

**MINUTES**  
**Of the Township of West Milford**  
**ZONING BOARD OF ADJUSTMENT**  
**February 23, 2021**  
**Regular Meeting via Zoom**

(Due to COVID-19 social distancing requirements this virtual meeting was held on Zoom.) Robert Brady, Board Chairman, opened the Zoom Meeting of the Zoning Board of Adjustment at 7:30 p.m. The Board Secretary read the Legal Notice. The Pledge of Allegiance was recited.

**Roll Call**

**Present:** Russell Curving, Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady

**Also present:** Deidre Ellis, Board Secretary, Stephen Glatt, Board Attorney, Ken Ochab, Board Planner and Patrick McClellan, Board Engineer

**Absent:** Jo Ann Blom and Michael DeJohn

The Chairman greeted the Board, the applicants and any members of the public. Mr. Brady explained the Zoning Board and Open Public Meetings Act, the social distancing requirements as a result of Covid-19, and the reason that the meeting was being conducted by electronic means via ZOOM. The meetings are advertised in the Herald News and on the Township website. 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. There are no new applications after 10:30 pm and no new testimony after 11:00 pm, after the applicant speaks then anyone can speak for or against that application. If it is needed there will be a break at approximately 9:00 pm. The appeals of this Board go directly to the Superior Court of the State of New Jersey.

The issue of the March 16, 2021 meeting date was brought up and the Board discussed rescheduling it to March 23, 2021.

**A motion was made by Arthur McQuaid to reschedule the March meeting from the 16<sup>th</sup> to March 23, 2021 at 7:30 pm.**

**Second by Daniel Jurkovic.**

**Roll call vote:**

**Yes:** Russell Curving, Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady

**No:** None

**Abstain:** None

(The Board Secretary will notice the change in the newspaper and correct the website as well.)

The Board Attorney indicated that at the last meeting the English application ZB06-19-10 had been dismissed without prejudice because the applicant was not in attendance at the meeting. The applicant has since asked in writing to be reinstated and indicated there had been a death in the family.

The Board Attorney asked Mr. English if he would grant the Board a 90 day extension to his application and there was discussion where the Board Attorney explained the options and the process and that the Board's decision to reinstate the application was not contingent upon Mr. English granting the extension. Mr. English indicated the extension was fine and thanked the Board.

**A motion was made by Arthur McQuaid to reinstate the English application ZB06-19-10, which would be placed back on the Agenda for the March 23, 2021 meeting at 7:30 pm.**

**Second by Daniel Jurkovic.**

**Roll call vote:**

**Yes:** Russell Curving, Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady

**No:** None

**Abstain:** None

The Board Attorney indicated that the English application would have to be renoticed.

### **CARRIED APPLICATIONS**

**RICK LAURETTA/JOHN BIANCHI  
USE VARIANCE ZB09-20-08**

**Complete: 11/23/2020  
Deadline: 3/23/2021**

Block 6303; Lot 7  
71 Marshall Hill Rd.; CC Zone

Use variance requested to permit the conversion of the first floor of the existing structure to residential use and to retain the second floor residential use resulting in a two-family structure and to create a contractor storage use in the rear of the property.

The Board Attorney questioned John Barbarula Esq. and Mr. Barbarula indicated that he was representing the applicants Rick Lauretta and John Bianchi as legal counsel. The Board Attorney indicated that there had been testimony given at the previous meeting and discussion about bifurcating the application, but it was not bifurcated because members of the Board were requiring a preliminary and final site plan that Mr. Douglas McKittrick was going to provide. The application will need to be to be renoticed and there would be an addendum from the Board Planner regarding his initial report as there will be two USE variances involved in the application, one relating to the first floor as an apartment and the other relating to the storage area and then there is the issue of the site plan.

The Board Attorney indicated that Mr. Kardanow has submitted several documents to the Board Secretary but they have not been disseminated to the Board members but have been sent by the Board Secretary to the Board Attorney, Board Engineer and Board Planner as well as the Attorney for the applicant, Mr. Barbarula.

