

**MINUTES**  
**Of the Township of West Milford**  
**ZONING BOARD OF ADJUSTMENT**  
**January 24, 2023**  
**Regular Meeting via Zoom**

The Chairman greeted the Board, the applicants, members of the public and explained the Board operates in accordance with the Open Meeting Act of the State of New Jersey, discussions and decisions are made in public and all are entitled to speak.

**The Secretary read the legal notification.**

**The Pledge of Allegiance was recited**

**ROLL CALL**

**7:32PM**

**Present:** Michael DeJohn, Michael Hensley, Daniel Jurkovic, Frank Curcio, Peter McGuinness, Stacy-Ann Webb, Daniel Goodsir

**Also Present:** Pamela Jordan, Board Secretary, Steven Glatt, Esq., Attorney, Patrick McClellan, Engineer, Kenneth Ochab, Planner, Michael Gerst, Zoning Officer

**Absent:** Russell Curving, Arthur McQuaid

**Late:**

5 Regular members of the Board were present, two alternates were appointed to sit in as regular members.

**I. MEMORIALIZATIONS**

**CATHERINE DeMARCO**

**RESOLUTION 4-2023**

**ZB 05-22-07**

21 Laramie Trail

Block 505 Lot 6 LR Zone

**Approval for Bulk Variance** for side yard setback for construction of a one-car garage accessory building.

**Complete:** 06/17/2022

**Decided:** 12/20/2022

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

**JOSEPH & KELLY JACOVINO**

**RESOLUTION 5-2023**

**ZB 07-22-11**

18 Hickory Ave

Block 5615 Lot 5 LR Zone

**APPROVED, Bulk Variance** for **front yard** and **side yard** setback for a garage addition with 2 floors of living space.

**Complete:** 10/17/2022

**Decided:** 12/20/2022

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

**I. NEW APPLICATIONS**

**ISRAEL KATZ**

**ZB 09-22-16**

**54 Old Lakeside Road South**

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

**SEEKING Bulk Variance** for ( L ) **Side Yard** setback where 3.0 feet exists, **Building Lot Coverage** where 10% is required, 12.47% exists and 14.27% is proposed for the first floor expansion, remodel of an existing dwelling and installation of an in ground pool.

**Complete:** 11/30/2022

**Extended Deadline:** 06/28/2023

Robert Moshman stepped forward representing for the Applicant. Three witnesses for the Applicant stepped forward and were sworn in by the Board Attorney. Sean Landsberg 46

Dunham Dr. Pamona, NY, Joseph Hogan 170 Kinnelon Road, Suite 36 Kinnelon, NJ and Efron Ghobrial 1050 Wall Street West Suite 645, Lyndhurst, NJ.

Sean Landsberg stepped forward as friend of the Applicant with firsthand knowledge of this matter. Mr. Landsberg stated the Applicant wishes to build bedrooms on the first floor of his home to accommodate his elderly parents.

Efram Ghobrial stepped forward, the Architect for the Applicant. Mr. Ghobrial is a licensed Architect in NJ, NY, PA and FL. Has testified before boards in NJ and has been accepted as an expert. Mr. Ghobrial stated, the house has 3 bedrooms, two bedrooms are on the first floor, one bedroom is on the second floor. Mr. Katz wishes to locate all bedrooms on the first floor and convert the bedroom on the second floor to a playroom and add one additional bedroom on the first floor.

The proposed ground floor would be rearranged. The existing "area" under the main roof will be enclosed for extra square footage and an addition (approximately 220 sq ft) will be added "around the back".

The extension of the building is a pre-existing nonconforming setback. With the extension the setback will not change.

There will be no harm to the neighborhood if the addition is approved. Properties in the area appear to have similar setbacks.

The Board Planner stated the building is 6.9 feet from the side yard. The front of the property there is an open portico with a roof. Because of the roof, the portico is considered part of the structure. The addition is 6.9 feet from the side, the roof of the portico is 3 feet. The footprint changes slightly because of the addition.

Joseph Hogan stepped forward and stated he has a bachelor's degree from Stevens Institute, obtained his engineering license in 2018 and is employed by MAP Engineering, has testified in front of several Boards. Mr. Hogan was accepted as an expert. The front of the house is a substantial covered entry way. The project proposes to enclose the entryway (portico) and to square off the back of the house. The existing building coverage without the addition 12.47%. The coverage will increase to 14.27% with the addition. Nearby properties are described to have similar setbacks ranging from 3 feet to 10 feet.

The Board Attorney referenced the vicinity map on the site plan page 001.00. The property immediately next to the subject property is void of a dwelling. Mr. Moshman stated a buy sell letter was sent to the owner of the adjoining vacant property owner (block 3406 lot 13) a copy of which the Board Secretary retrieved from the file. The "buy sell" letter is dated December 12, 2022, was sent certified mail and is on Mr. Moshman's letterhead. Mr. Moshman stated a reply has not been received. The criteria of proving the C- Variance hardship has been met with this letter.

There is a new septic expansion plan in place.

The house is approximately 95 feet from the lake.

