

**New Milford Zoning Board of Adjustment  
Special Meeting  
February 23, 2017**

Chairman Schaffenberger called the Special Meeting Session of the New Milford Zoning Board of Adjustment to order at 7:33 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Adlung	Absent
Mr. Denis	Present
Mr. Joseph	Present
Ms. Hittel	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes	Recused
Mr. Weisbrot	Present
Mr. Schaffenberger- Chairman	Present
Ms. Batistic - Engineer	Present
Mr. Sproviero - Attorney	Present

**PLEDGE OF ALLEGIANCE**

The Chairman noted that this was a Special Meeting to hear application 16-08- 222 Main Street. The Chairman recapped that this application first came to the board in December 2016 where the applicant decided to make amendments to the application and it was carried to January. At the January meeting, the attorney for the applicant asked that the application be carried to February since they were not ready to be heard. The applicant appeared at the regular scheduled meeting on February 14<sup>th</sup> but the Board did not have a five member quorum for a mixed use. One member had recused himself, another member had a death in the family and the Chairman had a business emergency. The Chairman apologized to the applicant and Board Members for any inconvenience that occurred.

**OLD BUSINESS**

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

Mr. Giblin thanked the Board for scheduling a Special Meeting to hear their application and stated there was a new amended plan that Mr. Cusanelli would review.

Mr. Cusanelli, architect, was previously sworn in by the Board Attorney. Mr. Cusanelli said that page A-2 was revised on 2/1/17 and showed that the two parking spaces on the east side of the building was eliminated. He explained the applicant now has 6 parking spaces to the south of the property. The plan showed two perpendicular spaces, two parallel and two tandem. The two tandem spaces would be accessed off of Prospect Avenue and the other four spaces would be

accessed off of Main Street. The architect stated that they included a paving plan and drainage details on A-6. It showed the paved area and three area drains which would drain to drywells located on the southeast corner of the property. There were two 8' diameter x 5' deep drywells with domes.

Mr. Giblin asked the architect if the tandem parking spaces were to be restricted to the apartment use. Mr. Cusanelli agreed.

The Chairman asked the Board Engineer if she reviewed the drainage plan. Ms. Batistic said yes and they provided seepage pits that would accommodate the surface runoff. She stated there were none existing so it would be an improvement to the drainage. Ms. Batistic stated the parking was still deficient and the basement was originally labeled as office but was now indicated as storage. Ms. Batistic recommended, if the application was approved, there should be a condition that states the basement area should not be used for office space or retail that would require any additional parking. She noted the applicant only has 2 parking spaces for the 900 sf commercial use where the ordinance would require 6 spaces.

The Chairman asked the Board Engineer if the tandem parking was the best use of that spot. Ms. Batistic thought it was a similar situation to any residential that had a narrow driveway with two cars.

The Chairman asked if the spaces would be marked for residential use. Mr. Giblin stated they would agree to that as a reasonable condition to be placed in the resolution. He added they would also agree to a condition in the resolution that the basement area could not be used for anything other than storage or mechanicals.

Mr. Loonam asked how many parking spaces were being proposed. Mr. Giblin stated they proposed four spaces for the apartments and two spaces for the retail use. Mr. Loonam had questions on how the parking spaces 3, 4, 5, 6 would be accessed. Mr. Cusanelli stated that parking spaces 5 and 6 would be parallel parking which would be accessed off the driveway. Parking spaces 3 and 4 were tandem spaces which would be allocated for residential. Mr. Loonam clarified that residents using spaces 3 and 4 for the residential would have to move a car to get another car out. Mr. Cusanelli agreed and said it was a solution to a tight configuration.

Mr. Giblin said they could designate all four spaces for the apartments. Ms. Batistic stated they spaces have to be designated for residential use.

