

**TOWNSHIP OF WEST MILFORD
ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
November 28, 2023
7:00 p.m.
MAIN MEETING ROOM OF TOWN HALL**

The meeting was called to order at 7:07 PM

The Secretary read the legal notification.

The Pledge of Allegiance was recited

ROLL CALL

7:08 PM

Present: Michael DeJohn Arthur McQuaid, Michael Hensley, Daniel Jurkovic, Frank Curcio, Russell Curving, Peter McGuinness, Daniel Goodsir
Also Present: Pamela Jordan, Board Secretary, Stephen Glatt, Esq., Attorney, Patrick McClellan, Engineer, Kenneth Ochab, Planner
Absent: Stacy-Ann Webb
Late:

The Chairman greeted the Board and the public stating there was a 7 member Board.

The Chairman addressed the public, 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 that is posted on the township website and posted on the bulletin board in town hall. Meetings are advertised in the Herald News. There are no new applications after 10:00 pm and no new testimony after 10:30 pm. After the applicant speaks, anyone can speak for or against that application. Appeals of this Board go directly to the Superior Court of the State of New Jersey.

I. MEMORIALIZATIONS

RESOLUTION 20-2023

ZB 06-23-14

Marc & Tara Lenoir

583 Snake Den Road

Block 11101 Lot 23.02 Zone R-4

APPROVED, BULK Variance

Side yard setback – 60' is required, 22' is proposed to construct a 498 square foot garage addition to the existing garage for antique car storage and walk up storage.

Eligible to vote: Michael DeJohn, Frank Curcio, Russell Curving, Peter McGuinness, Arthur McQuaid, Stacy-Ann Webb, Daniel Goodsir

Motion: Arthur McQuaid

Second: Peter McGuinness

Roll Call: Michael DeJohn, Frank Curcio, Russell Curving, Peter McGuinness, Arthur McQuaid, Daniel Goodsir

Complete: August 24, 2023
Decided: October 24, 2023

II. CARRIED APPLICATIONS

ZB 04-23-08

Hagop Kiledjian

71 Fairview Drive

Block 1802 Lot 5 Zone LR

SEEKING BULK VARIANCE

Side Yard Setback, 10 feet required, 0 proposed

Distance from other building, 15 feet required, 7 proposed

Front Yard Setback, 40 feet is required, 14.6 proposed

Accessory Building Coverage 3% required, 4.8% proposed

For an accessory garage in the front yard constructed without a permit.

Complete: June 14, 2023
Deadline: January 10, 2023

Krikor Kiledjian of Bergenfield NJ and Hagob Kiledjian of West Milford NJ stepped forward and were both sworn in by the Board Attorney. Krikor, son of Hagob Kiledjian stated He submitted an updated survey to the Board Secretary two days after the last Board meeting. The garage does not interfere with the septic. From the initial part of the septic system (UV Filter) is a minimum of 3 to 4 feet away. Access to the septic is not blocked and has been serviced with no issue.

The Board Engineer stated the closest corner to the front ROW line is 1.68 feet. The garage is about 2 feet from the front property line outside the ROW, located on the Applicants property and does not interfere with the line of sight.

The garage is located completely on the macadam.

Mr. Krikor Kiledjian stated he did not find any information in the Bergen County pertaining to an accessory structure needing a fire wall. He seeks clarification for an unattached structure needing a fire wall. He has attempted to discuss the need for the fire wall and architectural plans with the construction office. The location of the garage allows for space for another vehicle to park. The garage replaced a temporary, *pop-up*, carport.

The Chairman opened the meeting to the public.

Seeing no one Peter McGuinness moved to close

Second: Arthur McQuaid

Discussion- Wanting the building for weather protection and ease of snow removal is understandable.

Any approval granted would be conditioned on compliance with the Construction officials request for fire rated wall and architectural plans. Krakor Kiledjian acknowledged, stating he understood. Further stating he has attempted to contact the Construction official for clarification on the need for a fire wall and the need for architectural plans to proceed. The West Milford Health Department comment memo would be part of any Board approval with the understanding conditions be satisfied between each department. Should a problem with resolving the imposed conditions arise relating to a zoning issue, the matter would come back to this Board for clarification. Mr. Krakor Kiledjian stated he "understood".

