are intended to stay.

A variance of this size would go before the Engineering Department. Details to the roadway plan would be provided in a lot development plan to include the site and roadway. Mr. McClellan advised the Board if the application was approved this should be a condition of approval in the resolution. The approval to move forward is approved by this board, details how to expand the road comes from the West Milford Engineering Department.

The Chairman opened the meeting to the public in accordance with the open public meetings act.

Christopher Regula was sworn in by the Board Attorney. Mr. Regula stated he was appearing on behalf of his brother who resides at 19 Island Trail, located adjacent to the proposed road. The garage side is on the "other side of Clubhouse Trail" on the corner. Mr. Regula stated he is personally familiar with the property.

The Board Attorney suggested Mr. Regula speak with Mr. Bernardi about his concerns.

The Chairman called for a brief break.

Returning at 8:19 PM

The Board Attorney addressed Mr. Regula asking if his concerns had been satisfied by Mr. Bernardi during a discussion.

Mr. Regula addressed the Board stating three concerns.

\*Vehicular access to the waterfront.

During a conversation with Mr. Bernardi, Mr. Regula shared that Mr. Bernardi stated the change in grade would not be so dramatic to prevent access by Mr. Regulas brother.

\*An existing fence on the property line and extends over the property line.

During a conversation with Mr. Bernardi, Mr. Regula shared that Mr. Bernardi stated he would work with the neighbor (Mr. Regula's brother)

The Board Attorney indicated the statement could be made and documented, however encroachment of any kind is left to the parties and not condoned by the Board.

\*Demolishing of an existing rock – appearing as a retaining wall.

During a conversation with Mr. Bernardi, Mr. Regula shared that Mr. Bernardi stated a new wall would be placed closer to the garage.

It is the opinion of the Board Attorney and Board Engineer the widening of the road falls under the purview of the Township Engineer.

In a recommendation to the Board from the Board Attorney, if the Board votes favorably on this Application it be subject to the approval of the Township Engineer not this Board.

Mr. Bernardi stated under oath he heard the statement from Mr. Regula and the Board Attorneys comments, his understanding of the agreement and is satisfied.

The Board Engineer stated the improvement of Clubhouse Trail triggers two administrative actions.

\*This Board must acknowledge the extension of the public roadway as part of the approval, if they agree with it.

\*What the extension looks like is under the function of the Township Engineer. They have the authority to construct the road consistent with residential site improvement standards because it is a public roadway serving residential properties. He offered this portion of the road was a "glorified driveway" and did not *think* the Township Engineer would enforce this. The final say should be up to the Town Engineer by way of lot development plan application for the onsite and offsite road extension.

**Seeing no one** wishing to speak further, Daniel Jurkovic moved to close the public portion  
**Second:** Michael Hensley  
**All** were in favor

**Motion to Approve** by Daniel Jurkovic, stating the property is unique in shape and small in size. The property was subdivided and intended to be a buildable lot before current code. The variances requested don't appear to be of great impact on neighboring property. The motion incorporates the language pertaining to the roadway improvements by the Board Engineer and incorporates the discussion with Mr. Regula and addressing the waterfront access, fence and rock wall.

**Second:** Arthur McQuaid

**Roll Call:** Frank Curcio, Michael DeJohn, Michael Hensley, Daniel Jurkovic, Arthur McQuaid, Daniel Goodsir.

The Board Attorney explain to the Applicant the Resolution should be ready at the next meeting for Memorialization, the forty five day appeal period and risk of beginning work before that time.

**Mark Mossey**  
Application ZB-01-24-04  
22 Dan Jennings Road

**Complete:** April 5, 2024  
**Deadline:** August 3, 2024

**Block 06504 Lot 6 R4 Zone**

**SEEKING Bulk Variances** to add a second floor addition

- Side yard setback 60 ft required, 25.1 exists, 23.1 proposed
- Side yard setback 60 ft required, 21.5 exists, 19.5 proposed

Mr. Mark Mossey Jr. was sworn in by the Board Attorney. Mr. Mossey stated, He lives at 22 Dan Jennings Road.

