



BOROUGH OF NEW MILFORD
PLANNING BOARD
PUBLIC SESSION MINUTES

FEBRUARY 19, 2013

Chairman DeCarlo called the public session of the New Milford Planning Board to order at 7:35 pm. The Chairman read the Open Public Meetings Act. All recited the Pledge of Allegiance.

ROLL CALL

Chairman DeCarlo	Present
Mayor Subrizi	Absent
Council Liaison Grant	Present
Secretary Scavetta	Absent
Vice Chairman Pecci	Present
Mr. DaCosta	Present
Mr. Mottola	Present
Mr. Santino	Absent
Mr. Newman, Alt. 1	Present
Mrs. Prendergast, Alt. 2	Present
Mr. Abrahamsen - Attorney	Present
Mrs. Batistic – Engineer	Present

Board Attorney was in receipt of the oath of allegiance for Mr. DaCosta. He swore in Mr. DaCosta as a Class IV member. Mr. DaCosta recited, and then signed the oath. Everyone applauded, and congratulated him.

APPROVAL OF OFFICIAL MINUTES – November 27, 2012 & January 15, 2013

Motion by Mr. DaCosta, seconded by Vice Chairman Pecci, and carried by all to approve the November 27, 2012 minutes as amended with a minor spelling correction. Councilwoman Grant and Mrs. Prisendorf abstained. **Motion** by Councilwoman Grant, seconded by Mrs. Prisendorf, and carried by all to approve the January 15, 2013 minutes as amended with a minor spelling correction and correcting Mrs. Grant to be marked as present. Mr. DaCosta abstained.

REVIEW ATTORNEY RFQ'S

Chairman DeCarlo asked if Mr. Abrahamson be excused so the Board Members could review and discuss the Request for Qualification applications submitted for Board Attorney. The Chairman advised that during the January Reorganization meeting only one RFQ was submitted. The board members at that time agreed to re-notice for another round of RFQ's to be submitted with a February 1st deadline. After careful review the members had concerns with one attorney's busy schedule and the second attorney's distance from New Milford. The members also felt Mr. Abrahamson served the Board well in 2012. Mr. Abrahamson was unanimously approved to continue to serve on the Planning Board for 2013.

NEW BUSINESS

Application 13-01 307 Milford Avenue/ 326 Kastler Court – Minor Subdivision

Chairman DeCarlo said the application has been deemed complete at the November 27, 2012 meeting; however the application was not noticed properly for the January 15, 2013 meeting. Board Attorney reviewed the new notices and said the application could now be heard.

Joseph Vigilotti, 21 Main Street, Hackensack, NJ 07601, attorney representing the applicants, Mr. and Mrs. Seung Joon Park, Michael Kane, and Leyla Baloy who are proposing to subdivide out, approximately 663 square feet of Lot 46, and add it to the back of Lot 32. He said the proposed subdivision line will follow an existing fence line.

Mr. Vigilotti was submitting the following exhibits:

A-1 - a group of sixteen pictures depicted of the existing fence and site plan dated 10/11/12

A-2 – Bergen County Planning Board letter in receipt of the subdivision application

A-3 – Letter from Christopher Lantelme, PE regarding total impervious coverage

A-4 – Letter from Boswell Engineering regarding the variances associated with the application

Mr Vigilotti said all the variances associated with the subdivision are existing non-conformities of Lot 32, 307 Milford Avenue. He said the required lot size is 7500 square feet where 5,625 is existing and they are proposing 6,288 square feet. He said the front yard requirement is 55' where 51.1 feet is existing and they are proposing no change. He said the required building coverage was 1,257 square feet or 20% where 1,479 square feet was existing and they were proposing 1,510 square feet. Mr. Vigilotti said the rear yard setback requirement was 23.81 feet where 9.5' was existing and they are proposing 18.6 feet.

Minor Subdivision Application –307 Milford Avenue/ 326 Kastler Court

Chairman DeCarlo advised typically at a work session meeting they ask the applicant to advise the members of an overview of the application submitted. He said it is not a public hearing so testimony cannot be given, only a synopsis of the application to be presented at the public session.

Joseph Vigilotti, 21 Main Street, Hackensack, NJ 07601, attorney representing the applicants, Mr. and Mrs. Park and Mr. Chung. In answer to Chairman DeCarlo, Mr. Vigilotti said that he represented Mr. and Mrs. Park in June 2011 for the purchase of 307 Milford Avenue. He said during the process they discovered an encroachment which included a block wall, fence and garage. In answer to the Zoning Officer Mr. Vigilotti said the impervious coverage figure in the zoning calculations represented the total impervious coverage and not just impervious coverage. He said the engineer would clarify and give testimony at the public meeting.