Mr. Loonam clarified that they were proposing 6 spaces and asked Ms. Batistic how many spaces were required. Ms. Batistic answered 10 spaces. Mr. Giblin said they were deficient by 4. Ms. Batistic added they need six for commercial where they only had 2 and four for residential. The tandem parking can only be used for residential, said the Board Engineer. Mr. Giblin had no problem with that being a condition and added that there was parking on both streets.

The Chairman asked if they were required to have a handicap space. Ms. Batistic said if they were providing the required amount of parking they would have to provide one. The Chairman

asked why they lose the obligation to have a handicap space because they are deficient. Ms. Batistic said the ADA requirement deals with the number of spots provided on the premise. The Chairman asked about the parking space that was proposed between the sidewalk and the building on the Prospect side. Mr. Cusanelli said it was not a feasible alternative.

Ms. Hittel said in the previous proposed plan, the parking spaces were all parallel. She questioned why the plan changed to this design with tandem spaces. Mr. Cusanelli answered that the Borough Engineer commented that the angled spaces initially proposed at the rear would not work and were not maneuverable so the plan was changed. Ms. Hittel asked if this new plan was more maneuverable. Mr. Cusanelli said yes.

The Chairman clarified that the distance between the building and parking space 5 was now 12' and with the angled parking there was not sufficient room to get a car in and out. Mr. Cusanelli agreed and said this configuration gives them one more space in the back than was proposed. Ms. Hittel said both plans had six spaces. Mr. Cusanelli clarified that backing out would not be maneuverable. Ms. Batistic explained two spaces would be good but all the rest would hit the building on the prior plan. The Board Attorney thought space one would also be a problem. Ms. Batistic agreed they would hit the fence. There was only 32' from the property line to the building and it was not for the angled spaces, said Ms. Batistic.

Ms. Hittel questioned if there was room for exiting the car with spaces 3 and 4. Mr. Cusanelli said spaces 3, 4, 5 and 6 were one foot wider than the minimum requirement. He stated they were 10' wide 9' required. He felt it should be an accessible space.

The Chairman asked where they decided to put the recycling and garbage. Mr. Cusanelli answered it would be on the east side of the building.

Motion to open to the public was made by Mr. Rebsch, seconded by Mr. Denis and carried by all.

No one wished to speak from the audience.

Motion to close to the public by Mr. Denis, seconded by Mr. Rebsch and carried by all.

Ms. Batistic stated that they show on the plans a solid 6' fence around the property and explained the ordinance does not allow a fence within 10' of the street. Ms. Batistic reviewed the fence heights allowed and said they would have to comply with the ordinance or ask for a variance. Mr. Cusanelli thought the fence was required to screen the adjacent property. Mr. Giblin said they were not seeking variance relief from the fence requirements. The Chairman asked if the 6' solid fence was only proposed along the south side of the property or would it also be along the east side. Mr. Cusanelli said it was proposed along the residential property which was the south boundary only. The Chairman said since it was the rear of the property, would the 6' fence be okay. Ms. Batistic said it was a corner property and 10' from the street had to do with sight distance.

Mr. Loonam asked what the parking requirement for business was. Ms. Batistic said one stall for every 150 sf of the commercial area. Mr. Loonam said there were businesses along Main Street with no parking.

Ms. Hittel asked if there were any requirements for handicap access for the business use. Ms. Batistic said if it was a public use it would be required. Mr. Cusanelli said there is an exemption for above and below grade stories under 2000 sf for not having to provide handicap accessibility or at least an accessible route in the American Disabilities and this was only 900 sf. He added the only exception is medical office space is never exempt. Ms. Hittel commented if the business were to vacate and they needed to rent out the space they might be limited to what would be permitted. The Chairman and Mr. Cusanelli said it could not be medical space. The Board Attorney recommended a condition of approval complies with all ADA requirements.

The Chairman marked the revised plan as exhibit A-4.

Mr. Weisbrot said the parking is not optimal for him but if the residents want to live there that was their issue not the board's because the size of the parking stalls were compliant and even a little larger than required. Mr. Weisbrot said he would vote for this application.

