

**MINUTES
Of the Township of West Milford
ZONING BOARD OF ADJUSTMENT
March 25, 2014
Regular Meeting**

Robert Brady, Board Chairman, opened the Regular Meeting of the Zoning Board of Adjustment at 7:35 p.m. The Board Secretary read the Legal Notice. The Chairman asked all in attendance to recite the Pledge of Allegiance.

Pledge

The Chairman opened the meeting. Mr. Siesta and Mr. Space were asked to take a seat on the dais since 2 regular members were absent now there is a full Board. The Chairman explained about the Board of Adjustment, meeting dates are published in the Herald News, the Open Public Meetings Act of the State of New Jersey; appeals go to the Superior Court of the State of New Jersey. He introduced the Board Attorney. The meeting follows a printed agenda, which is on file in the Clerk's office and posted on the bulletin board. If needed a break will be taken at approximately 9:00. There are no new applications after 10:30, no new testimony after 11:00. The applicant explains the application first then anyone speaking for or against the application is given the opportunity to do so on a case-by-case basis.

Roll Call

Present: Russell Curving, Frank Curcio, Arthur McQuaid Michael Gerst,
Michael Siesta, Clint Space, Robert Brady

Also Present: Stephen Glatt, Board Attorney, William H. Drew, Board Planner,
Denyse Todd, Board Secretary

Absent: Steven Castronova, James Olivo, Michael Cristaldi, and Board
Engineer

MEMORIALIZATIONS

**PHILADELPHIA CHURCH MINISTRIES
RESOLUTION NO. 5-2014
USE&BULK VAR&PREL & FINAL SITE PLAN ZB07-13-07
Block 15901; 16
145 Oakridge Road; CC Zone**

Not available for this meeting. Mr. Brady indicated that there was an issue with a 20-foot fire lane that the Fire Marshal was requesting. Mr. Glatt added that the applicant's professional indicated that they were going to dedicate 5 feet of their property to attach to the 15 foot roadway where the adjoining property owners have an easement. The fire official indicated that he wanted a written agreement between the applicant and the property owners. Trying to resolve it without a written agreement and as a result, after speaking with the applicant's attorney hopefully the attorney and their engineer will meet with the fire official and try to determine if there enough room to dedicate a fire lane. If there is then an amended site plan will need to be submitted for that issue. If it comes back to the Board for that, it will be the Board's decision because where the fire lane would be is where they planned to install buffering and the Board will decide safety vs beauty. He indicated that he is hoping they will have it resolved by next month as to what they are going to do, if it needs to be re-noticed, come in and put additional testimony on. There will be a resolution prepared for each scenario the original or an amended.

**NEW APPLICATIONS
RICHARD BAUER JR.
BULK VARIANCE ZB11-13-10**

Block 9705; Lot 1

13 Sussex Drive, R-1 Zone

The applicant had a problem with the newspaper when he requested the ad to be placed.

Bulk variance requested for a front yard set back 35', required, 41'5" existing and 29', 6" proposed. Bulk variance requested for building coverage where 10% is allowed, 9.6% exists and 12.3% is proposed for the construction of an addition.

Mr. Glatt swore in Briann Bauer and Richard Bauer, 13 Sussex Drive. Mr. Bauer indicated that the applicant would like to put an addition on their home. The home will remain 3 bedrooms but they would like a master bathroom, a walk-in closet, enlarge the bedrooms, add a playroom/den for the children and add a 2nd car garage. They live on a corner and the side will encroach the 35 foot set back on the corner. There is also a building coverage variance where 10% is allowed and 12.3% is proposed. Mr. Bauer brought pictures of their home and a picture of the home across the street which is similar to what the applicant would like to do.

Mr. Glatt marked the exhibits as A-1 –A-11 -A 1 Front of the home at 13 Sussex Drive, A2 Front of their home 13 Sussex Dr. A3 Front of their home standing in the street looking at their home. A4 Side of their home from the corner. A5 showing their corner both Warren & Sussex Corner. A6 is looking up Sussex Dr. standing in the intersection south. A7 Proposed 2nd car garage location where trailer is parked now. A8 Standing on Warren, A-9 yard behind the garage A-10 back of their house A-11 is the neighbor's house across the street. 2ND car garage with rooms above, it will remain a 3 bedroom home.