Further, the Applicant provided testimony that a prior structure was in the same location as the subject garage. Constraints of the property limit options for placement. The garage is clear from the septic field. Health department comments are to be satisfied. The line of site should be clear. Construction official requirements are to be met. The application is a pre-existing condition being upgraded and improved.

Motion to Approve: Daniel Jurkovic

Second: Arthur McQuaid stating no neighbors appeared to object

Roll Call: Michael DeJohn, Michael Hensley, Daniel Jurkovic, Frank Curcio, Russell Curving, Peter McGuinness, Arthur McQuaid.

The Board Attorney stated the Application was approved. The Resolution should be available for memorialization at the next Zoning Board meeting. The notice of decision will be published in the newspaper within 1 – 2 days. Once published there is a 45 day appeal period.

ZB 06-23-13

Patrick Zedzian

2 Durant Road

Block 3601 Lot 8 Zone R-1

SEEKING USE Variance for an existing pole barn were no principal structure exists.

SEEKING BULK Variance(s) for an oversized existing pole barn where 800 sq. ft. is permitted, 975 sq. ft. exists, 2 sheds up to 100 sq. ft. each and an existing shipping container, 200 sq. ft. is permitted.

Mr. Zedzian would like to keep the existing structures on the property while the principal structure is being constructed. The shipping container and pole barn are existing. Mr. Zedzian would like to add two 100 sq. ft sheds for equipment.

Patrick Zedzian was sworn in by the Board Attorney and stated;
The sheds are not constructed and will be moveable. The proposed location is on the property for the time being. If approved the sheds will stay in place. The shipping container will "*most likely*" be removed once the home is constructed.

Mr. Zedzian previously submitted an updated survey of the property with existing and proposed conditions. The Engineer for the Applicant has submitted plans to the state for review.

Vehicles have been removed from the site. The excavator and equipment are in use and on the property.

The Board Engineer explained the proposed dwelling is not part of this Application If an approval is granted by this board it would include approval of the lot development plan and septic design.

Mr. Zedzian agreed the proposed new 10 x 20 shed could be moved 5 additional feet meeting the side yard setback requirement of 15 feet. The proposed sheds will be moveable. This side yard variance can be eliminated.

Mr. Zedzian stated his engineer indicated another 6 – 8 months for the DEP to respond regarding the house construction. Architectural plans need to be revised to meet NJ state code.

The Board Engineer opined the Board could proceed with the matter. The conditions are pre-existing. The current application does not include the house.

The Board Attorney stated everything is conditioned on the final approval and advised Mr. Zedzian if the proceeds to hear the matter. Mr. Zedzian stated he understood the conditions and that he may be called up to move certain structures.

The Board Planner stated, accessory structures exist on a site without a principle structure. The Board may approve the variance for the accessory structures based on the approval for the principle structure. There would be no assurance when or if the principle structure would be constructed. A suggestion to impose a timeframe to start the principal structure was made if the Board chose to proceed.

Board members discussed if the applicants reason for a variance were zoning. A principal structure is generally first and accessory structures are added. A concern was approving accessory structures without knowing about the principal structure yet. The Applicant does not have control over DEP decisions to move forward.

The Applicant is working concurrently for approval for the principal dwelling and the accessory structures. Mr. Zedzian stated the accessory structures uses are important to preparing for the principal use. The DEP could be unfavorable to the current design, there are other options / designs that can be done.

The Board Engineer stated he understood the strategy to work concurrently for the approvals, however, any approval from this Board condition should be no permits to build the proposed sheds should be granted until the DEP approved the primary structure and health department approvals are given. The shed approval is required because no principal structure exists. Withholding the permits gives the Board insurance and the ability to monitor process.

The Applicant stated the sheds would be for storing equipment and material. The pole barn does not have walls.

