

Approved
6/10/14

**New Milford Zoning Board of Adjustment
Work Session
April 8, 2014**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:32 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Binetti	Present
Ms. DeBari	Absent
Mr. Denis	Absent
Fr. Hadodo	Present
Mr. Ix	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes	Absent
Mr. Schaffenberger-Chairman	Absent
Ms. Batistic – Engineer	Present
Mr. Sproviero - Attorney	Present

REVIEW OF MINUTES – February 4, 2014 and February 11, 2014

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

RESOLUTION

Mr. Sproviero stated they would not be adopting the resolution at this meeting. The Board Attorney said on Friday April 4, 2014, the NMRA filed an appeal with the Mayor and Council challenging the reasonableness of the charges invoiced by the Board's professionals in the prosecution of the application. The Board Attorney said he would like to take the Board Members through the legal process, report on the Mayor and Council meeting and discuss when the resolution would be adopted. He wanted to do that in closed session and suggested the Board finish the work session agenda.

OLD BUSINESS

**13-02 Alex and Sons Real Estate, LLC – 391 Madison Avenue - Block 1211 Lot 32
Three story 14 unit multiple dwelling with parking underneath building
Use, building coverage, front yard and height**

The Chairman said there was a letter dated March 12, 2014 from Mr. Alampi requesting this application be carried until the May 13, 2014 meeting.

NEW BUSINESS

06-08A Switzer – 197 Grand Street – Bock 1504 Lot 11

Request an appeal of the denial letter.

The Board Attorney stated there was a denial letter from the zoning officer. He explained the applicant came in to pull permits with respect to variance relief granted in December 2006 memorialized in January 2007. At the time of the request, there was no specificity of exactly what they were going to do. A denial letter was issued and the current owner filed an appeal of the denial. Mr. Switzer came before the board at the March work session and explained he was changing nothing. The Board scheduled him to appear at this April meeting. The Chairman said the zoning officer pointed out a contradiction which he wanted to clarify. The Board Attorney thought the numbers in the resolution were inconsistent with the prior application and this was an opportunity to correct it. The Chairman stated that the zoning officer indicated in the denial letter that the applicant was not seeking to construct any paver patio therefore impervious coverage figures were not required at this time. He questioned on the site plan it indicated a new paver patio.

NEW BUSINESS

14-01 Berchtold - 605 Fermery Drive Block 1709 Lot 6 - Addition/add a level

Building Coverage

The Board Attorney believed there was a preexisting non-conforming with regard to side yard and driveway. The Board Engineer agreed. The Chairman said there was a letter from Boswell Engineering regarding the application.

The Board Attorney clarified they were going into closed session to discuss anticipated litigation and it was not anticipated that any formal action on what would be discussed in closed session would take place tonight. He said it does involve the NMRA application and it involves the appeal application that has been made by the applicant to the Mayor and Council and further involves the legal ramifications of the timing of the adoption of the resolution.

The Chairman asked for a motion to go into closed session. (740-750)

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

Motion to close work session was made by Mr. Ix, seconded by Mr. Rebsch and carried by all.

**New Milford Zoning Board of Adjustment
Public Session
April 8, 2014**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 8:00 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Binetti	Present
Ms. DeBari	Absent
Mr. Denis	Absent
Fr. Hadodo	Present
Mr. Ix	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes	Absent
Mr. Schaffenberger-Chairman	Absent
Ms. Batistic – Engineer	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE SPECIAL MEETING – February 4, 2014

Motion to accept the minutes were made by Mr. Loonam, seconded by Mr. Ix and carried by all.

OFFICIAL MINUTES OF THE WORK SESSION–February 11, 2014

Motion to accept the minutes were made by Mr. Loonam, seconded by Mr. Binetti and carried by all.

OFFICIAL MINUTES OF THE PUBLIC SESSION–February 11, 2014

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

The Board Attorney said there would be a special meeting for the adoption of the NMRA resolution on April 21, 2014 at 7:30pm.

OLD BUSINESS

**13-02 Alex and Sons Real Estate, LLC – 391 Madison Avenue – Block 1211 Lot 32
Three Story 14 Unit Multiple Dwelling with parking underneath building
Use, Building Coverage, Front Yard and Height**

The Chairman read into the record the letter from Mr. Alampi dated 3/12/14 requesting the matter be carried to the Tuesday, May 13, 2014 public hearing due to the preparation of the revised plans and processing the Bergen County application.

NEW BUSINESS

06-08A Switzer – 197 Grand Street – Bock 1504 Lot 11

Request an appeal of the denial letter.

Richard Switzer, 197 Grand Street, New Milford was sworn in by the Board Attorney. The Board Attorney clarified that in December 2006 the Board granted bulk variances for the addition but nothing has been done. Mr. Switzer purchased the property and went to the zoning office seeking permits to implement relief granted. The zoning officer issued a denial letter on February 25, 2014 on the grounds it could not be determined whether or not Mr. Switzer would build exactly what was approved. Mr. Sproviero further explained it has been seven years since the resolution was adopted. The Board Attorney said the relief that was granted to the prior owner was still in effect as a result of the implementation and continued extension of the permit extension act. The next issue was whether or not Mr. Switzer intends on doing what the variance authorized. This was not a new application for variance relief but an appeal of the denial issued by the zoning officer.

Mr. Switzer said he was doing the exact same thing that was approved seven years ago. Mr. Sproviero said in the denial letter he stated he would not be putting in the two paver areas. Mr. Switzer agreed. Mr. Sproviero said that would eliminate some impervious coverage. Ms. Batistic agreed. The Board Attorney said what he was doing was less intense regarding that one issue that was previously approved. Mr. Switzer added that he would be removing the existing carport and shed. The Chairman said on his site plan it indicated he would be adding a driveway where the carport was. Mr. Switzer said no and added there currently was a two car driveway. He explained the previous applicant said they were putting pavers to curve up to where the carport was to alleviate potential overnight parking. Mr. Switzer did not intend to put in pavers but it would be used for overflow parking. The Chairman said there was an ordinance for parking on grass.