Mr. Barbarula indicated that his intention was to bifurcate the application but if the Board was inclined to hear the application altogether that was fine and he was in agreement with the member of the public submissions, that they would need to be introduced the proper way procedurally. The Board Attorney indicated that the Board Secretary could submit the minutes form the January 26 meeting and Mr. Barbarula could review what took place at that meeting. The Board Attorney indicated that the matter would not be open to the public this evening the matter would proceed at the March 23, 2021 meeting and would be incumbent upon the application being renoticed and Chairman Brady would ultimately decide who goes first that evening. The Board Planner will prepare a memo with a breakdown of the necessary variances and it will be provided to the applicant. Mr. Barbarula agreed to a 90 day extension. The Board Attorney indicated to the public that there was to be no public portion for the Lauretta/Bianchi application at this meeting and explained the procedure to Mr. Kardanow, and informed him of his right to have an attorney, and that he is the Attorney solely for the Board.

### **NEW APPLICATIONS**

**KURT RENZLAND  
BULK VARIANCE ZB10-20-10**

**Complete: 12/10/2020  
Deadline: 4/9/2021**

Block 4601; Lot 16  
900 Burnt meadow Rd.; R-4 Zone

Bulk variance requested for the construction of a 4,800 sq ft accessory garage for storage and maintenance of personal vehicles and to establish a private workshop, where max size allowed is 1,500 sq ft.

The Board Attorney swore in Kurt Renzland of 900 Burnt Meadow Road and Mr. Joseph Vince of Schwanewede/Hals Engineering, 9 Post Road, Suite M11, Oakland, NJ 07436. Mr. Vince gave his credentials. Mr. Vince has a Bachelor of Science degree from Fairly Dickenson University in Civil Engineering Technology, and also a Bachelor of Science degree from NJIT in Surveying Engineering and Technology has been practicing in the fields of professional Engineering, Planning and Land Surveying since 2005. Mr. Vince is licensed in all three professions and in good standing and has testified before numerous Boards in the State of New Jersey including this one and was accepted in the past as an expert in all three fields and also represents the Township of Teaneck, Haworth Planning and Zoning Boards and was accepted as an expert witness.

Mr. Vince proceeded to share his screen and start his presentation. Mr. Vince started by showing the survey that had been submitted with the application. The property is known as 900

Burnt Meadow Road, block 4601, lot 16 containing approximately 2.75 acres. The survey for that property was marked A-1. The property is 202 feet wide by 267 feet deep, in the R-4 Zone and rectangular shaped except for the curve along the road. Currently there is a small house in the front part of the property. Mr. Vince indicated that back in 2007 a permit was acquired to demolish the small house and build a larger one toward the rear of the property, and a stream encroachment permit had been acquired. A driveway had been constructed and the decision had been made to renovate the small house instead. Mr. Renzland owns many motorcycles and antique trucks, and a large RV and currently they are being stored on the commercial property he owns across the street. Mr. Renzland has an Excavating business in Town and it is at the point where he does not want to expand but would rather place the personal property across the street in a garage to get the personal items out of the business area. The new garage would be placed where the proposed new house had been previously approved.

Mr. Vince labelled the plot plan that had been submitted as A-2, last revised on October 8, 2020. The proposed garage has a footprint of approximately 60' by 80', 4800 sq feet and that will accommodate the RV and some small equipment. The accessory structure is conforming with the bulk standards of the zone but a variance is being sought for the size of it. The lot is a little smaller in size as it is and there are no changes proposed. An aerial photograph of the Renzland property obtained in January 2021 from Google Earth was marked as A-3. The current uses in the area are both commercial and residential. To the right side of the photo the property is being used for a commercial use. To the North is vacant State owned property toward the left and also to the rear of the property.