They are a corner property there are two front yards. There is no other contiguous property available for them to purchase to make their property larger. Mr. Bauer indicated that they would like to have the 2nd garage on the same side as the present garage and the bedrooms will be enlarged and it will not work if it is moved to the other side of the house. There would more than likely be a need for variances on the other side as well. They have lived there 10 years this May. Mr. Bauer indicated that it conforms to the neighborhood and the addition will be similar to a number of houses in the neighborhood. There is no detriment it will not create an eyesore, it will not cause any safety issues, it will not infringe on the site distance on the corner. Mr. Bauer indicated that the new addition would be placed where the driveway is now, presently; he has no plans on changing it. The den and the office/sitting room will not have closets, it will mostly be a playroom for the kids ages 5 and 2. They have city water and sewers. Mr. Glatt confirmed that the area with the trailer is paved and there will be no new impervious area. The proposed is 1250 square feet for first and second floor the new footprint is 408 square feet. Mr. Brady asked about the trailer that is shown in the picture and it is a work trailer that will go back to his business for the summer. The applicant was asked if the trailer was to return to the house would there be additional paving added and the applicant indicated that there was not plan at this time.

Mr. Drew asked about the railroad tie wall that is depicted on the survey and the applicant indicated, it is about 3 railroad ties high so it was not sloping too much, it slopes toward Warren. The Chairman asked if there were any additional questions or if the applicant had anything to add before the application was opened to the public there was nothing.

Motion by Michael Siesta to close the public portion since there was nobody for or against.

Second by Arthur McQuaid

Motion by Michael Gerst to approve Bulk Variance ZB11-13-10, because of the property being a corner lot and two yards, there are no neighbors on the side the addition will be on. The picture provided shows a home across the street with a similar addition and there is a neighbor on that side. It conforms to the neighborhood, it is the only place for a garage, they will not have to expand the driveway, there is no available land for sale to add on to their property.

Second by Russell Curving

Roll Call Vote:

Yes: Russell Curving, Frank Curcio, Arthur McQuaid, Michael Gerst, Michael Siesta,
Clint Space Robert Brady

No: none

Mr. Glatt explained the appeal period to the applicant. The appeal period runs 45 days from the newspaper advertisement after the memorialization of the resolution. The applicant thanked the Board.

There was discussion about the fees, the Planning Board asked the Zoning Board to review the fees and application types, the Chairman indicated that if the variance structure was changed it would be more like one size fits all. The example given was regarding a fence in the front yard and how much it would cost in total. The reason for the review is to make sure that applicants dealing with either board have to have the right amount of escrow on account or the burden of the fees fall onto the

taxpayers. The Chairman indicated that the fees should not be increased because of another entity within the Township.

The Board Planner explained that based on the Zoning in the Township that there are many instances that require a residence to have a use variance, and in the Planning Board Planner's defense, he is not that familiar with the town or the zoning ordinances to understand the nuances that this Board deals with. The fee structure was set so there was no need to overcharge people for smaller applications. The PB Planner is raising questions of why is there a use variance on a residential house and there are specific instances and it is a fairly regular variance that comes before this Board. To take a one size fits all approach on the applications that this Board reviews it would be causing a fair amount of applicants to pay more money than what is necessary. He indicated that the Board Members on this Board are looking out for the benefit of the residents of the Town, you are not looking to extract money from them. The structure that we have is through experience of the Board, Members of the Board, the Board Planner and the Attorney and they work. This Board does not have to constantly retrieve additional money from the applicants. The money being charged is what is reasonably expected to be spent with the plan review time for the Planner, Attorney resolution. Mr. Drew indicated it does not make good sense to him. His recommendation is to advise the Planning Board that our fee structure works fine and there is no need to review it. There is no need to update it. Mr. McQuaid added that it should be reviewed and fees should be cut. Mr. Glatt added that if it gets changed, that there may be things discussed that will not get charged. Mr. Glatt indicated that if the Planner indicates that there are no use variances for residences, what happens when a use variance comes before the Board. The Board of Adjustment is the only Board that does a use variance; the Planning Board does not do them. The attorney explained that there is no C.O. issued if escrows are not brought up to date. If they exceed or it looks like they will exceed the escrow then they are advised before it goes further. It has been very few times over the years since this has been a problem.

