

**New Milford Zoning Board of Adjustment
Work Session
February 14, 2017**

ROLL CALL

Mr. Adelung	Present
Mr. Denis	Absent
Mr. Joseph	Present
Ms. Hittel	Absent
Mr. Loonam	Present(736)
Mr. Rebsch	Present
Mr. Stokes	Present
Mr. Weisbrot	Absent
Mr. Schaffenberger- Chairman	Absent
Ms. Batistic - Engineer	Present
Mr. Sproviero - Attorney	Present

Mr. Sproviero stated that the Chairman had a professional emergency and another member had a death in the family. He added there would be five members present. The Board Attorney stated there were two applications on the agenda. One required a simple majority and the other a super majority with five votes. Mr. Sproviero asked Mr. Joseph if he listened to the recording. Mr. Joseph answered yes. The Board Attorney said he would be eligible to listen the applications.

OLD BUSINESS

**16-08 Layne – 222 Main Street – Block 1311 Lot 1- Mixed Use Building
Use and parking variances**

Mr. Stokes stated that he recused himself from the 222 Main Street application. The Board Attorney said there would not be a quorum for Mr. Layne's application. The Board Attorney discussed a special meeting for Mr. Layne's application which the applicant would not be charged for on Thursday February 23rd, 2017. The Board Members would be available.

Mr. Giblin appreciated the Board extending themselves to have a special meeting. He agreed if the board did not have a quorum they could not proceed tonight or introduce any new testimony. The Board Attorney stated they could not even open the application with four members because they need five votes.

Mr. Loonam asked if they have four voting members they would have a quorum to open the application. Mr. Sproviero said with an application that needs five votes, it required five members to hear the application. Both Mr. Giblin and Mr. Sproviero were satisfied that it was the status of the law.

Mr. Sproviero asked Mr. Capizzi what he would like to do with the application for 1117 Alessandrini. Mr. Capizzi clarified that he would need three votes out of the five. Mr. Sproviero agreed. Mr. Capizzi would proceed. The Board Attorney asked the Board Members if they would like to proceed tonight with the application or do all of them on February 23, 2017. The Board Members would proceed with the one application.

The Board Attorney swore in Mr. Joseph for a two year term as Alternative I with term expiring 12/31/18.

REVIEW MINUTES OF THE WORK AND PUBLIC SESSION – January 10, 2017

The Board Members reviewed the minutes and there were no changes.

ANNUAL REPORT – 2016

Mr. Sproviero stated there was a resolution before the Zoning Board embodying its report of determinations rendered by the Zoning Board of Adjustment in the year 2016 and containing its findings and recommendations for the zoning ordinance amendments and/or revisions to be considered by the governing body of the Borough of New Milford. The Board Attorney stated based on his review of the report and set forth in the resolution most of applications before the Board related to use issues or building coverage issues. The Zoning Board points that out to the Planning Board and Mayor and Council by way of resolution and see if they consider any modifications of the existing zoning ordinance.

17-02 Joseph - 1117 Alessandrini – Block 205 Lot 16 – 2 story addition

Mr. Stokes asked if the board members had any questions on the application. No members had any questions

.

Motion to close the work session was made by Mr. Adelung seconded by Mr. Rebsch and carried by all.

**New Milford Zoning Board of Adjustment
Public Session
February 14, 2017**

Mr. Stokes called the Public Session of the New Milford Zoning Board of Adjustment to order at 7:54 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	Present
Mr. Denis	Absent
Mr. Joseph	Present
Ms. Hittel	Absent
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes- Vice Chairman	Present
Mr. Weisbrot	Absent
Mr. Schaffenberger-Chairman	Absent
Ms. Batistic – Engineer	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK/PUBLIC SESSION – January 10, 2017

Motion to accept the minutes was made by Mr. Loonam, seconded by Mr. Rebsch and carried by all.

ANNUAL REPORT

Vice Chairman Stokes called for a motion to adopt the resolution to authorize the transmittal of the annual report.

Motion made by Mr. Loonam, seconded by Mr. Rebsch

The motion passed on a roll call vote as follows:

For the Motion: Members Loonam, Rebsch, Adelung, Stokes, Joseph

OLD BUSINESS

16-08 Layne – 222 Main Street – Block 1311 Lot 1- Mixed Use Building

Use and parking variances

It was the Board Attorney's opinion, based on having only four eligible voting members to hear the application, that they do not have the amount of people to establish a quorum to consider this application this evening for an application that involves use components.

Mr. Giblin, appearing on behalf on the applicant, agreed with Mr. Sproviero and it was also his understanding of the law.

Mr. Sproviero said, for the record, this application would be carried to a special meeting February 23, 2017 at 7:30 pm and no additional notices would be required.

NEW BUSINESS

17-02 Joseph - 1117 Alessandrini – Block 205 Lot 16 – 2 story addition, add a level Building coverage, 2 existing side yard variances and front yard setback

Mr. Matthew Capizzi, 11 Hillside Avenue, Tenafly, on behalf of Mr. and Mrs. Joseph, stated that the applicant was previously before the board in January. He noted that Mr. Donata, architect, had explained this was a renovation of the existing single family dwelling with a new second floor and a bump out on the left rear of the property. Mr. Capizzi said the variances discussed at the January meeting were side yard variances which were existing non-conforming situations, front yard setback variance and building coverage.

Mr. Capizzi stated at the time they presented their application in January, they had not properly calculated the front yard setback to the proposed front porch. Mr. Capizzi explained since that meeting, they had their surveyor shoot five homes along the same size of their street to come up with an average front yard setback. He added a copy of the survey was provided to the Board Engineer as well as calculations. Mr. Capizzi stated based upon the averaging of the five dwellings the average front yard setback was 30.06 ft. The cover sheet of the plan has been revised to reflect the setback requirement.

