

MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
June 22, 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 7:33 p.m. The Board Secretary read the Legal Notice. The Pledge of Allegiance was recited.

Roll Call

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

Also present: Pam Jordan, Board Secretary, Stephen Glatt, Board Attorney, Ken Ochab, Board Planner and Patrick McClellan, Board Engineer

Absent: Linda Connolly, Jo Ann Blom

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.

APPOINTMENT

A motion was made by Michael Gerst and Second by Russell Curving to appoint Pamela Jordan, Zoning Board of Adjustment Secretary.

Roll call:

Yes: Russell Curving, Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Michael DeJohn and Robert Brady

No: None

Abstain: None

Absent: Linda Connolly

MEMORIALIZATIONS

DONNA WEINBRECHT/JAMES MURPHY
RESOLUTION 8-2021

BULK VARIANCE ZB-03-21-06

Block 13102; Lot 18

388 High Crest Dr.; LR Zone

Decided: Approval of Bulk Variances for front yard setback for the construction of a 100 square foot covered entry addition.

Approved: June 22, 2021

A motion was made by Michael Gerst and Second by Russell Curving to approve Resolution 8-2021

Roll Call:

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

No: None

Abstain: None

**ARTHUR KING
RESOLUTION 9-2021
BULK VARIANCE ZB-02-21-04**
Block 7519; Lot 2
5 Meadow Rd.; LR Zone

Decided: Approval of Bulk Variances for front and side yard setback for the construction of 2 pavilion style roof entry ways.
Approved: June 22, 2021

A motion was made by Michael Gerst and Second by Russell Curving to approve Resolution 9-2021

Roll Call:

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

**ADAM SCHECHTER
RESOLUTION 10-2021
BULK VARIANCE ZB 12-20-12**
Block 7503; Lot 11
16 Anchor Ave.; LR Zone

Decided: Approval of bulk variance for 2 side yard setbacks to construct a 1722 square foot, 2 1/2 story addition.
Approved: June 22, 2021

A motion was made by Michael Gerst and Second by Arthur McQuaid to approve Resolution 10-2021

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

**DALIBOR LJUSIC
RESOLUTION 11-2021
BULK VARIANCE ZB01-21-03**
Block 2604; Lot 6
174 Point Breeze Dr.; LR Zone

Decided: Approval for side yard and lot coverage for the construction of a family room addition and covered deck.
Approved: June 22, 2021

A motion was made by Michael Gerst and Second by Russell Curving to approve Resolution 11-2021

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

**GEORGE ENGLISH III
RESOLUTION 12-2021
BULK VARIANCE ZB-06-19-10**
Block 5901; Lot 28
111 Mountain Circle South; R-3 Zone

Decided: Approval for side and rear yard setbacks for the construction of a 32' x 28' 2 story garage.
Approved: June 22, 2021

A motion was made by Russell Curving and Second by Michael Gerst to approve Resolution 12-2021

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

**RICK LAURETTA/JOHN BIANCHI
RESOLUTION 13-2021**

USE VARIANCE ZB-09-20-08

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

Decided: Approval, use variance permitting residential occupancy of the first floor in an existing structure.
Approved: June 22, 2021

A motion was made by Arthur McQuaid and Second by Michael Gerst to approve Resolution 13-2021

Yes: Russell Curving, Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Michael Gerst, Michael DeJohn
No: None
Abstain: None

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.

CARRIED APPLICATIONS

**GRAZYNA KLAPACZ (Grace Skrobas)
BULK VARIANCE ZB01-21-01**

Block 10102; Lot 10
18 Gould Rd.; R-4 Zone

**Complete: 3/15/2021
Deadline: 7/13/2021**

Bulk variance requested for max building square footage where 1500 sq ft max is required and 2800 sq ft is proposed for the construction of a 40' x 70' accessory structure.

The Board Attorney stated that the applicant, Grazyna Klapacz and Engineer, Douglas McKittrick were previously sworn in and still under oath.

Mr. McKittrick addressed the Boards concerns regarding the size of the proposed structure stating that the applicant would reduce their boat size from over 40' + to 27' and decreasing the size of the structure dimensions from 40' in width to 35' and 34' in height to 25' allowing the overhead door to open and close without interfering with the height of the building or equipment stored inside. These dimensions represent a 12 1/2 % reduction in the size of the original plan and will provide adequate space for storage of the travel trailer, boat and truck used for towing the boat. The proposed RV is a toy hauler that includes a fold down back panel for loading, unloading and equipment access repair.

