

Approved
2/11/2020

**New Milford Zoning Board of Adjustment
Work Session/Reorganization meeting
January 22, 2020**

Chairman Schaffenberger called the Work/Reorganization Meeting Session of the New Milford Zoning Board of Adjustment to order at 7:30 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	Present (7:40)
Ms. DeBari	Present
Ms. Hittel	Present
Mr. Levine	Present
Mr. Rebsch	Present
Mr. Weisbrot	Present
Mr. Schaffenberger- Chairman	Present
Mr. Sproviero - Attorney	Present
Mr. Ascolese	Present

REORGANIZATION – 2020

The Board Attorney swore in Mr. Levine for a four-year term as a full member with a term expiring 12/31/21.

The Board Attorney swore in Ms. Hittel for a four-year term as a full member with a term expiring 12/31/23.

The Board Attorney swore in Mr. Birnbaum for a two-year term as an alternate with a term expiring 12/31/20.

The Board Attorney swore in Mr. LoPorto for a two-year term as an alternate member with a term expiring 12/31/21.

The Chairman called for a motion to dissolve the legal counsel of Scott Sproviero, Esq. Motion made by Mr. Levine, seconded by Mr. Rebsch and carried by all.

The Chairman called for a motion to dissolve Vice Chairman from their obligation to the Zoning Board.

Motion made by Mr. Rebsch, seconded by Ms. Hittel and carried by all.

The Chairman called for a motion to dissolve Chairman from their obligation to the Zoning Board.

Motion made by Mr. Weisbrot, seconded by Mr. LoPorto and carried by all.

Meeting turned over to the senior member, Mr. Schaffenberger.

Mr. Schaffenberger called for a motion to nominate a Chairman for 2020.

Motion made by Mr. Rebsch to nominate Karl Schaffenberger, seconded by Mr. Adelung.

The motion passed on a roll call as follows:

For the motion: Members Rebsch, Adelung, DeBari, Hittel, Levine, Weisbrot.

Abstain: Member Schaffenberger

No other nominations were made.

The Chairman called for a motion to nominate a Vice Chairman for 2020.
Motion made by Mr. Adelung to nominate Mr. Weisbrot, seconded by Mr. Levine.
The motion passed on a roll call as follows:
For the motion: Members Adelung, Levine, DeBari, Hittel, Rebsch, and Schaffenberger.
Abstain: Mr. Weisbrot
No other nominations were made.

The Chairman called for a motion to nominate a Board Attorney for 2020.
Motion made by Mr. Rebsch to nominate Scott Sproviero, seconded by Mr. Weisbrot.
For the motion: Members Rebsch, Weisbrot, Adelung, DeBari, Hittel, Levine and Schaffenberger.

The Board Attorney explained this was Mr. Asoclese's last meeting with Boswell Engineering and the board had a series of responses for Engineer for the upcoming 2020 year. The Board received responses from 50 States Engineering, Neglia Engineering, Maser Engineering (which is the Borough's engineer), Costa Engineering and Boswell Engineering. All members had received copies of these RFQ's.

The Board Attorney said there was a review and recommendation committee. The Chairman said they met on January 8. The chairman said the committee was himself, Mr. Sproviero and Mr. Loonam. They reviewed all of their qualifications and also focused on price which varied a lot. The Board Attorney said the most cost-effective proposal in terms of meeting fee and hourly rate was 50 States Engineering. The principal behind 50 States Engineering is Margita Batistic who had been the board engineer when she was with Boswell Engineering and served the board for many years. They also considered experience with the Borough of New Milford. The review committee's recommendation was, based upon those price considerations and based upon Ms. Batistic's experience as representing the board for close to a decade, was the appointment of 50 States Engineering.

Ms. DeBari asked if Ms. Batistic would be present at the meetings or would it be someone else. The Chairman said it would be her but there are other people at the firm if she is unable to attend.

The Chairman asked the board if they reviewed these RFQ's and if they had another engineering firm to recommend other than 50 States Engineering. Ms. DeBari thought Ms. Batistic was wonderful but that Boswell Engineering served the board well, knew the town and has been the engineer for many years. The Board Attorney said his economic proposal was significantly more expensive. Ms. DeBari said alright because she had no problem with Ms. Batistic. The Chairman asked if she had another suggestion. Ms. DeBari said her only suggestion would be to appoint Boswell but she was fine with whatever the board wanted. The Chairman told Ms. DeBari she could also make a motion. Ms. DeBari said no and she understood.