Mr. Capizzi said there was also an inconsistency in the manner that they tabulated the building coverage. He explained there was a covered porch in the back right corner which they did not include in building coverage due to some direction received from the municipality. They also did not include the proposed front porch in their building coverage calculation. Mr. Capizzi stated they adjusted their calculations to include the rear covered porch with the roof portion removed. The proposed front porch is now also included in their calculations. He explained they had an existing non-conforming building coverage situation which was being exacerbated upon by adding an additional 81 sf.

The Board Attorney requested the numbers to be presented in percentages. Mr. Capizzi stated 20% building coverage was permitted and their existing situation was 23.37% and proposing 24.41%. The impervious coverage calculation did not change and remained compliant. The front yard setback was required to be at 30.06 ft. and they were proposing 25.5 ft. and the main building wall was at 30'. He added the second floor would be at 30'.

Mr. Donato, previously sworn in, stated the average setback from the five properties on the same side of the street was 30.06' to the building. He added the average setback to the stairs was 22.46'. There was a revision to the average front yard setback which was measured to their proposed one story opened covered porch. It would be 25.5 ft. from the front property line to the base of the porch.

Mr. Donato stated on their previous application they had the building coverage at 22.18 which did not include the front porch. The existing coverage with the rear covered patio was non-conforming at 23.37% where 20% was required. Their proposal was to remove the rear covered porch and with the covered front porch they were proposing 24.41%. He added the average setback to the steps was 22.46' and their setback to the steps was 23'.

Mr. Donato clarified that the applicant was proposing a front yard setback of 25.50 and the building coverage proposed was 24.41 %.

Mr. Adelung questioned if the 25.5 ft. was to the steps or the porch. Mr. Donato explained it was 25.50 ft. to the porch and they were adding steps. Mr. Adelung asked for the measurements of the steps. Mr. Donato said they were 2.5 ft. because there were only three steps.

Mr. Loonam said the applicant was requesting 4 variances and three of them were preexisting non-conforming. He noted that the preexisting side yard setbacks were 9.9 ft and 9.7 ft. Mr. Donato said they will follow that line on each side. Mr. Loonam stated that the existing preexisting non-conforming building coverage was 23.37% and they proposed 24.41%. He noted that they would be increasing the building coverage by approximately 1.1%. Mr. Donato stated the front yard setback variance for the porch was proposed at 25.50 ft. and required 30.06 ft. Mr. Loonam said the front yard setback was also a preexisting non-conforming setback.

Mr. Sproviero said in the event that the Board were to grant the relief that they were requesting, there were two conditions discussed at the last meeting. Mr. Sproviero stated one condition would be that the structure would be at all times utilized as a single family home and if it was the intention that the property owner to use it for any other use, additional relief would be required. Mr. Capizzi agreed. Mr. Sproviero said the second condition was raised by the Chairman that the front porch would be at all times open and not be closed by walls or glass. Mr. Capizzi agreed.

Mr. Loonam stated that this was an application that was 100 % preexisting non-conforming and looking for further encroachment on two of the four variances.

Mr. Joseph said he visited the site and most of the homes were huge on that street and felt the variances should be granted.

Mr. Donato said the coverage was at one time 25%. Mr. Sproviero said that was when most of the homes were built.

Mr. Loonam asked if the proposed design of the home would be similar and about the same rectangle as the house to the left. Mr. Donato agreed and said one house has more height because the garage was in the basement. Mr. Donato felt the proposed house fits more with keeping with the larger homes on the street.

Mr. Stokes asked if the front porch would be a benefit or a detriment to the neighborhood.

The Board Attorney asked Mr. Capizzi if there was anything else he would like to say before the members vote. Mr. Capizzi thought that Board and Mr. Donato have covered everything.

The Board Attorney stated this was an application for renovation of an existing structure with four non-conforming elements to the structure as it exists today before the renovation. By way of four requests for additional variance relief, two of which do not involve additional exacerbation of the preexisting conditions. This application was requesting additional building coverage relief

where the permitted coverage was 20% existing 23.37% proposed 24.41%. The other issue was the front yard setback and the permitted average setback of the homes on the street was 30.06' proposed 25.5'. Mr. Sproviero stated that testimony was if there was no porch it would still be preexisting in nature because what exists was 30.00. Mr. Sproviero said they have discussed the two conditions one relating to the property remaining a single family structure and the other that the porch would remain an open porch.

Mr. Loonam stated if there were no porch they would still have stairs. Mr. Donato said they would need a landing and that was why the average set back to the steps from the other homes were even further because they have 4' or 5' platforms. Mr. Loonam commented that the garage next door was recessed down to accommodate the topography of the land. Mr. Loonam noted that he does not like the idea of increased building coverage or making the setback 25'. He could not think of another way to do the front with keeping it in line with the neighborhood and not making it look out of place. Mr. Stokes felt it would always encroach with exactly what was there now. Mr. Loonam thought they were making in more appealing to the eye and felt it was well contemplated. He said all building coverage issues were not created equal and there were different increase building coverages of what was allowed. Mr. Loonam felt this applicant had an existing building coverage of 23.37% and proposing 24.41%.

Motion to open to the public
No one wished to speak
Motion to close to the public

The Board Attorney asked if for a motion on the application.

Motion made by Mr. Joseph to approve the application with the conditions stated above,
seconded by Mr. Rebsch

The motion passed on a roll call vote as follows:

For the Motion: Joseph, Rebsch, Adelung, Loonam, Stokes

As there was no further business to discuss, a motion was made to close by Mr. Rebsch seconded
by Mr. Loonam and carried by all.

Respectfully submitted,

Maureen Oppelaar