Any drainage or underground chamber would need to be 50 feet from and well and 50 feet from a septic system. The well is located in the front yard would take up the front yard.

The Board Engineer stated the DEP considers roof runoff as clean. The applicant should be mindful of directing water way from the neighboring properties.

The Board Engineer indicated by his calculation the project was within the riparian buffer of Greenwood Lake and he opined the applicant was eligible for a permit by rule. The Applicant stated they looked into the criteria and this did qualify. The Board Engineer requested a letter stating the information provided by the Applicants Engineer.

The Board Planner requested revised plans showing a corrected zoning table as a condition of approval within 30 days.

Testimony concluded.

The Application was opened to the public in accordance with the open meetings act. Seeing no one, Peter McGuinness moved to close the public portion, second by Michael Hensley.

In Summation, Mr. Moshman stated the matter was before the Board for two variances, side yard setback and bulk variance for building lot coverage. The purpose of the project is to accommodate elderly parents on the ground floor with an additional bedroom. Visually there is no difference from the Road and there would be no harm. Setbacks are similar to others in the neighborhood.

Mr. Jurkovic made a **motion** to approve the Application **ZB 09-22-16** as testified, conditioned on obtaining a letter as discussed by the Board Engineer, revised drawings showing the corrected calculations and complying with all building and health codes, **second** by Stacy-Ann Webb.

**Role Call:**

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

**No:**

**Abstain:**

**COUNTRY COTTAGE, LLC**

**ZB 12-22-20**

**1745 Macopin Road**

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

**Complete: 12/29/2022**

**Deadline: May 10, 2023**

**SEEKING:**

**Use Variance** for the expansion of a non-conforming use

- Side yard setback where 30 ft is required (right) 25.3 ft exists and 27.1 ft is proposed & (left) side where 30 ft is required, 19.4 ft exists and 18.7 ft is proposed
- Planted buffer at Street, 20 ft is required, 0 proposed
- Buffer to side yard (right) 10 ft is required, 0 to 3.4 ft is proposed
- Buffer to residential use (left) 35 ft is required, 7.5 ft exists and 6.4 ft is proposed

**Attached Deck**

- Distance to side line where 15 ft is required and 14.3 ft is proposed for the expansion of an existing restaurant and parking area behind the building.

Attorney for the Applicant stepped forward, Robert Moshman stating the Applicant Country Cottage was before the Board for 10 Variances.

Steven Witte (Applicant) 1745 Macopin Road, Allison Lapatka Hewitt, NJ (Engineer) and Brian Murphy (Architect) 179 Cahill Cross Road, West Milford, NJ came forward raised their hand and were sworn in by the Board Attorney.

Mr. Witte stated he has been operating at the Country Cottage for 5 years. The kitchen is small in size. The dishwashing station is in close proximity to the prep station making prep work difficult. Two people fit in the kitchen. The Bar is small. Customers leave the restaurant if the bar seating is full. The expansion is needed to accommodate residents that want to dine. The freezer is at the far end of the building. The staff must leave the kitchen and work station, walk through the bar to reach the freezer disrupting flow of work and slowing service to patrons. Proposed changes are to the back of the building and will not change the appearance of the restaurant from Macopin Road.

Brian Murphy came forward and stated he is a licensed architect in NY and NJ for 18 years. He has a bachelors of architecture from NJ Institute of Technology. Mr. Murphy has testified before this Board many times. Mr. Murphy referenced sheet A1 – describing the existing first floor plan. The kitchen is small with 2 prep tables and described as the size of food truck kitchen. The walk in cooler is through the bar area. The rear door is located in the kitchen with no access for the public. There is a small apartment above the restaurant with access from the rear deck. Sheet A2 is a 16 foot addition off the back of the building. The addition is grade level with storage, new office and an open area for shipping and receiving. An indoor staircase will be added for convenience and protection from the weather. Sheet A3 is the first floor plan. The dining room 1 and 2 are not changing. The bar area will be expanded 16 foot with a U shape bar with dining tables. A door leads to a small deck providing access to the public to enter and exit from the rear. The kitchen is expanded with an improved cooking, prep and food service area. A new wall separates dishwashing and prep area. A staircase goes to the basement. The walk in cooler is directly off of the kitchen line. The current walk in cooler is proposed unisex, ADA standard bathroom. Sheet A4 shows the staircase going across the new roof to the apartment of the 16 foot addition. There is a bump out to the apartment providing a closet. Sheet A5 is the front elevation and left side. The front elevation remains the same and will appear the same from the front view. The side door is moved adding a cat walk around the back to / from the deck. Sheet A6 rear elevation and right side, there is a door into the basement with posts

supporting the 8 foot deck with staircase on to the deck and door into the kitchen and a door into the bar space and stairs up to the apartment. The extension off the back will have a masonry foundation with a full basement.

**Exhibit A1 was introduced** - Mr. Murphy distributed a zoning map of West Milford. Nine spots highlighted in pink are located in neighborhood commercial zone scattered throughout town. Eight of nine designated areas have food establishments. The ( property in question ) highlighted in green is located half way from the center of town and small NC zones. The property is uniquely suited to service the community situated on a main road. The benefits to the community with the access and added parking far outweigh any detriments.