The Chairman called for a motion to appoint an Engineer for 2020.
Motion made by Mr. Adelung, seconded by Ms. Hittel to appoint 50 States Engineering.

For the motion: Members Adelung, Hittel, DeBari, Levine, Rebsch, Weisbrot, Schafffenberger.
Approved 7-0.

Mr. Weisbrot wanted to express his appreciation to Mr. Ascolese who stepped in when the board had some concerns last year. Mr. Weisbrot said he did an amazing job and gave the board amazing counsel. Mr. Weisbrot said he did a phenomenal job. The Chairman also agreed with his comments and thanked Mr. Ascolese.

REVIEW MINUTES OF THE WORK SESSION – December 10, 2019

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

REVIEW MINUTES OF THE PUBLIC SESSION – December 10, 2019

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

NEW BUSINESS

19 07- Hotto- 117 Prospect – Block 1520 Lot 12 – Addition – building coverage, side yard, impervious coverage.

The Chairman said this application was carried from last month.

20-01 – 317 Hoffman – Lee – Block 701 Lot 4-New Garage – building coverage, impervious coverage.

The Board Members reviewed the application and there were no comments.

The Chairman said there were some members that have not taken cyber security training class yet and it needs to be done by the end of January.

The Chairman handed out the 2019 Annual Report for the members to review.

The Board Attorney said he will prepare a resolution memorializing the board's approval of the report. He commented that if the members have any questions after they review the report, they can always pull the resolution.

The Chairman informed the new members they will need to take a class and the forms were handed out.

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

**New Milford Zoning Board of Adjustment
Public Session
January 22, 2020**

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. Adelung	Present
Mr. Birnbaum	Present
Mr. DeBari	Present
Ms. Hittel	Present
Mr. Levine	Present
Mr. LoPorto	Present
Mr. Rebsch	Present
Mr. Weisbrot -Vice Chairman	Present
Mr. Schaffenberger-Chairman	Present
Mr. Ascolese	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION – December 10, 2019

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

OFFICIAL MINUTES OF THE PUBLIC SESSION – December 10, 2019

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

NEW BUSINESS

19 07- Hotto- 117 Prospect – Block 1520 Lot 12 - Addition – building coverage, side yard, impervious coverage.

The Board Attorney swore in Amy Hotto, Thadeus Hotto from 117 Prospect Avenue and Andrew Fethes, architect, at 613 Oradell Avenue, Oradell, NJ.

Mr. Levine recused himself from hearing the application because he sat on another board with the homeowner.

Ms. Hotto said they were seeking a variance for constructing a master bathroom.

Mr. Fethes said there were two variances required and necessary. There was a side yard variance required 7.5' proposed is 6.5'. A building coverage required is 20% (800 sf), existing is 1178.2 sf (29.5%) and proposed is 1,226.5 sf (30.6%). The architect said the side yard and building coverage is preexisting non-conforming.

The Chairman asked the architect if his plans for this addition was necessary and if there was any other way to do this. Mr. Fethes said they did look at other locations for the master bath that would not require variances but said the other options were problematic.

The board attorney marked **exhibit A-1** – plan dated 9/26/19

The board attorney marked **exhibit A-2** – sketch

The board Attorney marked **exhibit A-3** – photos

The Chairman asked the architect if he took the photos and if they were altered in any way. Mr. Fethes took the pictures which were not altered.

The architect said the proposed addition measures 6'2" x 8'9" keeping the existing side yard but not further exacerbating the preexisting 6'5" side yard setback. The proposed addition is being built over an existing deck. He explained there were two existing decks in the rear of the house. One is located on the lower level and the other is off of the second floor.

Mr. Fethes said they were proposing to take 2/3 of the upper deck and use that area for the master bathroom. He stated that the existing deck below would remain and be maintained and there would be new structural columns to replace the existing columns.

The Chairman asked if he would foresee enclosing the bottom deck. Mr. Fethes did not believe so. The chairman asked if they had an objection to a condition that the bottom deck not be closed in. The applicants had no objection to the condition.

Mr. Fethes said they contacted the building department and found out that there was a previous variance on the property. There was a resolution in 1996 for an addition on the rear of the home that the present side yard setback was 6'9".