Mr. McKittrick referenced photographs submitted to the Board for review of the subject property that show existing conditions of the applicant's property. Mr. McKittrick stated he visited the property 2-3 years prior and indicated that significant improvements have been made. Mr. McKittrick referred to Exhibit A-1, a photo view of the property from the front lawn looking at the applicant's home. A-2 is a photo view looking down the driveway. Mr. McKittrick indicated that he added this picture to show the Board the quality of the pavers and retaining walls the applicant built. Exhibit A-3 is a photo view looking from the edge of the driveway to the rear of the property with a pool and maintained landscaping. Exhibit A-4, a photo view of the applicant's barbeque area in the pool area. Exhibit A-5 a photo view of the proposed

building location. Mr. McKittrick indicated that the location is down in the woods with existing vegetative screening and trees. Exhibit A-6 is a photo view of the pool. Mr. McKittrick stated the purpose of the picture was to show the well maintained property.

Mr. McKittrick referred the Board to a revised Blueprint dated 06.15.21. Mr. McKittrick indicated that the revised print included the reduced width dimensions of 35' from 40'. Mr. McKittrick stated that the seepage pits and drainage system remained the same size and would provide more protection for the neighbors behind and to the side than is required.

Mr. McKittrick stated that the application before the Board is now for a smaller building that can accommodate what the applicant would like needing a lot coverage variance. Mr. McKittrick indicated that in terms of zoning requirements, the nonconforming maximum coverage brings the impervious surface disturbance from 86% to 63%. Mr. McKittrick argued the application as C-2 Equitable with no hardship but stated the benefits outweigh the detriment to put up the oversized building.

Mr. McQuaid asked for dimensions of the equipment to be stored in the building. Mr. McKittrick responded;

RV Model – Voltage 3845 Toy Hauler

42' L, 14' H, 9' W

Boat Model – Yamaha 375SE

27' L, 10'H, 9'W

Trailer A-2885B

33' 6 L, 3' 5 H, 8' 4W – length includes the tongue that will extend to the tow vehicle.

Tow Vehicle – Ram 3500 dually

19' 3 L, 6' 5 W, 6' 6 L

The reduced boat size allowed for the height reduction from the originally proposed 34' to 25'.

Mr. Brady asked for clarification relating to exhibit A2 and A5 and Mr. McKittrick stated that these pictures were different locations. A-2 is from the driveway to the back of the house with a decorative wall and pavers, A-5 starts at the bend in the hill showing the gravel from the backside of the pool.

Mr. McQuaid asked for confirmation that there would be no commercial use from the garage. Ms. Klapacz confirmed that there would be no commercial use from the proposed building and stated no objection to adding this as a condition of approval.

The Board Chairman, Robert Brady opened the application ZB01-21-01 for public comment in accordance with the open meetings act.

Seeing No one Michael Gerst moved to close the Public portion, Second by Arthur McQuaid

Mr. Gerst stated one of the benefits of this application was that the type and volume of equipment would be stored indoors. The Board Planner stated that the application does meet all setback requirements, not the permitted size of the structure. The Board Engineer stated that the reduction in the size of the building, while keeping the same drainage structure in place was a benefit to the property along with storing vehicles inside not outside. The Board Engineer referenced exhibit A5, described as a very good example of the appearance when trees are in full bloom. The supplemental vegetation and the reduction of approximately 10' in height, the ridge line of the proposed building will be below the tree line. The Board Planner stated he had visited the location during the winter and referenced photographs from his March 24, 2021 review and stated the vegetation did not have leaves and indicated that there was not significant impact caused by the size of the building to surrounding properties in the winter. With natural and proposed vegetation he stated that there would not be a visual impact on the neighboring properties.

A motion was made by Arthur McQuaid and Second by Russell Curving to approve Bulk Variance, testimony that supports the town interest in recreation for the area. No commercial equipment, plumbing – allowing electric.

Roll call vote:

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

The Board Attorney indicated that the Resolution is typically ready by the next Board meeting, (June 22, 2021) once published in the paper, the 45 day appeal period takes place. At this time, members of the public could come forward and appeal the Boards decision. Any work started is done at the applicants own risk.