The Board Planner approached the matter by stating, an approval could be granted for the accessory buildings, with a timeline of 1 year to begin construction on the principal structure. If construction has not started, the Applicant would come back to the Board with explanations. If construction has started the matter may be closed. Longer than 1 year without movement the Board could take action.

Discussion continued weighing in on if the Applicant should be granted approval of the proposed sheds and pole barn while the DEP permits were in process. The property is large. Allowing the Applicant one year to begin construction would provide time for all approvals to be in place.

The Board discussed hearing the matter at another date or proceed with the application. Previous violations for the pole barn have been resolved in court. Mr. Zedzian followed the courts direction to file for zoning permits.

Motion to proceed with the Application by Peter McGuinness

Second: Russell Curving

Roll Call: Michael DeJohn, Michael Hensley, Daniel Jurkovic, Frank Curcio, Russell Curving, Peter McGuinness, Arthur McQuaid.

The Board Planner stated he was satisfied with the Report he submitted.

Mr. Zedzian stated the plan for the accessory structures are to collect equipment and materials to build a single dwelling home. A zoning permit has been approved by the Township Zoning Department for the house. The DEP permits have been filed, not yet approved. The size of the property is approximately 7 acres.

A USE Variance is necessary for the existing oversized accessory pole barn, without the dwelling. When the house is approved the pole barn will be accessory with a dwelling.

BULK Variance(s) required for the Oversized pole barn 800 sq. ft. is permitted, 975 sq. ft. exists. Two sheds up to 100 sq. foot sheds for tools and materials that can be locked and safe from the environment. Shipping Container.

The intent of the sheds is to remove the sheds when the house is complete. If it is determined the sheds are necessary and desired, the applicant would return for approval to keep them. The sheds will not have a slab or foundation. The sheds will be moveable.

The existing shipping container is currently keeping stored items from the weather. The container is not large enough for the Applicant's needs. The container has been painted brown and green. It is the intent to remove the container when the house is built. If the container is desired after the house is built the applicant would return for approval.

A dwelling is approved with the zoning department. If the size or location changes the Applicant is to return to the Zoning Department for approval.

Mr. Zedzian agrees to move the shed 5 feet, totaling 15 ft from the side yard.

The Board Engineer stated he does not have issue with the Board granting an approval provided conditions are imposed the construction has been started within a certain period of time.

The Chairman opened the Application to the public.

Seeing no one Peter McGuinness moved to close the public portion

Second: Arthur McQuaid

Discussion

The size of the property (7 acres) with an existing pole barn. The applicant is cooperative and agrees to remove the container after the house is built. Enforcement could be difficult if the Applicant does not comply with the conditions. There is not a zoning reason to not follow the process.

Two separate motions are needed.

USE VARIANCE & BULK VARIANCE Motion by Arthur McQuaid to approve the pre-existing, non-conforming oversized pole barn. The barn was in place when the property was purchased creating a pre-existing nonconforming use. The size of the land supports allowing it to stay. Based on 1 year review after the resolution. The building of the home has been started or return to the Board for a possible denial.

Second: Peter McQuinness

Roll Call: Michael DeJohn, Michael Hensley, Frank Curcio, Russell Curving, Peter McGuinness, Arthur McQuaid

No: Daniel Jurkovic

BULK VARIANCE Motion by Peter McGuinness to Approve 2 sheds up to 100 square ft each, existing shipping container (less than 200 square feet until such time that a house is erected). The sheds shall be 15 feet off the property line. The sheds and containers are to be removed when construction is complete on the house subject to the Applicant being entitled to return to the Board and or resolve. The Applicant shall receive construction approval within one year from the resolution date.

Second: Arthur McQuaid

Roll Call: Michael DeJohn, Michael Hensley, Frank Curcio, Russell Curving, Peter McGuinness, Arthur McQuaid

No: Daniel Jurkovic

The Board Attorney stated the Application was approved. The Resolution should be available for memorialization at the next Zoning Board meeting. The notice of decision will be published in the newspaper within 1 – 2 days. Once published there is a 45 day appeal period.