**SHEET A1**

Existing seats – 59 total

11 bar seats

2 table seats in bar area

24 seats – dining room #1

22 seats – dining room #2

**SHEET A3**

Proposed – 95 total

21 bar seats

14 table seats in bar area

24 seats – dining room #1

22 seats – dining room #2

14 seats – outdoor deck seasonal dining

No seats at the pizza oven counter

Outdoor dining will follow the outdoor dining ordinance. The Applicant has no intention to provide outdoor music.

The Applicant agrees not to serve outdoor past 10PM.

The property has been a food establishment in a residential area over 40 years.

Allison Lapatka, Engineer for the Applicant, stepped forward and stated she is a professional engineer, professional land surveyor and a college professor at NJIT. She has been licensed for 10 years and in the business for 20 years, is the President of Allison Engineer & Land Surveying located in West Milford and Present of Lapatka Associates in Paramus. Credentials were accepted.

**EXHIBIT A2 was introduced** - Ms. Lapatka described a color coded rendering of the layout of the project, green showing landscape and wooded area, darker brown shows the addition. There are currently 17 parking spaces where 22 are required, 34 are proposed where 34 are required with the addition including 2 ADA accessible spots in the front. Parking is expanding to the West. The dumpster is located to the West and will be enclosed. The closest wetlands (according to the NJDEP) are roughly 500 feet away, no buffer requirements apply.

The property size is less than an acre disturbance with less than ¼ of impervious increase. This is not deemed a major development and storm water management is not applicable. A seepage pit is proposed NW of the parking lot sized to account for 3 inches of rain over the new impervious surface.

**Variations**

USE Variance – existing non-conforming

Frontage – existing non-conforming

Lot width – existing non-conforming

Lot depth – conforms 361 feet deep, 150 is required

Front yard – 32.6 exists, 40 required- no change

Side yard (R)– 25.3 exists, 27.1 proposed – 30 feet is required

Side yard (L) – 19.4 exists, 18.7 proposed – 30 feet is required (adjacent to residential property)

Rear yard – 60 feet required, conforms

Proposed Deck

Side yard, 14.3 proposed where 15 is required

The Applicant will seek approval from the County for the planting buffer requirement on a County Road.

Residential buffer is proposed of 6.4 feet with a 6 foot solid fence – where 30 feet is required.

Environmental Commission memo stated a tree removal permit is required. Ms. Lapatka indicated a tree removal plan could be submitted to the Board locating tree location and determine size.

A retaining wall is not proposed in the back parking area. The proposal is to level the backyard and match the grade on either side with a slope no more than 3/1 grade to match existing grade. A soil movement calculation can be part of the condition.

The Chairman made a **motion** to take a 5 minute break, **second** by Peter McGuinness  
**All were in favor.** 8:48 PM

The meeting resumed at 8:58

Mr. Murphy stated the elevation of the new wood walkway is the same as the existing wood walkway for wheelchair accessibility. Wheelchair accessibility is 36" wide when there are 50 or less people and would increase to 44" with 95 seats. Mr. Murphy stated the measurements matched what is existing. The building department requested an increase of 4". The increase could change the variance. A condition of approval could be to satisfy the construction official.

Ms. Lapatka stated parking spaces are dimensioned 9 x 18 with 24 foot isles.

The southerly side of the property proposes a swale to direct storm water toward the rear of the property. Surface runoff is directed to two catch basins directed to the seepage pit.

A lighting plan to be provided in approximately 30 days and approved by the Board Engineer.

The trash enclosure is located on the side of the power lines.

A landscaping plan to be provided in approximately 30 days and approved by the Board Planner.

The Chairman opened the Application to the Public, seeing no one, Michael Hensley moved to close the public portion and second by Peter McGuinness.

**Role Call:**

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

**No:**

Mr. Moshman restated the challenges testified to by the witnesses this establishment currently faces to operate. The variances requested are mainly pre-existing. The improvements will provide an enhanced service to the community.

A **motion** was made by Daniel Jurkovic to approve **ZB 12-22-20**, 1745 Macopin Road for Bulk Variances as requested and approval of the Use Variance, with conditions, for the expansion of a pre-existing use. Stating the approval is a positive addition to the community, **second** by Peter McGuinness.

**Role Call:**

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

**No:**

**Abstain:**

**DISCUSSION**

The start date of Zoning Board meetings has been changed from 7:30PM to 7:00PM moving forward with revised bylaws.

**INVOICES**

Michael Hensley made a **motion** to approve professional invoices, **second** Peter McGuinness  
**All were in favor**

**MINUTES** December 20, 2022

Peter McGuinness made a motion to approve December 20, 2022 minutes, second by Daniel Jurkovic.

All were in favor

**ADJOURN** 9:18PM

Peter McGuinness **made** a motion to adjourn, **second** by Michael Hensley.  
**All were in favor**



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Respectfully Submitted,  
Pamela Jordan, Secretary  
Zoning Board of Adjustment

Approved February 28, 2023