NEW APPLICATIONS

MCDONALD'S USA, LLC
Preliminary & Final Site Plan
USE AND BULK VARIANCE ZB03-21-05
Block 6303; Lot 14, Block 6303 Lot 15 (parking lot)
41 Marshall Hill Road; CC Zone

Complete: 04/26/21
Deadline: 08/24/21

Where the applicant is seeking, Use and Bulk Variance including variances requested for a side by side dual drive thru, menu boards, relocation of accessible parking area and improvements to the entrance walkway.

The Board Attorney swore in the applicant's witnesses Kathryn Gregory of 96 Linwood Plaza, Ft. Lee, NJ. Ms. Gregory stated that she is a Licensed Professional Planner in the state of NJ for 20 years and has appeared before zoning Boards prior to this application, including West Milford. Kevin Fuario of 46 E. Main Street Summerville, NJ stated that he is a Licensed Professional Engineer in the state of NJ and has appeared before Planning Boards in the state of NJ.

Mr. Lippert, Council for McDonalds, addressed the Board members stating that during the past 2 years McDonalds has rebranded aesthetically with a fresh new look throughout the Country and, when possible, upgraded their drive thru to accommodate a steady increase of patrons using the drive thru facilities. Global statistics show that 70% of patrons are utilizing window service and 30% are sit down patrons. Mr. Lippert indicated that it has been important for McDonalds to make such upgrades for efficiency and safety.

The Board Attorney questioned Mr. Lippert, the applicant's attorney, recalling the application from 2013 - would a representative from McDonalds attend to reiterate the need for the proposed modifications. Mr. Lippert did not feel it necessary and indicated that the application was a simple and their Planner, Mr. Fuario was familiar with the operational details.

Chairman Brady questioned if this submission was with or without the approval from Shop-Rite. Both the Applicant's attorney and Professional Engineer indicated that they were not aware of prior parking discussion with Shop-Rite. The prior submission involved parking that either belonged to Shop-Rite or was common to both. McDonalds got an approval for one lane and there was subsequent discussion to come back before this board with what this current application proposes. If this has not been raised the applicant will need to handle with the property owner. The Board Attorney referenced the Resolution from the prior application, stating that all Use Variance, Bulk Variance preliminary and final site plan were all granted. By recollection only, the Board Attorney stated that there was corresponded that the applicant was going to amend the site plan to include the two lanes and that portion was withdrawn. During the year 2016 the applicant came back to the board for an extension. The Applicant's Attorney stated they were the owner of the property and Shop Rite was not an issue at this time.

Mr. Fuario began his presentation, shared the Topographic and Location Survey prepared by Gallas Surveying Group that was submitted with the application and shared his screen with the Board. Mr. Fuario stated that the existing McDonalds is a one story one lane drive thru, located within the CC zone, a permitted conditional use with approximately 27 available parking spaces, illuminated with existing light poles and wall mounted fixtures. The current drainage pattern is starting from the NW property crossing the property to the SE portion of the sight being, collected to the inlet and discharging. The establishment is open 7 days per week. Typical deliveries are during the day hours in a WB50 Truck vehicle 2 times per week, garbage is removed 3x per week and recycling 2 x per week. Mr. Fuario indicated that the information had been supplied by the owner operator of the site. The applicant is proposing to remove one free standing static menu board sign and keep 2 existing Pull Forward signs located at two parking spaces. Not shown on the plans, 2 Mobil Ordering signs for mobile pick orders also in designated parking spaces for pick up.

Mr. Fuario referred to page 5 of the Preliminary Final Site plans, designated at this time as Exhibit A2- indicating that there will not be any building improvement or any wall mounted signs. The application is proposing a side by side drive through along the Southern portion of

the site to satisfy the increased demand for drive through. The drive thru would increase efficiency of the drive thru and cut order time and increase efficiency. The dual lanes allow for dual orders simultaneously.

Mr. Fuario indicated that the applicant is proposing ADA sight improvements. The existing configuration is noncompliant because there is currently one ADA space. The new proposal includes 2 ADA spaces located much closer to the building with a direct path to the front door. The new location reduces the current parking count from 27 to 26. Per the West Milford zoning code, minimum parking is to be 1 space per every 3 seats available. Mr. Fuario indicated there were 62 seats, 21 minimum parking spots required.