In answer to Chairman DeCarlo, Mr. Vigilotti said he represented Mr. and Mrs. Park in June of 2011 with purchasing 307 Milford Avenue. He said during the process, they discovered there was an encroachment fence, block wall, pavers and the detached garage as depicted on the survey. He said they contacted the current owner Helen O'Brien, 326 Kastler Court for an easement of encroachment. He said on June 27, 2012, they were unaware that Mrs. O'Brien had sold the

property to Michael Kane and Lela Malloy. Mr. Vigilotti said Richard Brady of Waldwick, NJ is the attorney representing Mr. Kane and Ms. Malloy. The easement of agreement was executed on September, 2011. Mr. Vigilotti said they are seeking to transfer 660 square feet from the 326 Kastler Court to 307 Milford Avenue. He said they are requesting four (4) variances. He said all variances associated with the proposed subdivision are a result of existing non-conformities of 307 Milford Avenue. Board Attorney clarified that the lot is a conforming use that does not meet the bulk requirements. Mr. Vigilotti said the existing lot is 5,625 S.F. they are proposing 6,288 S.F. where 7,500 S.F. is required. He said they are seeking a variance for building coverage, where the existing is 26.3% or 1,479 S.F., the proposed being 24% or 1,510 S.F. where 20% is required or 1,257 S.F. He said they are seeking a front yard setback as the existing and proposed is 51.1' feet where 55 feet is required. He said they are seeking a rear yard setback where 9.5' is existing and where 18.6' is being proposed where 23.81' is required.

In answer to Chairman DeCarlo, Mr. Vigilotti said the title search did not yield anything with regard to the block wall. He said the house was built in the 1920's and the block wall has been erected since then. In answer to Mayor Subrizi, Mr. Vigilotti said the block wall could have been erected to show the property line of the Kastler Court development at the time of construction. In answer to Board Attorney, Mr. Vigilotti said he has been advised that the detached garage has been there ever since they purchased the house. He said the neighbors said the garage has been there since the house has been erected. Mr. Abrahamson said the garage could have been erected before side yard setbacks were required. Mr. Vigilotti agreed.

Board Attorney asked if the fence was existing. Mr. Vigilotti said yes. In answer to Chairman DeCarlo, Mr. Vigilotti said if the proposed subdivision were to be approved the fence would still be in compliance with the zoning requirement for the in ground pool located at 326 Kastler Court. Mr. Vigilotti said the engineer would testify at the public session with regard to the fence, due to the slope of the property. He said the fence is on the upper portion of the slope. In answer to Secretary Scavetta, Mr. Vigilotti said the fence would be more than six feet to the pool which was in compliance with the zoning requirement. Chairman DeCarlo advised Mr. Vigilotti that pictures would not be required however if they could supply some pictorials at the public session it would be helpful to the members to visualize the fence.

Board Engineer clarified for the members that the impervious figure is larger on the zoning chart due to the detached garage on the 307 Milford Avenue would be additional coverage if the subdivision were to be approved. Chairman DeCarlo thanked the Board Engineer for that clarification. In answer to Board Attorney the additional coverage does not need any variances. In answer to Mayor Subrizi, Mr. Vigilotti said the applicants for 307 Milford Avenue are not proposing any additions or construction projects. Chairman DeCarlo asked if testimony would be given at the public session. Mr. Vigilotti said yes.

Mr. Vigilotti said they were having difficulty scheduling the engineer's appearance for the December public session, he asked if they could be put on the January 15, 2013 public session meeting. Mr. Vigilotti said there would be a chance that the engineer could appear however they were unsure at this date. Chairman DeCarlo said the January 15th meeting was the reorganization meeting he asked the Board Attorney if the case would be heard prior to the reorganization or after. Board Attorney said to contact the Board Secretary if they would convene in December and to submit the proper notices prior the public hearing. He said the Board Secretary would advise the members if there would be a meeting in December or if the matter would be carried to January.

Chairman DeCarlo asked the Borough Engineer if the application was deemed complete. She said she would have a report sent to the members prior to the public session and she deemed the application complete.

OTHER MATTERS

Board Secretary said the sign ordinance was passed at the last Mayor and Council meeting with no changes from the planning board's recommendations.

Board Engineer updated the members with regard to the Sanzari's application which was currently given an approval for an addition and additional parking was proposed where two dwellings were former. Board Engineer said there was an issue with regard to seating and the applicants were advised to reappear before the Zoning Board to address that issue prior to a resolution being memorialized for the approval.

In answer to Chairman DeCarlo, Board Attorney said he said that this board approved a resolution stating a developer's agreement is required. He was aware that the applicant's attorney spoke to the Borough Attorney who stated a developer's agreement was not needed. He said the applicant should have requested relief at the time prior to the resolution being memorialized. He said he feels the Borough would be better protected with a Developer's agreement and he would reach out to the Borough Attorney.

Chairman DeCarlo hoped everyone had a nice Thanksgiving. Chairman DeCarlo thanked Council Liaison Berner for his dedicated service to the board. Councilman Berner thanked the Chairman and the Board.

As there was no further business to be conducted by the Board, a **motion** to adjourn was offered by Celeste Scavetta seconded by Mayor Subrizi, and carried by all. Chairman DeCarlo said the next meeting will be a combined meeting held on December 18, 2012 at 7:30 pm.

Respectfully submitted,



Maria Sapuppo
Recording Secretary