8:17 PM The Board took a 10 minute recess

8:32 Returned

III. NEW APPLICATIONS

ZB 09-23-06

BATTINELLI FAMILY FARM LLC

1566 Union Valley Road

Block 6401 Lot 7 Zone CC, R2

SEEKING

USE (d) Variance for proposed development to include:

1800 sq foot bakery/creamery building

2400 sq. foot gift shop

2970 sq. foot tap room/wine tasting pavilion with patio

960 sq. foot produce stand building

1728 sq. foot equipment shed building

9216 sq. foot petting barn building

Complete: November 6, 2023

Deadline: March 5, 2024

On-site parking for 56 paved spaces and 76 grass overflow parking spaces
Attorney for the Applicant, Mr. Robert Moshman stepped forward. Mr. Moshman called David Newkirk, Professional Engineer for the Applicant.

Mr. David Newkirk from EIC Group, located at 420 Rt. 46 in Fairfield, NJ. He stated he is a licensed professional engineer in NJ. He has been licensed for 34+ years. He has a Bachelor's of Science in Civil Engineering from NJIT. He is a founding partner and member of the EIC Group. He prepared the plans to be presented himself. He has testified before many boards in NJ including this board. Mr. Newkirk was accepted as a Professional Engineer.

Stating, the site located at 1566 Union Valley Road is 40.27 acres in size. The property has 550 feet of frontage along Union Valley Road. The property is "significant" in size, 2400 feet, almost a half mile deep. The high point is located adjacent to the post office sloping from the South to North. Land six hundred feet back from Union Valley Road is in the Highland area sloping (pointing to the plan) from this area to this area. About 600 feet back, the property slopes to the East dropping about 10 feet. Beyond the drop, terrain is flat, low and wet with probable wetlands and other encumbrances. Flood hazard is now 3 feet above the 100 year flood. The back (half up to 2/3 of the plot is within new DEP NJ flood hazard zone. The property is bifurcated through the middle with a stream coming from what was West Milford Lake running across, dumping into Belchers creek. Fifty two (52%) of the property is located in the CC zone, the remaining property in the back is located in the R2 zone. Adjoining land adjacent to the CC zone land on the parcel- is CC zone, mostly commercial development with a single residence located in the CC zone. Behind the stream is BOE property, Senior housing and township owned property in the R2 zone. Adelaide Lane is in the R1 zone. Pinecliff Lake is across the street in the LR zone. Approximately 1% (or 17,500 sq. feet) of this property is impervious- comprised of existing development, buildings, old foundations and a gravel driveway. The existing use is agriculture and has been for its history. Hay is produced in fields behind the stream and fields close to Union Valley Road. Existing barns are used to store hay. Agriculture and Farm use is not permitted in the CC zone. The R2 zone allows Farm and Agriculture. The Variance is for USE in the CC zone.

Mr. Newkirk continued testimony referencing photographs.

1. Looking toward Pinecliff Lake. The picture shows land in the CC zone only.
2. Hay production in the "front field".

The proposed use is to remain primarily as agriculture. The purpose of the project is to continue and expand the agriculture use of the property. The project includes a family friendly entertainment venue, agriculture environmental education along with commercial development to help to make the farm financially viable.

Total proposed development is approximately 6.9 acres – 3 of which will be agriculture, 3.9 will be commercial. Agricultural use, barns, farm stand and like are exempt from Highlands regulations allowing farming in the wetlands to continue.

The agricultural development includes a 48' x 192' main barn with 6 exterior stalls along the side for a petting zoo and a few small animals and rescue animals. Mr. Newkirk described the area for primarily agriculture / planting, not animal husbandry. The barn will be primarily be used for machine repair and storage of agricultural products.

Behind the barn is a proposed paved service area with access from Jersey Ave. An easement across lot 10 will allow to separate the service traffic from customer entry from Union Valley Road. The barn is away from the residential area.

Described as a 20' x 40' farm stand/produce building with an additional 8' x 40' covered area in the front. Produce from the farm and outside the farm will be sold there. Parking is proposed on both sides.