Mr. Vince then showed a series of 8 photographs of the site. Showing the house on the property, the commercial property next to Mr. Renzland's property, the driveway and the site of the proposed garage partially screened by trees from the driveway viewpoint. There are a few pine trees as well as deciduous trees that provide a buffer. The last photo showed the area that had been cleared for the garage. Mr. Vince indicated that the site is unique due to the steep slopes to the East and the topography is such that the proposed garage will be built into a hill, and will provide some additional buffer from Burnt Meadow Road. There would be no impact to the State owned property. There will be limited impact to the existing commercial property to the South. Mr. Renzland proposes to match his house so that it looks nice, not put up a large steel industrial type of building that will look commercial. The idea is to blend it in and match it with the cabin style of the house. Keeping Mr. Renzland's RV inside the garage will provide a more favorable environment to the area.

Mr. Vince indicated that the variance could be granted under the C-2 criteria. It promotes Goal A of zoning, to encourage municipal action to guide appropriate use and development of the land in a manner to promote public health, safety, morals and general welfare. General welfare would apply to the storage of the RV inside the garage out of site, a better visual environment. Expanding the commercial property across the street will be avoided. Air, light and open space would be provided because zoning setbacks are being met. Personal items will no longer be kept where there is a commercial use. A desirable visual environment is being promoted through good development and civic arrangement, by containing all the vehicles inside a garage that will look like the existing home and will blend into the topography.

Mr. Vince indicated that there was also a hardship due to the topography not allowing for the garage to be attached to the house and large enough to house all of the vehicles. Regarding the negative criteria it is not in conflict with the goals of the zoning ordinance and the Master Plan. There would be no substantial detriment to the public good because it will not be very visible from the street and the vacant State land will not be impacted or the property to the South.

Mr. Vince indicated that there would be a bathroom in the garage and that the applicant has spoken to the Health Department and there would be a tank that would tie into the existing field on the property.

The seepage pits located on the plan are there for the storm water runoff, they are going to tie the roof drain and the water from the driveway into the pits which may already be there because they were going to use them for the house that was originally going to go there. The flooring in the garage will be concrete and will be sealed with epoxy. The height of the garage at its highest point is 30.5 feet. The garage will store the RV and two antique pickup trucks, a restored tractor and about a dozen motorcycles that he "tinkers on." Mr. Renzland indicated that there was enough clearance to very easily get the RV in and out of the garage.

The Board Engineer indicated that it may be necessary to acquire DEP permits due to the proximity of the nearby stream and also due to the connection that will need to be made to tie into the septic field. Mr. Vince indicated that the permits had already been acquired for the site. The stream encroachment permit to put the bridge in, was acquired in 2007. The utility lines

have been run across the bridge and are connected and stubbed. The land had been disturbed at the time of the permit so Mr. Vince indicated that no further NJDEP permits would be required, and the same would apply to the house because they had gotten Highlands approval for the house and the garage was going to be placed in the same footprint.

The Board Attorney indicated that since the variance applies to the land, measures should be made to ensure that the garage is not used as a residence in the future. Mr. Vince indicated that there were no windows and there is to be one garage door and a door that is person sized. The Board Attorney suggested that the Resolution or a revised deed indicate that the garage may not be used as a residence for future owners. Mr. Renzland indicated that he did not have a problem with that. The Board indicated that no materials should be allowed to be stored on the State owned land and that there was plenty of storage area on elsewhere on the property for things like wood. The Board Attorney indicated that there should be no storage of commercial vehicles on the property and it should not be used as an overflow parking area for Mr. Renzland's business across the street.

The Board Engineer indicated that he was in agreement with the DEP aspect in regard to the buffer zone and that from a storm water management perspective it is always better to store vehicles inside as opposed to outside, especially so close to the Hewitt Brook, and he supports the application.

The public portion was opened by the Chairman.