Mr. Gerst asked what is this being based on and Mr. Siesta indicated it was one or two issues and he also indicated he is on the Planning Board also and his solution was to charge them interest and when they go to sell or try to do something they will not be able to until they pay. Mr. Brady added that they are trying to fix something that is not broken, the Secretary is on top of it, he likes the idea of the interest but we cannot litigate another Board. The secretary explained that one of the instances had extenuating circumstances. Mr. Glatt added that if an applicant is before either Board and their escrow is in arrears and the applicant is denied there is no incentive for the applicant to pay. There is a tracking system, and the secretary calls the professionals if an applicant is running low to ask what the anticipated bills may be and they will add a little in case it is off by an hour or 2. The Professionals for the Zoning Board never take advantage of the applicants. Mr. McQuaid added that the Zoning Board Professionals do not charge from the moment they leave their office or for their fieldwork. There are some professionals not necessarily our township but some charge when they leave their front door. Mr. Brady indicated that he took it as his purpose as the Chairman to make sure to keep the prices down and that the Board serves the public in the best possible way. Mr. Glatt is always giving people free legal advice and helped the applicant before this discussion because they do not know what to say or do and they do not always come in with professionals and they try to serve the public in the best possible way. Mr. Glatt indicated that in his 26 years he cannot remember any complaints and he sat on special matters for the Planning Board because of conflicts which were large developments and there were high bills and nobody ever complained about it and under the ordinance any applicant has the right to review and if there is an issue where the applicant feels they were unjustly charged he has the right to question it and the professionals have to justify it. He does not know if anybody ever complained because it was always on the low side. Mr. Brady indicated that he is given a printout at the end of the fiscal year of expenditures and Mr. Glatt always comes in under his contractual estimate as well as the rest of the professionals. Even with a set rate the Zoning Board comes in under. This would have to be decided in a democratic process, have a motion and a second and a positive vote. Mr. Brady indicated that whatever the decision is have the Planning Consultant write a response to what it is the Board is doing and why they are doing it. Mr. Gerst asked if it could be lowered and Mr. McQuaid indicated that there was a case in the past where the applicant had to lay down over \$1,000.00 to install a \$1,000.00 above ground pool because of the location. Mr. Brady indicated that yes they lay that out but they receive money back after the process. Mr. Brady indicated that the Board makes sure the fees go to where they have to go and need to go and the finished product is far better if they said we will just lower them. The quality of the professionals makes a huge difference as to the outcome of all of the applications. Mr. McQuaid agreed. Mr. Brady indicated that he understands his point but he has not fielded any complaints and he would usually get them first. They have to put it up but it is a precautionary issue and all communities do it and most of it goes back to the applicant. The secretary indicated the process is after the work is done and the inspections are completed, they send a letter to the secretary to request the escrow. It is then sent to the Council for a resolution and then it is released as soon as possible. The Chairman has been through the process and he cannot say he

is unhappy with it he has the inspection on what is done, he goes out of his way to make sure he does it right because he on the Zoning Board and if he ever moves out of West Milford he knows everything on his property has met code and inspected and there is a record of it and in the long run they are better off all is taken care of there are people who put sheds up or awnings on their home and have to take of it later. The secretary added by waiting to give the escrow back, we can make sure inspections are complete and work was done according to their plans because otherwise there is no incentive to finish. Mr. Brady indicated that Mr. Drew should review the fees and give a report. Mr. McQuaid indicated that Mr. Drew gave his opinion and did not see a reason to give a written response. Mr. Brady asked Mr. Drew if he felt the fees were adequate and Mr. Drew indicated that they were fair to the applicant and very rarely do the expenses exceed the amount received, if it is exceeded it is minimally "why take excess money from the applicant and hold it for the time period that the secretary described before the individual gets their money back, it works and it has been tested over time. Mr. Glatt indicated that he thinks it is a deterrent trying to improve their homes. Money is tight even the Board does not have as many applications as they used to. Mr. Brady indicated there have been no complaints about the fees being exorbitant but if members of the Board feels the fees could be reviewed to possibly be lowered. Mr. Curving indicated that the secretary explained that when too low people do not close them out. The secretary indicated that a few years ago they had to be raised because there was never enough in the account. Originally, a fence escrow was \$250.00 and it was too low. The application fees are the administrative costs. The Planning Board and Zoning Board Secretaries researched other Towns to see what is charged and we are still under or right in line. West Milford does not charge for each bulk variance, a lot of Townships do that. The couple tonight who received the variances for the addition, they would have paid for two building coverage and side yard variance. If there is an instance where there is a use with an associated bulk variance then they get charged for both. Our fees are under other towns, when the balance can be refunded it is, there have not been complaints from the people coming to the Board. The secretary indicated that she tries to explain to the applicants that if everything is completely filled out and documents are complete then there are less reviews.

The attorney indicated that the Board could make a motion that they have reviewed the memo from the Planning Board Planner and the comments of the Construction Official and after considering the input from the Board Planner and Secretary, the Board feels it is appropriate to retain the fees structure and variance structure.

Motion by Michael Siesta to accept Mr. Glatt's statement
Second by Michael Gerst

Roll Call Vote:

Yes: Russell Curving, Frank Curcio, Arthur McQuaid, Michael Gerst, Michael Siesta, Clint Space and Robert Brady

Mr. Drew does not feel that a letter is necessary, the Attorney suggested sending a letter to the Planning Board with a copy of the resolution as adopted by the Board relating to the memos.

Motion by Russell Curving to approve Stephen Glatt's bills
Second by Michael Gerst
All in favor to approve Mr. Glatt's bills

No communications

No litigation

No minutes

Next meeting April 22, 2014

Motion and second to adjourn the regular meeting of March 25, 2014

All in favor to adjourn

Meeting adjourned at 8:26

Adopted: April 22, 2014

Respectfully submitted by,

Denyse L. Todd, Secretary
Zoning Board of Adjustment