Described as a 24' x 40' equipment shed has 6 interior enclosed bays and 6 open roofed bays for farm equipment storage.

Described as an 80' x 180' x 5' deep (at the most) pond providing an aquatic environment that will hold approximately an acre of water. The pond is part of the storm water management system and will provide fire protection for the barn. The pond will have a hose in it should the fire department need it for fire protection. The pond may provide water for irrigation if needed. The pond will be fully fenced.

Mr. Newkirk further stated the agricultural development consists of approximately 14,000 square feet of buildings, 20,000 square feet of pavement representing about 2% of impervious coverage for the entire property.

Commercial development – across the front. Mr. Newkirk referenced a blow up picture along Union Valley Road.

EXHIBIT A1 – Color blow up of the front portion of the property

The site plans developed as a commercial and agricultural development were designed to be as low impact as possible. The Applicants would like a farm and have the development remain with the appearance of a farm. Some of the parking is grass parking, described as overflow. Existing grades are maintained as permitted to reduce soil movement. Semi permeable pavers and wood chips are proposed for walkways.

Minimized piping and grass swales are proposed to minimize runoff for storm water management. The pond and bio retention basin will catch flow. The project is a major development and subject to NJDEP storm water management BEP's and green infrastructure requirements. Plans are currently being revised to address the July 2023 DEP changes.

Mr. Newkirk described the proposed plans commercial development,

- Creamery/Bakery with an adjacent patio with a service window for outside service and inside seating and restrooms.
- Main gift shop 30' x 80' building with an adjacent 20' x 40' greenhouse for gifts, farm paraphernalia and décor items. The main gift shop is shown with a gambrel roof on the front.
- Picnic pavilion adjacent to the gift shop. This space is intended for picnic eating and craft type classes.
- Tap room with bar and an adjacent patio and pavilion has interior seating for 75 people. This building has a prep/catering kitchen that will serve snacks for re-heat catered meals. The vision for this building is a wine tasting venue with light snacks or lunch. This building is for private / rental events.
- Playground, fully fenced with a sitting wall.

The site has been designed to look like a farm including architectural design, split rail fencing, a windmill and aesthetic silo next to the barn.

Union Valley is on a County Road. There is currently a 50 foot ROW. The Passaic County Master Plan calls for a 66 foot ROW. The Applicant is dedicating an 8 foot wide strip across the front of the property to Passaic County and to build sidewalks across the front of the property connecting to the existing sidewalks by the post office and down to "Mr. Wonton". Mr. Newkirk stated the sidewalk cannot be built over Mr. Wonton's property.

The commercial development has about 11,000 square feet of buildings 24,000 square feet of pavement, 14,000 square feet of paver patios, total impervious is 2.88% of commercial coverage.

Total impervious coverage for the agricultural delineation of the project and the commercial portion total 84,000 square feet. Total impervious coverage totals 4.9% of the property.

Parking was designed to accommodate the site facilities predicted to get the most daily use.

Parking demand calculations total 53 paved spaces.

- 18 spaces, Creamery/bakery
- 16 spaces, Gift shop
- 7 Farm stand

Interior Tap room spaces required 25 spaces – for 75 seats

- 12 interior tap room

Over flow parking was designed for busy fall Saturday or special events. Over flow parking will be stabilized with a layer of gravel and plastic designed to hold gravel in place.

A "valet arrangement" described to accommodate patrons attending special events at the Taproom and the distance from overflow parking to the taproom. Cars would be directed to enter, circle to valet parking.

Parking summary (demand by ordinance as testified by Mr. Newkirk)

91 Total required by demand by the ordinance.

PROPOSED TO ADD

13 *here- pointing*

25 for the 75 space seating on the patio

53 paved (would need an additional 40 or so)

76 additional

Providing about 133 spaces on site.

A USE Variance is requested for a farmland use in CC Zone.

No BULK Variances are requested

A parking waiver is requested. The Applicant finds parking is sufficient is provided with 53 paved and 76 overflow parking as described in previous testimony.