The project does not propose any changes to the hours of operation or lighting. Drainage will improve as impervious surface calculations are reduced. There is landscaping proposed on the second drive thru consisting of shrubs.

The proposed signage is a mixture of incidental, directional and free standing as described.

- Welcome Point Gate Sign, to provide the clearance height and signaling the beginning of the drive thru.
- Spring Board Canopy Sign, the order point for the inner drive thru lane
- Anytime Any Lane Sign, signaling customers can order at any lane regardless if cars are present in each lane.

Proposed Free Standing Signs described

- Integrated Digital Menu board – located in the outer lane,
- Outdoor Menu Board- located in the first inner lane.

Proposed pre browsed menu board for each drive thru.

Mr. McQuaid inquired as to the dimensions of the delivery vehicle previously mentioned as model WB50. Mr. Fuario referred to his presentation tool as Exhibit A3 and described the vehicle as “pretty large” approximately 50’ in length.

Mr. Fuario stated the Applicant had received comments from the County regarding a certain County right of way scope that was approved in 2013 then indicated that the County would like this work to be completed as part of the project. The County’s request included pedestrian access from the newly proposed sidewalk to the front door that requiring a slight bump out of the curb to the left side of the building. Mr. Fuario stated that plans are in the process of being revised to include the internal layout, incorporating the curb bump that will connect to the existing curb line on the other side and a sidewalk from one side of the adjacent lot and street trees, per the county requirements. Modifications to the drainage inlet as the inlet is located on the inlet of the curb line to be removed and will be relocated to the new curb line. Mr. Fuario indicated that the shoulder and possibly one lane will require a shut down during work. All proposed modification will be presented to the Board and will not require additional variances from the board because the modification are located within the County right of way jurisdiction, outside the property. Impervious coverage will not be affected by the sidewalk but reduced due to the proposed landscaping.

Mr. Fuario stated that there are currently 2 order lanes and currently 2 pick up lines, a pay window and a pick up window. Mr. Gerst inquired the engineering thought behind the new design. He stated the second entry currently in operation worked well. Mr. Fuario indicated that his understanding was a single entry existed not the dual lane entry Mr. Gerst described. Mr. Fuario indicated that curbing existed only around the menu board island and the remainder of the lane was pavement with paint lines. Board members questioned if there was an engineering reason McDonalds would like to change the current two lanes again. The applicant’s attorney stated this was the design McDonald’s decided worked best after years of studies. Mr. Gerst stated the current design worked better than the proposed design as there was a choke point when the lanes merged to one. Mr. McQuaid indicated the current design was working for West Milford and not concerned with what worked in other areas. The Applicant’s attorney indicated that the new design would be safer. The Applicant’s engineer stated that they would take the Board’s recommendation back to McDonalds. The Board Planner indicated that the paint only designation of the two lanes may not be sufficient to avoid patrons from lane jumping. If there was curbing, lane moving could be avoided.

The parking spaces that are right next to Marshall Hill Road, show 9 x 19 spaces with a 20 foot access isle. The Board Planner made the consideration to try to increase to 24’ or 22’ even if the

depth of the spaces was reduced. This would give the backup movements more room against the drive thru patrons. Mr. F stated he thought there was room for this accommodation.

The Board Engineer stated that no changes to the building, no impact to the infrastructure, no impact to water and sewer with a slight advantage for drainage making this a benign application addressing engineering.

The Applicants Planner, Ms. Gregory began testimony addressing the need for 3 conditional USE variances the possible need for a BULK variance for the parking isle and would be determined with possible site plan adjustments.

Ms. Gregory stated The Coventry Court Case governs conditional use variances, has a less burdensome standard and is like a permitted use.

1. Buffer to the street line – 20’ is required, 6’9 is existing and 7’.2 is proposed
2. Distance to the circulation isle to the door – 15’ is required, 7’.5 is existing (condition remains the same)
3. Number of signs – 1 free standing is permitted, 4 are proposed.

Ms. Gregory Stated there is not a conditional use for drive-thru restaurants that address menu boards. McDonalds seeks to modernize their facilities and the signs are needed to accommodate this need and would not impact the surrounding properties.

