

Approved
2/9/21

**New Milford Zoning Board of
Work Session
02 09 21
Virtual meeting (zoom)**

Chairman Weisbrot called the Work 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. Adelung	Recused
Mr. Birnbaum	Present
Ms. DeBari	Present
Mr. Hicks	Present
Mr. Levine	Present
Mr. Loonam - Vice Chairman	Present
Mr. LoPorto	Present
Mr. Rebsch	Present
Mr. Weisbrot- Chairman	Present
Mr. Sproviero - Attorney	Present
Ms. Batistic- Engineer	Present

Mr. Adelung recused himself this application.

REVIEW MINUTES OF THE WORK/PUBLIC SESSION – January 12, 2021

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

RESOLUTIONS

ANNUAL REPORT 2021

The board members reviewed the report and had no changes.

NEW BUSINESS

21-01 – SWOPE – 729 Stockton Street – Block 605 Lot 24

Addition – building coverage, front yard variances

The Board member reviewed the application and had no comments.

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

**New Milford Zoning Board of Adjustment
Public Session
February 9, 2021**

Chairman Weisbrot called the Public Session of the New Milford Zoning Board of Adjustment to order at 7:55pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	Recused
Mr. Birnbaum	Present
Ms. DeBari	Present
Mr. Hicks	Present
Mr. Levine	Present
Mr. Loonam -Vice Chairman	Present
Mr. LoPorto	Present
Mr. Rebsch	Present
Mr. Weisbrot - Chairman	Present
Ms. Batistic -Engineer	Present
Mr. Sproviero - Attorney	Present

Mr. Adelung recused himself this application.

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE PUBLIC SESSION January 12, 2021

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

RESOLUTIONS TO BE MEMORIALIZED

Annual Report 2021

The Board Members reviewed the resolution and report and there were no changes or comments. The Board Attorney explained that the resolution does not seek any action be taken by the Mayor and Council or the Planning Board to address the issues that the board has been confronting during the course of 2020. The board is sending what constituted the predominant subject matter of the applications before the zoning board.

Motion made by Mr. Rebsch to adopt and transmit the annual report to the Mayor and Council, seconded by Mr. Levine.

The motion passed on a roll call as follows:

For the motion: Members Rebsch, Levine, DeBari, LoPorto, Birnbaum, Weisbrot

Abstain: Member Loonam

Vote 6-0

Mr. Loonam abstained from the vote because he was not on the board the whole year.

The Chairman expressed his appreciation for the work done by the professionals.

NEW BUSINESS

21-01 – SWOPE – 729 Stockton Street – Block 605 Lot 24 Addition – building coverage, front yard variances

Mary Wynn Seiter, Law firm Buckalew Frizzel & Crevina,, was there on behalf of George and Anastasia Swope, owners of 729 Stockton Street. Also present was her colleague Aleksandra Tasic as well as the Swope's architect, Douglas Battersby.

Douglas Battersby and George and Anastasia Swope were sworn in by the Board Attorney.

Ms. Tasic explained the application was for an addition in the front of the home. It is a single-family home with a proposed addition to extend the master bedroom with an area on the first-floor for a bathroom. The variances being sought were the front yard setback. She explained the maximum building coverage, maximum impervious coverage, maximum front yard coverage and maximum side yard variances were all preexisting.

Ms. Tasic felt this was a straightforward application due to the hardship for the applicant because the lot was exceptionally narrow so there was not much else the homeowners could do to improve their property. They felt it would be an improvement to the property, a beautification of the front of the home and would be in line with the current style of the neighborhood.

Mr. Swope testified they have been at this property since 1996 and have a previous variance in for an addition built for a library/music room. Ms. Swope stated that was built 20 years ago. Mr. Swope explained in 2019 their homeowner's insurance conducted a survey of the property to make sure it was insurable and discovered their steps had crumbled and the foundation under their front entrance was exhibiting cracks and crumbling. They were informed that the insurance company would deny their coverage unless they replaced the steps and rebuilt the foundation for the front entrance.

Mr. Swope said they were planning to rebuild their front entrance on the exact footprint and include a ½ bath on the ground floor. Ms. Swope felt it was a hardship for their parents not to have a first-floor bathroom. Mr. Swope said they were also proposing a front porch extending to the right of the front door all the way to the driveway. He stated that would allow them to get from the car to the door without getting drenched in the rain and for packages to be left without getting wet. The proposed second floor would follow the line straight up over the existing entry way and would be a space for a master bathroom. The front wall would extend to meet the addition and also enlarge the master bedroom. There would be a porch on part of the first floor. The existing entryway would be in place and there would be a master bathroom added to the second floor and a larger master bedroom.

Ms. Tasic asked the homeowners if they intend to remain and stay at the property after the construction is complete. Mr. and Ms. Swope said they were not moving. Ms. Tasic asked if they

were keeping the landscape features at front of the house for curb appeal. The homeowners said yes.

Ms. DeBari asked if their front door remains in the same location. The homeowners answered yes. Ms. DeBari asked how far was it from the front door to the steps. Mr. Battersby answered from the front door of the addition to the steps of the porch was 3'. Ms. DeBari confirmed that the porch would extend straight across the house and also on the other side of the door. Mr. Swope agreed. Ms. DeBari clarified that there would be stairs down to their driveway. The homeowner's agreed.