The main driveway is 30 feet wide. A stop sign is not proposed for entry. Union Valley has a center turn lane. No impact is anticipated to traffic entering or exiting the site. There are three parking areas near the main entrance. Six van accessible ADA spaces are proposed and meet the requirement.

Site Lighting

Wooden pole mounted barn like fixtures as shown in the plans. LED Luminaires' with warm 3000 degree color temperature.

Parking lot poles luminaires to be mounted at 18 feet.

Pedestrian poles mounted at 10 feet (inaudible poles)

Under canopies and pavilions – able to dim

Over flow parking 3 sections will be lit as needed to minimize light trespass.

The majority of lights will be turned off when not in use.

Some lights around the barns and other areas will be on for security.

Drainage is subject to NJDEP standards. Drainage is handled with grass swales to direct water into the pond and a bio retention basin to re-infiltrate water. Some re-infrastructure infiltration may need to be added.

Landscaping proposed, shade trees along Union Valley Road, along the parking lots throughout the overflow parking, removing spaces and placing trees. Various trees around the playground for shade and extensive landscaping around the buildings. The back of the property will stay agricultural. Natural grasses and native grasses will be placed to make the site more esthetic.

Mr. NewKirk stated the Application was before this Board for input before addressing environmental concerns. The front of the property is within the 300 foot riparian zone of Pinecliff Lake. The back of the site is within a flood hazard area, DEP approval is required.

The back of the site is in wetlands. A wetland delineation is in process, not complete.

A wetlands permit is required for the outflow from the pond

Letter of interpretation from DEP needed.

Agriculture operations within wetlands are permitted if uninterrupted.

Highlands's approval is required. Highlands limits commercial development in new commercial implementations to 3% impervious coverage of the property.

Passaic County Planning Board Approval required

Hudson Essex Passaic Soil Conservation district

Septic and well design – Town and DEP permits to be obtained.

Responding to the Board Mr. Newkirk stated there is a 50 foot tree buffer on the residential side of the site by Adelaide Terrace. The nearest site development (patio of the tap house) to any of the houses is about 250 – 300 feet, o impact is expected. There is no commercial development past the back of the post office.

Referencing Department Comment Memorandum.

Mr. Newkirk stated the referenced trees in the site easement would be removed.

Mr. Newkirk stated, there is plenty of room on site to stack vehicles so not to interfere with making a left hand turn. There is currently a center turning lane. No traffic study has been done. The Applicant will need county approval.

Drainage calculations have started, not yet complete. No soil logs have been performed and will be included in the drainage package. The ADA parking dimensions to be checked. Mr. NewKirk stated, ADA requires 16 feet not 17 feet.

The septic system is schematic only at this time.

Curbing to be clarified on the plans.

All Health Department comments to be addressed for food to be addressed when Building permits are filed.

All DEP permits to be obtained.

The sidewalk is 4 feet off the curb line, 4 feet wide. The Battinelli property and the property known as Mr. Wonton end at "about" the curb line. Battinelli is giving the County 8 feet. Mr. Newkirk stated the sidewalk cannot be constructed across Mr. Wonton property. Mr. Newkirk is not aware of an easement across Mr. Wonton property. There are currently telephone poles in the way of a sidewalk.

The Board Planner stated the additional 140 feet (Mr. Wonton frontage) would complete the sidewalk from shop rite to Rockburn. The sidewalk was built around telephone poles toward the Rockburn section.

Mr. Newkirk stated any animal waste would be composted and used to fertilize fields. Further testimony to be provided by the Applicant. Environmental Commission comments will be addressed by the Applicant.

A wetlands delineation to be provided.

A gate will be added to the fence along Jersey Avenue.

Mr. Newkirk stated the proposed lighting will not affect the surrounding homes.

The Board Engineer stated site lighting, after installed, can be adjusted space of spread and brightness may be adjusted.

No soil movement calculations have been done at this time. Mr. Newkirk stated more than 500 cubic yards will be moved and considered major soil movement. Soil movement to be added as a potential approval requirement.