Mr. Fethes said the reason they were here is that there is piece of property that is substandard. The lot size is 4,000 sf where required is 7,500 sf.

The Chairman clarified that they were looking for a side yard variance which is preexisting non-conforming and they were increasing the preexisting building coverage.

Mr. Adelung said there was a the change in zoning with decks and were they included in building coverage. Mr. Fethes said they took that into account already. He stated the existing deck is 167.5 sf and they were reducing it to 97.5 sf and they were over by about 420 sf.

Mr. Weisbrot asked what was the square footage of the addition. Mr. Fethes said the proposed is 894.2 sf. Mr. Weisbrot clarified that it was a 70 sf addition. Mr. Fethes agreed. There was discussion on square footage regarding removing a deck and replacing it with an addition.

Mr. Fethes said the proposed addition is 54 sf because it only encompasses a portion of the upper deck so the increase would be 16 sf. The Chairman was not clear if the bottom deck was included in the total calculation of the building coverage.

Mr. Ascolese explained the zoning worksheet which states that item 1-5 is the total building coverage. Mr. Ascolese stated the worksheet shows the existing building footprint is 824.2 sf and proposed 894.2 sf. The Chairman asked if the 824.2 sf includes the deck. Mr. Ascolese said no.

Mr. Ascolese noted that item 7 states existing is 167.5 sf and asked if that was the size of the lower deck. Mr. Fethes said yes. Mr. Ascolese summarized that the building coverage which is listed as 894.2 sf for the footprint, garage 332.2 sf and bilco door 21.7 sf. Mr. Fethes said the new building coverage is 30.6% which is an increase of 1.1%. The Board Attorney said with the addition of the 16 sf, it brings them from 29.5% to 30.6%. Mr. Ascolese said the proposed 1248.2 sf should be 1226.5% and the 31.2 % should be 30.6% according to Mr. Fethes's letter dated 11/12/2019. Mr. Fethes agreed. Mr. Ascolese told the Chairman that the existing coverage for building coverage was 1178.2 sf (29.5%) and the correct proposed building coverage is 1226.5 sf (30.6%).

Mr. Weisbrot asked Mr. Fethes why the numbers changed in his November 12 letter from the zoning worksheet. Mr. Fethes said they perhaps made a calculation error in the worksheet and was corrected in the letter.

Mr. Ascolese made a correction on item 4 of his review letter that he has the west wall of the bathroom will align but it is the south wall. He added that the outside dimension of the bathroom addition is 6'2" x 8'9". Mr. Fethes agreed.

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

No one wished to speak in the audience

Motion to close to the public was made by Ms. Hittel, seconded by Mr. Rebsch and carried by all.

Mr. Ascolese said the survey indicated there was a metal shed. The applicants said it was removed. Mr. Ascolese informed the applicants that if they put back a shed, they would have to return to the board for a variance for building coverage.

The Board Attorney stated that a condition was not to enclose the existing deck.

The Chairman called for a motion to approve the variance for the addition with the condition.

Motion made by Mr. Adelong, seconded by Ms. Hittel.

The motion passed on a roll call as follows:

For the motion: Members Adelong, Hittel, DeBari, Rebsch, Weisbrot, Birnbaum and Schaffenberger.

Recused: Levine

Approved 7-0

Mr. Weisbrot commented that for the last six months, he has stated that he would never vote in favor of an application that contained errors. Mr. Adelung had pointed out that this application became a problem, said Mr. Weisbrot. Mr. Weisbrot hopes the word spreads that we will not accept that because the members were making decisions based on those numbers. However, he saw this as a serious need for them to accomplish this to use their property, so with one exception, he was in favor of the application.

20-01 – 317 Hoffman – Lee – Block 701 Lot 4 - New Garage – building coverage, impervious coverage

The Board Attorney swore in David Buckman, Buckman architectural group, and homeowners Jenny Lee and Tom Marvel from 317 Hoffman.

The Board accepted the qualification of Mr. David Buckman as a licensed architect.

Mr. Buckman said they were hired to take a dilapidated garage and replace it with a new garage. He stated it would be similar to the old garage but bigger because his client has a need for a larger garage.

The Board Attorney marked as **exhibit A-1** – photos of exterior and interior of garage

The Chairman asked if he took the photos and if they were altered. Mr. Marvel took the photos and said they were not altered.