Mr. Loonam said that on the zoning worksheet the building footprint stated existing was 1,094 sf and proposed 1,085 sf. Mr. Battersby said the first-floor addition being built was slightly smaller. Mr. Loonam clarified that the building foot print would be slightly smaller. Mr. Battersby said if you are not counting the porch the footprint would be smaller. Mr. Loonam said 134 sf is added for porches, patio and breezeway on the worksheet. The total building coverage increases from 1,276 sf to 1,401 sf but the footprint is about 9 less. Mr. Battersby agreed.

Mr. Rebsch questioned the front elevation did not show a roof on the left and right side or stairs on the left. The architect said the stairs on the left were inset into the porch so it might not be seen from the front. Mr. Rebsch questioned why a roof was needed over the stairs on the one side. The architect said the roof was a decorative feature and just a 1' overhang.

Mr. Hicks said the steps on the right elevation were not there. Mr. Battersby said there would be two steps. Mr. Hicks asked if the front two steps are now closer to the street. Mr. Battersby said they are 6 ½" closer to the home than the existing steps. The existing steps have a landing. Mr. Hicks asked if that was accounted for in the calculations. Mr. Battersby said the 15.66 ft for front yard setback is to the porch. Mr. Hicks asked if this addition has a basement. The architect stated there was a basement under the area that has the powder room and right where you walk in but under the porch will be built on piers.

Mr. Rebsch asked if this porch is being built out to the bushes. Mr. Swope said there are two arborvitaes next to the steps. He explained that the roof line would probably extend to the front of the bushes but not the actual structure and those bushes will be removed.

Mr. Birnbaum clarified that the existing right yard setback of 2.34 ft is being increased to 5.8 ft. The architect said the 2.34 ft setback is to the structure midway back and that structure is remaining. The proposed addition will align with the front right corner of the house which will be 5.8 ft. The 2.34 ft is an existing non-conformity.

The Chairman wanted to know what the undue hardship and negative criteria was for requesting six variances.

Ms. Batistic said the applicant was below the additional area that would require a seepage pit and the variances requested are listed in her review letter dated 2/4/21.

The Board Attorney said they made reference to six variances. There were three elements of preexisting non-conforming conditions. Those are the lot area, lot frontage and side yard setback. The attorney did not believe based on testimony that the existing non-conformity with regard to the side yard setback was being exacerbated by the proposed addition. There were also variances requested for maximum front yard depth, maximum building coverage, maximum impervious coverage and maximum front yard coverage.

The Board Attorney asked why so many variances.

Mr. Loonam noted that the denial letter stated the applicant was requesting 1,242 sf and the worksheet calculated 1,401sf. Ms. Batistic said the architectural plans indicates 1,401 sf. Ms. Tasic said the plans are 1,401 sf.

The Board Attorney did not see the side yard variance being triggered as an exacerbation of the preexisting non-conforming condition which leaves them with the minimum front yard setback, maximum building coverage, maximum impervious coverage and maximum front yard coverage. Ms. Batistic agreed.

The Chairman asked if the members has any questions for Mr. and Mrs. Swope.

Mr. Levine clarified that there was no bathroom on the first floor. Mrs. Swope said there was only one bathroom in the house located on the second floor.

The Board Members accepted the qualifications of Mr. Battersby as a licensed architect.

Ms. Tasic asked the architect if he reviewed the New Milford codes and the 2/4/21 letter from zoning board engineer. Mr. Battersby said yes.

Mr. Battersby said the lot size and lot width were existing non-conforming conditions and in a Residential A zone where the town requires a 7,500 sf lot where they have a 5,000 sf lot. It also requires a 75' width where they have a 40' width. The architect said both of those hardships are contributing to the variances that are being requested.

The architect said there were 10 houses on their side of the street where 7 of them started with similar houses. The homeowners built an addition off the rear of their house for a studio. They are proposing to demolish the front steps and the vestibule space in the front and to install a vestibule similar size slightly smaller with a front porch that wraps from the left to the front. They were also proposing a second-floor addition to enlarge the master bedroom and master bathroom.

Mr. Battersby stated with these additions they are proposing 15.66 ft front yard setback measured to the front porch. The house will be 3' back at 18.66 ft. They are requesting a side yard variance on the right-side yard at 5.85 ft. The rear yard or building height does not require a variance. The building coverage requesting 1,401 sf where 1,000 sf is allowed for this size lot - 28.02% proposed where 20% is allowed. The impervious coverage they are allowed is 40% and requesting 51.56 %.

Mr. Battersby said the house at 737 Stockton is very similar to this house and they have their original vestibule and added a wrap around porch. He stated based on a survey they will be further away from the front property line than 737 Stockton. The architect said the other 7 houses stick out equidistance. Ms. Tasic confirmed this is his observation and the proposed addition is situated in comparison similarly with the other 7 properties regarding the frontage. Mr. Battersby agreed and said they all appeared to have the same non-conforming lots.