Grass parking would be self-parking in the event of overflow as needed. Trees to be placed every 3 – 4 spaces will delineate as to where parking should be.

Both the Board Planner and Engineer stated items in their reports have been satisfied with Mr. Newkirk testimony.

Mr. Moshman called witness, Mr. Peter Kontrafouris, Hewitt NJ as one of the farm owners. Mr. Kontrafouris stepped forward and was sworn in by the Board Attorney.

EXHIBIT A2 consisting of four photos.

Mr. Kontrafouris referring to 4 photos stated;

A past client of Mr. Kontrafouris provided pictures of the farm from approximately the 20's and 30's.

Mr. Moshman called Anthony and Allison Battinelli, Hewitt NJ stepped forward as owners of the Farm and were sworn in by the Board Attorney. Mrs. Battinelli read a statement and is incorporated as part of the record.

Referring to EXHIBIT A2-5

Mrs. Battinelli explained the picture of the award 2021 Small Business Growth Success Award for their business plan.

Referring to EXHIBIT A2-1

Mr. Battinelli explained an aerial photo of a hay field. Stating;

The hay was on the farm when it was purchased

The hay was cut and baled with their tractor

There are approximately 28 acres of hay

Mrs. Battinelli stated the hours of operation would be 9-5 or 9-6. The taproom is proposed to be open Thursday – Sunday closing between 10pm or 11pm.

The taproom may be rented on other days than normal business days.

Mr. Moshman called Professional Planner Steven Lydon from Burgis Associates, Westwood, NJ. Mr. Burgis was sworn in by the Board Attorney. Mr. Lydon stated his work experience and credentials, the Board accepted Mr. Lydon as a professional planner.

Mr. Lydon stated;

Lot 7 – the 42 acre parcel has been used for agriculture for "all of these years". The portion of the parcel along Union Valley Road to the end of Jersey Avenue and to the back part of Adelaide Terrace is zoned CC zone and the back part of the parcel is in the R2 zone. The R2 zone allows farming as a permitted use. The CC zone does not permit farming. The property has a connection to the Post Office. The site has been designed for pedestrian mobility. Development along Union Valley Road is primarily commercial. The proposed development is not spread out by design to create pedestrian feel and work with the neighborhood fabric. Mr. Lydon finds Rockburn to be similar in design. Development is limited to the CC zone. The district was designed to provide

convenience to township residence. Design standards were intended to be flexible to have large or multiple buildings. The property is large. The development is miniscule at 1.5%. The uses are complimentary and unique.

The Applicant is seeking a D1 Use Variance.

The lot is extremely deep, over 2300 sq. feet.

The zone requires 1 acre. The parcel is over 40 acres.

The rear portion of the property is located in regulated flood plain.

DEP Regulations restrict building in flood plains, they do encourage farming.

Commercial development along Union Valley Road is permitted. The sale of farm products is not permitted.

The application supports MLUL by encouraging municipal action to guide appropriate development of all lands in the state and promote the public health, safety and general welfare. MLUL calls for providing adequate light, air and open space. Buffers are extensive and impervious coverage is miniscule. MLUL calls for providing sufficient space of a variety of uses including agriculture and commercial. Encourage the location and design of transportation routes to promote the free flow of traffic and encourage a more efficient use of land.

The proposal is supported by the West Milford 2014 Master Plan Goals and objectives

- Preserved and protect the semi-rural and environmental sensitive character of the township
- Preserve contiguous open space
- Protect water resources
- Focus growth around existing business districts, encouraging infill development
- Encourage economic vitality of the community business districts

Mr. Lydon opined the Application could be approved without any substantial detriment to the land use in the surrounding area. Keeping the farm introduces economic development while keeping with the semirural feel.

Mr. Lydon stated he visited the site, reviewed the Master Plan, professional reports and internal comments to prepare for the meeting.

The use of the farm could be broken into individual components of this farm could possibly be permitted uses in the zone.

Mrs. Battinelli stepped up addressing a question on employment opportunity.