**Seeing no one a motion was made by Michael Gerst to close the public portion of the meeting.**

**Second by Arthur McQuaid.**

**Roll call vote:**

**Yes:** Russell Curving, Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady  
**No:** None  
**Abstain:** None

Linda Connolly indicated that she would like clarification regarding the house size that was approved by the Highlands. Mr. Renzland indicated that the house size was originally going to be 52' by 82'. Mr. Vince indicated that the Highlands Exemption was in relation to impervious coverage and the disturbance and was sure they were below the limits. Since it is already a residential property and they are below the disturbance thresholds it would not have any relevance. Mr. Renzland indicated that the property was not going to be rented out to anyone. Mr. Vince indicated that the property would also be deed restricted to state that the garage would be used for storage of personal items & vehicles only.

**A motion was made by Chairman Robert Brady to approve application ZB10-20-10 conditioned upon the garage not being used as a residence, that it would only be used for the storage of personal vehicles, lawn mowers and items of that nature, there being no commercial use or extension of a business, and a deed restriction filed with the County Clerk's office, as well as the other usual conditions.**

**Second by Arthur McQuaid.**

The Board Attorney indicated for the purposes of a possible resolution that the Board is adopting by way of reference, the positive criteria as set forth by Mr. Vince and his statements of the lack of negative impact to the surrounding areas of the zoning ordinances in the Township.

The Board Planner indicated that the approval of a C-2 Variance was based upon the benefits outweighing the detriments. There is a public benefit. The Board Planner indicated there are two parts to the negative criteria and one is if there is any substantial impact of the variance being granted and whether there would be any substantial impact to the Zoning Ordinance and trying to encourage more residential use on Burnt Meadow Road would be a good thing.

**Roll call vote:**

**Yes:** Russell Curving, Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady  
**No:** None  
**Abstain:** None

The Board Attorney indicated that usually the Resolution is ready by the next meeting (the next one being March 23, 2021) and then it is usually published in the paper in a few days and then the 45 day appeal period takes place, any member of the public could come forward and try to appeal the Board's decision, and where if work is done it is done at the applicant's risk.

**A motion to take a quick break was made by Arthur McQuaid. Second by Linda Connelly. All were in favor.**

**NATHAN KIPPERMAN**  
**BULK VARIANCE ZB10-20-09**  
Block 2701; lot 13  
129 Lakeshore Dr.; LR Zone

**Complete: 12/17/2020**  
**Deadline: 4/16/2021**

Bulk variance requested for front yard setback where 40' is required 66.59' and 72.1' is existing and 28.5' and 63.6' is proposed, rear yard setback where 60' is required 41.7' and 27.9' is existing and 28.9' and 13.9' is proposed and maximum building coverage where 10% is required and 6.19% is existing and 14.09% is proposed for an expansion to the existing home. (A second floor is also planned to the existing single-story home.)

The Board Attorney swore in Nathan Kipperman, 67 Glenwood Road, Tenafly, NJ and Brian Murphy, 179 Cahill Cross Road, Suite 202, West Milford, NJ. Mr. Murphy has a Bachelor's Degree in Architecture from the New Jersey Institute of Technology, is a licensed Architect in New York and New Jersey, has appeared before at least two dozen Boards across both States and has been working as a licensed architect since 2004.

Mr. Robert Moshman Esq., Attorney for the applicant, indicated that Mr. Murphy would start the presentation and the screen was shared to show the Site Plan. Mr. Murphy indicated it was a lakefront property on Upper Greenwood Lake in the LR Zone with a dense population and the lots are small. The lot is undersized, where 20,000 square feet is required and 14,096 square feet exists. The front yard setback where 40' is required 66.59' and 72.1' is existing and 28.5' and 63.6' is proposed, rear yard setback where 60' is required 41.7' and 27.9' is existing and 28.9' and 13.9' is proposed and maximum building coverage where 10% is required and 6.19% is existing and 14.09% is proposed for an expansion. The existing property line takes a bit of a unnatural turn inward where it becomes 1.4' from the corner of the house. They are not proposing any changes there. Mr. Murphy indicated that there was a detached garage in the front yard, which is a non-conforming use and by adding a greenhouse to connect the house to the garage, the non-conforming use will be eliminated, which also puts the setback of the primary structure beyond the 40' line limitation. Mr. Murphy indicated that the lot coverage for an accessory structure where 3% is required and 5.46% exists now will diminish to .68% because the garage will be attached and only a small shed will remain as an accessory structure.