Ms. Tasic clarified they were not expanding any driveway but the only thing being added was the stairs and the addition and everything else is remaining. Mr. Battersby agreed that they were not modifying the walkway or driveway. The homeowners were looking for a bathroom, porch and expansion of the second floor bedroom and bath.

Mr. Battersby did not think this addition would overly impose itself on any of the neighbors. It was not an overly large addition, they were not blocking any views and it was not out of character for the street. Ms. Tasic confirmed this house would be in line with the current neighboring properties. The architect agreed.

Ms. Tasic asked if this addition would impair any of the provisions in the New Milford zoning code. Mr. Battersby answered no. The architect added that in order to construct this addition they did not have an option due to the width.

The Chairman asked why was the addition necessary. Mr. Battersby answered one reason was some sort of construction was necessary based on the insurance requirements for the house. A first floor bathroom was necessary for company or grandparents. The existing second floor master bedroom was 11.8"x 10.3" which was a tight squeeze for a king size bed. The architect believes once you create the first floor space the second floor space would not infringe on the neighbors.

Ms. DeBari asked if the powder room on the first floor was part of the addition. The architect said that will be in the new addition. Mr. Swope said they were reconstructing the front entrance. Mr. Battersby said there was an existing structure approximately 12x6 ½ ft off the front of the house. The foundation of that structure is what the insurance company said was crumbling. They were reconstructing the front vestibule area in a similar size and within that reconstruction they will install a bathroom.

Mr. Loonam asked if they contemplated putting this addition to the back of the house. Mr. Battersby said the main deterrence for that was they would still be asking for the side yard setback variance. He said the addition that was built in the rear had cathedral ceilings so that aspect of the room would have to be removed. Mr. Loonam understood that and said most people come to the board because they want something as opposed to need something but the reality was there is a way to add square footage to the house without asking these variances. Mr. Battersby agreed there were ways but putting an addition over the rear addition would still require variances. Mr. Loonam agreed they would be before the board because they had preexisting non-conformities.

Mr. Loonam asked for the numbers of the average front yard setbacks. Mr. Battersby said they do not have a precise number. Mr. Loonam said they need the numbers. Mr. Sproviero said there is a number in the denial letter and was looking for some independent verification or his own calculus of what is the average number.

The Chairman agreed with Mr. Loonam and said they need to know the numbers.

Mr. Loonam said their testimony was the variance was not impacting the neighborhood but did not think that was accurate. Mr. Loonam felt by increasing or decreasing the front yard setback the average would change for all the neighbors.

Mr. Weisbrot was not necessarily against the application but did not know how they could come before the board with a setback variance that requires the numbers.

Mr. Rebsch agreed.

Mr. Hicks asked what the plans were for the downspouts on the house since they were not required to have a seepage pit. Mr. Battersby said they were dumping it into the lawn or a mulched area and it would not run out into the driveway. Mr. Hicks asked if there were any plans to enclose the porch. Mr. Battersby said they could make this a **stipulation of this application**. Mr. Hicks asked what was the material of the addition. Mr. Battersby said the house has aluminum siding and would use it if they were able to match it.

Mr. LoPorto thought it would helpful to have the additional information regarding the front yard setbacks. He asked if the home would require further remediation because of the issues relating to the foundation. The homeowners agreed.

Mr. Levine asked where the porch wraps around. Mr. Battersby said it was on the left side and then it wraps towards the front. Mr. Swope said it follows the lines of the house. Mr. Levine clarified that the reason for this was there were foundation and termite issues and would need to be reconstructed. He said if this was just to add the downstairs bathroom it could be installed without making anything larger. Ms. Swope said the powder room could be done in the existing area but a difficulty was that their driveway was on the opposite side of their house so the extension of the porch would give cover to them and packages getting out of the car in addition to the aesthetics.

The Board Attorney asked if there were currently two bedrooms in the house. Mr. Battersby answered yes.

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

No one wished to speak.

Motion to close was made by Ms. DeBari, seconded by Mr. Rebsch and carried by all.

The Chairman stated that he was not in principle opposed to this application but he was in principle opposed to any application that they do not get the information that was required by law and logic. The Chairman said it was his opinion to urge the applicant to come back with the right numbers so the board could make an informed decision. The Chairman wanted this board to get 100% accurate information. He suggested that the applicant comes back when they can get the average setback numbers.

All the members agreed that they need the correct numbers to make a decision.

The Chairman said the applicant had three options: They can ask for a vote tonight or they can carry the application for 30 days and come back with accurate numbers or withdraw their application and reapply. The board attorney said they could also condition the application upon the presentation of calculations verifying the front yard setbacks but there could be problems if they do not match.

Ms. Swope said they will carry the application for 30 days and get accurate numbers. The Chairman told the applicant that their professionals did an exceptional job and felt they did not do anything wrong but the board needs accurate information.

Motion made by Mr. Loonam to carry the meeting, seconded by Mr. Rebsch and carried by all.

The Board Attorney stated this application will carry to the next meeting March 9, 2021 and no additional notice would be required of the applicant.

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

Respectfully submitted,
Maureen Oppelaar