Mr. Buckman said they require two preexisting variances for the garage which were building coverage and impervious coverage.

The Architect said the building coverage requirement is 20% they were currently 29.7% and proposed 31.5%. The impervious coverage existing is 49.3% and proposing 43.8% which is less but they are still over the 40%. Mr. Buckman said the impervious coverage is less because they are removing a lot of the driveway.

Mr. Buckman referred to the Boswell Engineering review letter dated 1/17/2020. He said one of the comments was the width of the eaves for the garage which were not shown. Mr. Buckman said 18” was what they usually do but if it is a problem they don’t need it. Mr. Ascolese was concerned if the eaves were counted in the calculation.

Ms. Hittel questioned what part of the driveway they were removing. Mr. Buckman showed on the plans what was being removed.

Mr. Buckman said there was a question on the Boswell Engineering letter if there was a proposed walkway from the garage to the house. The architect said no, there was not. He said there was also a question regarding the driveway on the westerly side of the garage. Mr. Buckman said they could remove more driveway from that area which would reduce it more.

Ms. Hittel questioned if the use for proposed garage was primarily for storage. Mr. Marvel said the existing garage is storage but if was larger they could use it for a car.

Mr. Weisbrot asked if the purpose of the proposed garage was to have more space to put more things in it. Mr. Marvel said not to put more things in but to be able to organize the things they have in the garage and have a car in it.

Mr. Adelung commented that everyone would like to have a two-car garage or a bigger garage but asked the homeowner why he needs it. Mr. Marvel said because they have a lot of stuff. Mr. Adelung answered so does everyone. Mr. Adelung asked if there was room in the back to park your car. Mr. Marvel said right now there were two cars in the driveway and his pick-up truck cannot fit in the garage because of the height.

The Chairman said the applicant was at almost 30% and were allowed 20%. He commented that they were now proposing more building coverage. The Chairman agreed with Mr. Adelung that they need a reason for giving a variance other than “we want it”.

The Chairman said they were requesting a lot of coverage. He pointed out that people come requesting 24% and they are turned down and 30% is huge. The Chairman said they need more than “we want it”.

Mr. Adelung asked what was the condition of the garage. Mr. Marvel said it needs attention.

Mr. Ascolese looked up and read the ordinance regarding the eaves and said it read the eaves could be up to 2’.

Mr. Ascolese asked how much square footage was he removing in the front yard. Mr. Buckman answered 459 sf, 130 sf on the side and patio is being removed which is 298 sf. Mr. Buckman said the patio is covered so that is also coverage. Mr. Ascolese asked if allowed for that. Mr. Buckman answered no.

The Chairman said they seem to be rearranging numbers and he could not get pass the large numbers that were being requested. Mr. Buckman said they are just trying to make sure the numbers jive.

Mr. Adelung said building coverage is 20% and they had 29.7% existing. His opinion was that he could live with it if there was a way that the building coverage moved laterally and did not increase. Mr. Adelung said he did not know if any other members would agree.

Mr. Weisbrot did not want him to take five minutes and come back with a new plan. He said the applicant needs to figure out if they want to proceed with this plan or could come back with another plan. He does not want to hear different numbers now.

The Chairman agreed that they hear this plan or come back next month with a different plan. Mr. Marvel asked if they knocked down the garage and rebuilt the same size, would they need a variance. The Chairman said yes.

Ms. DeBari asked if they could poll the board to see what their feelings were as the application stands now. The Chairman said yes.

The Board Members were polled and no members liked the application as it was presented.

Mr. Ascolese said if the applicant was to resubmit, he asked them to call out on the site plan how many square feet of asphalt would be removed from the front yard, the left side of the garage, and square footage for the patio being removed.

Mr. Adelung asked if the covered patio would count the same as the decks. Mr. Ascolese said the roofed porches, patios and breezeways is building coverage.

The next meeting is February 11 and the deadline for that meeting would be January 31, 2020, said the board attorney. The Board Attorney said they would not have to renotice. Mr. Marvel said they might not do this at all but felt February was too quick so put them on for March 10, 2020. The Board Attorney said the application would be carried to March 10, 2020 and no further notice was required. Mr. Sproviero said the new plans for the March meeting would be due on February 28, 2020.

Mr. Buckman thanked the board for the poll.

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

Respectfully submitted,
Maureen Oppelaar