The positive criteria promotes Purpose A, public health safety morals and general welfare - reducing queuing lane, improvements in pedestrian safety and circulation, becoming ADA compliant. Purpose C supports adequate light, Purpose H encourages the location for transportation routes, making the proposed changes more efficient. Speaking to the negative criteria, Ms. Gregory did not note substantial detriment from granting the proposed variances. Referencing the last Master Plan, land use element from 2017 – indicated that this application supports goal #8 to encourage economic vitality, objective #1 to promote pedestrian improvements.

Mr. McQuaid stated the cars in the parking lot could be considered negative criteria posing a safety concern. Mr. McQuaid further indicated the current design could be safer than the proposed design. Ms. Gregory indicated, with proper engineering from both the Applicant and the Board Engineer to bring the island back separating the two lanes to prevent crossing between lanes would be safer.

The Board Planner inquired as to a maintenance agreement, landscaping and refuge control on the site. Ms. Gregory indicated that she was not aware of one.

The Attorney for McDonalds indicated that they would go back and address the Board comments as to the drive isle.

The Board Planner inquired as to the absence of the existing flag pole in the new design. The Applicants Engineer indicated the proposed design would have placed the flag pole in the middle of the drive isle on the new design. The Board Planner requested a new location be found for the flag pole.

Chairman Brady called a brief hold of the McDonalds application to discuss the in person or zoom meetings.

The Board Chairman discussed the difference between the Planning Board, currently doing in person and zoom meetings and the Zoning Board meetings where applicants bring experts, and witnesses wishing to speak. The Township Administration advised staff that meetings should be in person. The Board Attorney stated that safety, Board chambers, masks, distance and the comfort of the Board members and other should be considered. Vaccines status is personal and private and not an option for some. Personal health conditions of participants and of their families was discussed and a concern from the Board and Board Professionals. Proximity behind and below the Dias were mentioned as a concern. The health and welfare of one person would be reason enough to continue zoom meetings until August or impose safety guidelines.

A motion was made by Mr. Gerst to table in person meeting discussions until August and Second by Mr. McQuaid.

Roll call vote:

Yes:

Russell Curving, Daniel Jurkovic, Frank Curcio, Arthur McQuaid, Michael Gerst, Michael DeJohn and Robert Brady

No: None
Abstain: None

A motion was made by Russel Curving to carry the McDonalds LLC application to the next meeting and Second by Michael Gerst.

Roll call vote:

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

The application will be carried until the July 27, 2021 public meeting. The applicant is not required to give further notice by mail or publication and anyone interested in being heard should appear via zoom.

LITIGATION – Remains the same

ZONING CHANGE DISCUSSION

The Board Planner described two meetings as productive, resulting in the Chairman of the Planning Board and the Zoning Board, Building Department Staff and one Councilman – resulting a draft amendment to the zoning ordinance that the Planning will consider for approval to pass to the Council for consideration. There was a section added that would exempt minor encroachments into yards, accessory buildings under 100 square feet, regulate deck location and shipping containers in residential zones, short term and commercial/industrial zones.

Chairman Brady questioned who would make decisions pertaining to the proposed changes discussed. The Board Attorney referred to the zoning officer to make a determination.

APPROVAL OF INVOICES – BOARD PROFESSIONALS

Motion to pay invoices was made by Michale Gerst and second by Dan Jurkovic

Roll call vote:

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

APPROVAL OF MINUTES

May 22, 2021

Motion to approve May 22 Minutes for the regular meeting was made by Arthur McQuaid and second by Russell Curving.

Roll call vote:

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

Chairman Brady announced that the next regular meeting will be zoom, July 27, 2021

**Motion for adjournment of the June 22, 2021 meeting by Michael Gerst
Second by Russell Curving.**

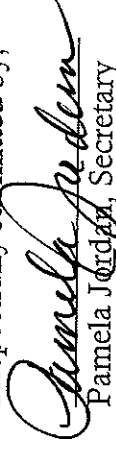
All in favor.

None opposed.

ADJOURNMENT at 9:43 PM

Next zoom meeting July 27, 2021 at 7:30 p.m.

Respectfully submitted by,



Pamela Jordan, Secretary

Zoning Board of Adjustment