Ms. Batistic noted that no signs were shown on the plan and any sign for commercial use would have to comply. Mr. Giblin agreed they would have to comply or return to the board.

The Board Attorney asked Mr. Giblin to summarize the relief required.

Mr. Giblin stated the variance relief required is a use variance. The residential on the first floor was not permitted it can only be above the first floor. The applicant needs 10 parking spaces and they were providing 6 so they were deficient by 4 parking spaces.

The Board Attorney also listed conditions:

Designation of the residential parking spaces with both signage and the set aside of the four tandem spaces for that purpose.

The basement is to be constrained to only storage and mechanical purposes.

The applicant shall comply with all fencing requirements.

Comply with all ADA regulations.

All signage shall comply with ordinance requirements.

Mr. Loonam agreed with Mr. Weisbrot that if tenants decide to rent there, they would have to deal with the parking. Mr. Loonam did not like this and felt we were forcing them to make something work that was ridiculous. He noted there was a restaurant nearby with no parking and they use the street. Mr. Loonam said we have created a one way coming off of Main Street and asking them to tandem and parallel park on the left side.

Mr. Weisbrot asked if the Board imposed this upon the applicant or was this what the applicant asked for. Mr. Loonam agreed it was what the applicant proposed. Mr. Loonam did not like it because they were asking for six spaces and trying to get some commercial parking.

The Board Attorney asked if he was suggesting he would be more comfortable with less parking. Mr. Loonam said he was not trying to design the application. He would like it more if there was a set up that met the four required parking spaces for the residents and no commercial parking on

the site because it would be cleaner and easier to access. Mr. Weisbrot agreed. Mr. Loonam said if the one way entrance was from Prospect it would work better. Mr. Cusanelli said unfortunately they cannot enter from Prospect Street. Mr. Loonam understood that but felt it was cumbersome. Mr. Cusanelli said the size of the stalls were compliant and they were trying to get as many spaces to have the least amount of variation from the requirement.

Ms. Hittel asked what the plan was to have the six parking spaces available at all seasons especially with snow. Mr. Cusanelli said snow would be removed from the site. Ms. Hittel asked if the owner of the property would remove the snow and would it be guaranteed. Mr. Cusanelli answered yes.

Mr. Weisbrot asked Mr. Sproviero if they have to include conditions in the board's grant of the application because they are required to comply with by ordinance. Mr. Sproviero agreed that some of the conditions were otherwise required to comply with the ordinance.

The conditions for the application would be:

Designation of the residential parking spaces with both signage and the set aside of the four tandem spaces for that purpose.

The basement is to be constrained to only storage and mechanical purposes.

The applicant shall comply with all fencing requirements.

The Chairman questioned if they decided on hours of operation. Mr. Giblin would comply with the ordinance.

There was more discussion on having only four parking spaces. The Board Attorney asked Mr. Giblin if he would like to take a recess to speak to his client. Mr. Giblin agreed.

Recess

Mr. Giblin felt a reasonable way to accommodate the needs of the business and the needs of the community would be if the designated parking spaces 1 and 2 was to be restricted to the employees for the business. Mr. Giblin clarified that they would keep the six spaces. They would restrict two spaces for employees and four for the tenants.

Mr. Weisbrot felt if they want six spaces and restrict spaces that should be up to them and not a condition that the board should impose. The Chairman agreed but clarified that the four spaces must be for the tenants. Ms. Batistic agreed.

The Chairman called for a motion on the application.

Mr. Weisbrot agreed with Mr. Loonam that the parking was a disaster and thought it would create problems for the property but liked the use and the design.

Motion made by Mr. Weisbrot to grant the two requested variances subject to the three conditions stated above, seconded by Mr. Denis.

The motion passed on a roll call vote as follows:

For the Motion: Members Weisbrot, Denis, Loonam, Rebsch, Joseph, Hittel, Schaffenberger  
Approved 7-0

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

Respectfully submitted,

Maureen Oppelaar