It was determined the setback listed on the Application and Agenda were correct at 60 ft. The Planners Report should reflect the change to 60 ft – changed from published 30 ft.

Mr. Mossey stated he has plans to build a second floor addition that include a 2 ft cantilever on each side.

The second floor system is proposed to go out two feet on each side and straight up.

The shape of the property is very narrow measuring 76 ft wide.

The existing house setbacks exceed current code as is.

The house is surrounded on 3 sides by Newark Watershed.

A neighbor to the *right* is almost 200 ft away.

Referencing a memo from the West Milford Health Department, a discrepancy in the number of bedrooms was mentioned. Mr. Mossey stated he bought the house in 2022 as a 3 bedroom house dating back to 1986. He is aware of the memo from the Health Department.

One first floor bedroom is proposed to be removed to open the first floor. One bedroom is to remain on the first floor. The second floor proposes two additional bedrooms, keeping the home three bedrooms.

The Board Engineer stated he did not have concerns with the application and did not write a report. The second floor does not impact the setbacks to the septic system. The new office does not show a closet or indicate it will become a bedroom.

Further referencing the Health Department Memo – The Board Engineer offered, This construction would not fall under "*Substantial improvement*". Defined as an improvement to a structure that increases the construction cost of the improvement is in excess of 50% of the market value of the dwelling. The construction department may provide a letter stating such.

Board members have seen similar construction projects. There are no impacts on well setbacks.

Mr. Ochab stated the application was straight forward and he did not have issue. Considering MLUL, the Board Planner stated there is not substantial detriment to the public or there would be any substantial impact at two feet in each direction on the second floor. The lot is extremely narrow.

**The Chairman opened the meeting** to the public in accordance with the open public meetings act

**Seeing no one** wishing to speak Daniel Jurkovic moved to close the public portion

**Second:** Daniel Goodsir

All were in favor

**Motion to Approve ZB-01-24-04:** Michael Hensley

To include testimony provided by the Board Professionals, stating the construction style fits in with the surroundings, neighbors will not be disturbed and the family will benefit the applicant in home value and quality of life. The existing house is unable to conform to zoning standards to the constraints of the property.

**Second:** Arthur McQuaid

**Roll Call:** Frank Curcio, Michael DeJohn, Michael Hensley, Daniel Jurkovic, Arthur McQuaid, Daniel Goodsir.

The Board Attorney explain to the Applicant the Resolution should be ready at the next meeting for Memorialization, the forty five day appeal period and risk of beginning work before that time.

### DISCUSSION

The Board and Professionals discussed a conflict for the June 2024 meeting.

**Motion** to cancel the Zoning Board of Adjustment meeting by Arthur McQuaid

**Second:** Arthur McQuaid

**Roll Call:** Frank Curcio, Michael DeJohn, Michael Hensley, Daniel Jurkovic, Arthur McQuaid, Daniel Goodsir.

### INVOICES

**Motion to approve** Professional invoices by Daniel Jurkovic

**Second:** Michael Hensley

**Roll Call:** Frank Curcio, Michael DeJohn, Michael Hensley, Daniel Jurkovic, Arthur McQuaid, Daniel Goodsir.

### MINUTES

**Motion to approve** March 27, 2024 meeting Minutes

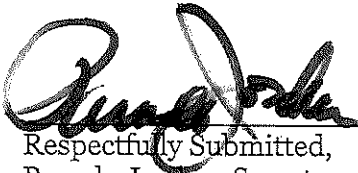
**Second:** Daniel Jurkovic

**Roll Call:** Frank Curcio, Michael DeJohn, Michael Hensley, Daniel Jurkovic, Arthur McQuaid, Daniel Goodsir

**Motion to adjourn:** Michael Hensley

**Second:** Daniel Jurkovic

**All were in favor 8:53 PM**

  
Respectfully Submitted,  
Pamela Jordan, Secretary  
Zoning Board of Adjustment

Approved May 28, 2024

**Eligible to vote:** Frank Curcio, Michael DeJohn, ~~Michael Hensley~~, Daniel Jurkovic, Arthur McQuaid, ~~Daniel Goodsir~~