There is a hardship that exists, in that the area upon which a building could exist is a very small envelope, all but a small portion of the home and garage are outside of that limited area. If the Parkland of the lakefront were to be included in the calculation, it would reduce the coverage of the primary structure after the addition and garage connection to 12.86%. Under the old R-10 Zone which is what it was prior to 1997 it would have been 20% coverage and conforming. The deck on the lake side of the house is where the proposed three seasons room is to be located will be slightly smaller than the existing deck allowing 4.4' on the side of the property. The proposed deck will be placed toward the lake in front of the three seasons room, and be 26' by 14'. Mr. Murphy indicated that the current ceiling of 10.5' high in the garage will be brought down to a regular height of around 8' in order to keep the second story in line with the design intent.

Architectural #3 (the 3rd page of the plans submitted by Architect Brian Murphy) shows the proposed floor plan. Architectural #4, page 4, shows elevations of the proposed building. The plan shows very few windows on the side of the house that is closest to the property line. Mr. Murphy indicated that Mr. Kipperman, a craftsman himself, is responsible for a lot of the design concepts. The design will benefit the surrounding area as positive criteria.

Mr. Murphy indicated the line of sight from the neighbor's first and second floors across the street would be minimally affected. The addition would only impact the line of sight by coming up a foot or so from the current roof of the house. Mr. Murphy showed a street view of the house from Google. It showed a lot of trees along the side of the road between the neighbor's house and the street, as well as the applicant's garage and home and shed. Mr. Murphy went back to the elevation drawings and explained the plan indicating which roof lines went with each section of the proposed home.

Mr. Murphy indicated that the potting shed was going to be redone to have it emulate the architecture of the house, adding windows and a double door, as seen on page 5, of the Architectural plans. The Board Engineer indicated that the plan was interesting and creative and that due to the scope of the work the applicant may be asked to do a lot development plan and would need to fulfill any requirements and permits placed on the project by the Health and Engineering Departments.

The Board Planner indicated although there were several pre-existing non-conforming conditions, a side yard setback was required for the new construction of the area where the connection to the garage was being made. The Board Attorney indicated that because the other yard setbacks had been noticed it would stand that anyone interested in that aspect of the application would already be in attendance.

When questioned Mr. Murphy indicated that anyone wishing to access the Parkland would simply walk down Elizabeth Road and have unobstructed access to the Parkland and Mr. Kipperman's new deck would not be an obstruction.

Mr. Kipperman indicated that he felt fortunate to have purchased the house and he was happy with the design and was looking forward to construction and having family to the house. Mr. Kipperman indicated that he had put a pergola up without permits and was told he had to take it down, which he did. Mr. Moshman had some photos to share and they were marked A-1. Photo (1) showed a view of Elizabeth Road; (2) was a photo of Lakeshore Road and part of the driveway; (3) was the garage and house; (4) the house; (5) the existing deck to become 3 season room; (6) another view of the deck where the pergola had been; (7) the existing shoreline Parkland for several feet; (8 & 9) the neighbor's property to the left; (10) an oil tank with covering; (11) a photo of an existing dock; (12) an old pump serving as decoration.

Mr. Murphy indicated that the distance from the existing garage to Lakeshore Road was 28' and that distance was not going to change under the proposed plan. The proposed structure will be an aesthetic improvement to the neighborhood and the additions are very small and they are an efficient use of the property, very little land area will be disturbed. The hardships are the undersized lot for both depth and width and there are two frontages and a strange jag to the property line on one side and that having the Parkland easement also limits the use, meaning the applicant cannot build upon it and the house resides outside of the buildable envelope. The application was opened to the public.