Positions for managers, cashiers, laborers, farm hands, clerical and maintenance employing approximately 63.

17 full time

24 part time

22 seasonal

The Chairman opened the meeting to the public.

Pamela Brown stepped forward and was sworn in by the Board Attorney. Ms. Brown lives at the end of Adelaide Terrace. Ms. Brown is concerned with drainage and flooding reaching her property and the proposed taproom and patio being loud. Ms. Brown stated she moved to West Milford for a quiet lifestyle.

Mr. Lydon explained the area Ms. Browns home is in the "lower part", nothing was changing. No water will be added to the portion of land near Ms. Brown. The development is proposed in the front of the property with a flow that would not go toward her house. Runoff will be impounding the runoff as per the DEP requirements. Ms. Brown is located to the East, runoff will be directed north.

Ms. Brown stated she was satisfied with the explanation.

Mr. Battinelli stated the Farm would comply with noise ordinances. Entertainment would not be a loud "concert" type. Music would mostly be inside. Mr. Battinelli agreed to look into indoor sound buffering.

Lynn Schoenfeld stepped forward and was sworn in by the Board Attorney. Ms. Schoenfeld lives on Adelaide Terrace. Ms. Schoenfeld appreciates the improvements the project will provide. She is concerned with the residence of Adelaide Terrace in regard to privacy, noise and environmentally from farm chemical run off in her well and runoff into Belchers creek and eventually into Greenwood Lake. Ms. Schoenfeld requested clarity on construction timelines and process. Stating, 21 homes will be effected environmentally and economically.

Mr. Battinelli stated, a fence will be installed along the property line and plants a row of Green Giants down the side addressing privacy and sound buffering. There will be no chemicals used on

the crops. The back field will remain hay. Construction time is estimated to be complete in 6 months from start. All buildings are prefab and going up at one time. Ms. Schoenfeld stated she was satisfied with the explanation.

Florence Murphy stepped forward and was sworn in by the Board Attorney. Ms. Murphy lives on Adelaide Terrace. Traffic from Adelaide Terrace on to Union Valley Road is heavy at times. Making a left turn can take "a long time". Ms. Murphy requested information for other plans for the additional traffic.

Mr. Newkirk stated he did not identify a traffic issue. A traffic study has not been done. The application will go before Passaic County. The County will review the plans and determine if a traffic study will be required.

The Board Attorney stated the project is on a County Road. If the Board grants an approval and the County is not satisfied, the approval cannot move forward until the County is satisfied.

No other members of the public came forward

Seeing no one, Michael Hensley **moved to close the public portion**
Second, Peter McGuinness

Discussion

The Application is for a Use Variance to allow a farm in the CC Zone. Individually the proposed buildings would be CC type buildings. The Application appears to be a farm with a community commercial retail park aspect. The residence comments should be addressed and part of any approval as discussed. Both Planners testified the improvements are consistent with the Master Plan. Line of site should be clear. Green Giants should be planted along Adelaide for the residence.

Motion to Approve, Arthur McQuaid made a motion to approve ZB-09-23-06. The Application is consistent with the Master Plan. The project is designed to keep with a farm and rural nature of the town.

Second: Daniel Jurkovic

Roll Call: Michael DeJohn, Michael Hensley, Daniel Jurkovic, Frank Curcio, Russell Curving, Peter McGuinness, Arthur McQuaid

The Board Attorney instructed Mr. Moshman to inform the Applicant the Resolution should be memorialized at the next meeting, December 21, 2023 and published in the paper. There is a 45 day period members of the public present or not that may appeal the Boards decision.

IV. APPROVAL OF INVOICES

Motion: Russell Curving

Second: Daniel Jurkovic

All were in favor

V. APPROVAL OF MINUTES October 24, 2023

Motion: Russell Curving

Second: Peter McGuinness

All were in favor present at the October meeting.

VI. ADJOURNMENT 10:36 PM



Respectfully Submitted,
Pamela Jordan, Secretary
Zoning Board of Adjustment

Approved December 19, 2023