The Chairman said the Board would vote on whether they should rescind the denial letter. The Board Attorney agreed and authorize the issuance of the permits to do the work in accordance with the prior approval. The Chairman said, by reviewing the matter, the Board was in no way suggesting the zoning officer was incorrect in issuing the denial letter. The Board Attorney agreed. He clarified the Board now had the pertinent information necessary to say they were entitled to their permits. The Board Attorney said there were a series of incorrect calculations in the resolution. He said on page 2 of the resolution in summarizing the testimony of the architect it put forth a series of calculations with respect to the size of the addition, lot coverage, building coverage. He believed some of the numbers were incorrect and it would be corrected with the new resolution.

Father Hadodo made a motion to rescind the denial letter, seconded by Mr. Binetti.

The motion passed on a roll call vote as follows:

For the Motion: Members Hadodo, Binetti, Loonam, Ix, Rebsch, Schaffenberger

Approved 6-0

14-01 Berchtold - 605 Fermery Drive -Block 1709 Lot 6 - Addition/add a level Building Coverage

Joseph and Nicole Berchtold, 605 Fermery Drive, were sworn in by the Board Attorney.

JoAnn Montero, 7 Huntington Road, East Brunswick, NJ, architect, was sworn in by the Board Attorney.

Mr. Berchtold requested to construct an addition off the rear of their home to square off the property and family room as well as a second floor addition.

Ms. Montero said there would be 16'4" x 18' 8" family room which would connect to the dining room. The second floor would have three bedrooms and an office. The relief sought would be coverage and there was a preexisting side yard setback where they would be adding on the second floor in that area. Ms. Montero said the permitted coverage was 20% and they were requesting 25.1%. Mr. Sproviero asked what the current lot coverage was. Ms. Montero said 17.8%. Mr. Sproviero clarified that there was also an issue with the driveway, which was a preexisting non-conforming aspect of the premises. Mr. Berchtold said the driveway existed from the time he purchased the property in 1995 and he was not seeking to expand it. The Board Attorney clarified that they were proposing five bedrooms and questioned if they had an extended family living with them. Mr. Berchtold said because of their work schedules they plan to use the front bedroom occasionally for his mother-in-law to help.

The Chairman asked what the current configuration of the house was. The resident said currently they have two bedrooms, living room, dining room, kitchen and not a full basement. The Chairman asked if the addition would have a full basement. Mr. Berchtold answered it would have a crawl space. The Chairman noted that the Board Engineer referenced in her letter that the shed was not included in the lot coverage and asked if it would stay. Mr. Berchtold would like it to stay. Ms. Batistic calculated it would be 26.2% coverage. The Chairman also clarified that the Board Engineer recommended a seepage pit. Mr. Berchtold agreed. The Chairman asked the homeowners if they considered going out less than 16'4" to keep the lot coverage down. Ms. Montero said it was a comfortable size to accommodate seating, a fireplace and to have access to a sliding glass door on the side. The Chairman questioned the proposed 5' extension. Mr. Berchtold said that would allow the transition from the existing dining room into the family room.

Father Hadodo questioned the second floor addition and side yard setback. Mr. Sproviero said they were not expanding the preexisting non-conforming aspect. Mr. Berchtold said the second floor would come in a little bit and not go the full edge of the property. The Chairman asked if they were keeping their existing concrete patio. Mr. Berchtold said yes.

Mr. Loonam commented that the plans were nice but he had an issue with the lot coverage. He felt one thing that offset it was the rear yard setback. Mr. Loonam asked the architect about the design and layout. Ms. Montero explained the layout and the need to circulate around the table and the flow between the kitchen and family room. Mr. Loonam asked if there was another way

to design what they were requesting by reducing the building coverage. Ms. Montero said there was a discussion of removing the covering over the rear porch and reducing the family room but this was a comfortable size that they proposed. The Board Members reviewed the plans.

Mr. Berchtold said when they draw up their plans they looked at their neighborhood and most of the homes on Fermery Drive had additions and he felt they were conforming to the neighborhood.

Mr. Ix liked the plans and agreed it conformed to the neighborhood.

Mr. Binetti also thought it conformed to the neighborhood.

Motion to open to the public was made by Mr. Ix, seconded by Mr. Binetti.

No one wished to speak in the audience.

Motion to close to the public was made by Mr. Ix, seconded by Father Hadodo.

Mr. Loonam thought it was a good application and was in line with the neighborhood aesthetically. He did not like the 25% coverage but he considered it because of the way the house was currently designed and the architect's testimony that this was the most feasible way to accomplish what they were looking for. Mr. Loonam said a big fact for him was that although there was a variance for building coverage there was no variance for impervious. He stated that impervious was under the permitted coverage and there was a preexisting non-conforming variance.

Motion made by Mr. Loonam to approve the application, seconded by Father Hadodo.

The Chairman added a seepage pit was required. The Board Attorney clarified that the Board would be granting a variance with respect to the preexisting non-conforming aspect of the existing driveway.

The motion passed on a roll call as follows:

For the Motion: Members Loonam, Hadodo, Binetti, Ix, Rebsch, Schaffenberger.

Mr. Schaffenberger also did like the 26% coverage but approved it because of the size of the back yard.

Approved 6-0

The Chairman told the applicants they should wait to do construction until the application was memorialized next month.

The applicants thanked the Board.

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

Respectfully submitted,
Maureen Oppelaar