**Seeing no one a motion was made by Michael Gerst to close the public portion of the meeting.**

**Second by Arthur McQuaid.**

**Roll call vote:**

<b>Yes:</b>	Russell Curving, Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady
<b>No:</b>	None
<b>Abstain:</b>	None

Mr. Moshman indicated that he confirmed with the Upper Greenwood Lake Property Owner's Association that they do not sell property, and he could provide proof of that if the Board so desired. The hardships are the size of the property, the home residing outside the existing buildable envelope, the two frontages due to it being a corner lot. In looking at the MLUL one of the purposes is to encourage municipal action to guide the appropriate use or development of all lands in this State in a manner that will promote the health, safety, morals and general welfare. Mr. Kipperman's lot is one of the larger lots and if it cannot be improved then none of the lots around can be improved, there needs to be some leeway. Mr. Moshman indicated that these homes are the founding homes of West Milford from the 1940's, a lot of them being very small and this application has found a very creative way to increase the space in the home and conforms with the MLUL, promoting a desirable visual environment through creative development techniques. It is a great benefit to the community to update the home with its clean lines and style and to get rid of dated materials.

Another goal of the MLUL is to encourage the coordination of various public and private procedures and activity shaping land development with the view of lessening the cost of that development and to the more efficient use of land. Mr. Moshman indicated that the application did provide a very efficient use of the land as preserves the sight lines of the neighbors, it steps up with the land and enlarges the home without impact to others around the home. It advances the aesthetic benefits of the property. It limits infill growth in existing lake communities consistent with the character of those communities. The home is in keeping with the scale and harmony of the neighborhood. The positives of the application outweigh any negatives.

**Motion was made by Arthur McQuaid based on the testimony given to approve application ZB10-20-09.**

**Second by Russell Curving.**

**Roll call vote:**

**Yes:** Russell Curving, Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady  
**No:** None  
**Abstain:** None

Mr. Moshman agreed to inform his client regarding the 45 day appeal period that takes place subsequent to the memorialization of the application.

**A motion was made to approve invoices for the all Board Professionals, Attorney, Planner and Engineer by Michael Gerst. Second by Daniel Jurkovic.**

**Roll call vote:**

**Yes:** Russell Curving, Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady  
**No:** None  
**Abstain:** None

**A motion was made to approve the January 26, 2021 Re-org and Regular Meeting Minutes by Russell Curving. Second by Daniel Jurkovic.**

**Roll call vote:**

**Yes:** Russell Curving, Daniel Jurkovic, Linda Connolly, Frank Curcio, Arthur McQuaid, Michael Gerst, and Robert Brady  
**No:** None  
**Abstain:** None

The Board Attorney indicated that there was an appeal made for the Board's decision on the Ward Application ZB08-19-16. The Township was served by the Mr. Barbarula the attorney for the Grischuks and the Board of Adjustment was named as the defendant, asking the Court to reverse our determination on the Ward application, based on our decision being unreasonable, arbitrary and capricious. The Ward's were not brought into the case, they are not parties to the action, but Mr. Moshman may also be filing a motion to intervene on behalf of Mr. and Mrs. Ward. The Board Attorney has filed an answer with the court. There is a discovery period of 450 days, there is a chance Mr. Barbarula or Mr. Moshman may ask the court to expedite it. Briefs will be filed to the Court by all parties, oral arguments will be heard and eventually a decision made.

**Motion for adjournment of the February 23, 2021 meeting by Michael Gerst. Second by Linda Connolly.**

All in favor. None opposed.

**ADJOURNMENT at 10:17 PM**

**Next regular meeting March 23, 2021 at 7:30 p.m.**

Respectfully submitted by,



Deidre Ellis, Secretary  
Zoning Board of Adjustment