

Approved
60821

**New Milford Zoning Board of
Work Session
05 11 2021
Virtual meeting (zoom)**

Chairman Weisbrot called the Work 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 (8:45)
Mr. Birnbaum	Present
Ms. DeBari	Absent
Mr. Hicks	Present
Mr. Levine	Absent
Mr. Loonam - Vice Chairman	Present
Mr. LoPorto	Absent
Mr. Rebsch	Present
Mr. Weisbrot- Chairman	Present
Mr. Sproviero - Attorney	Present
Ms. Batistic- Engineer	Present

REVIEW MINUTES OF THE WORK/PUBLIC SESSION – April 13, 2021

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

RESOLUTION

**21 02 – WALLACH – 358 SHERIDAN COURT – BLOCK 203 LOT 7
INGROUND POOL – MAXIMUM BUILDING AND IMPERVIOUS COVERAGE**

The Board member reviewed the resolution and had no comments or changes.

NEW BUSINESS

21-03 Kozlowski – 515 River Road – Block 1111 Lot 2

Second Floor addition – building coverage, side yard setback variances

The Board Members made no comments.

21-04 Dubin – 1114 Korfitsen Road -Block 205 Lot 9

Two story addition – building coverage and side yard setback

Board Members commented that it seemed like a lot of coverage for the size of the lot.

21-05 Pollack – 285 Monmouth Avenue – Block 902 lot 28

Add a level/one story addition – bldg. coverage, side yard and preexisting non-conforming setbacks

The Board Members had no comments.

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

**New Milford Zoning Board of Adjustment
Public Session
May 11, 2021**

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

ROLL CALL

Mr. Adelung	Present (8:45)
Mr. Birnbaum	Present
Ms. DeBari	Absent
Mr. Hicks	Present
Mr. Levine	Absent
Mr. Loonam -Vice Chairman	Present
Mr. LoPorto	Absent
Mr. Rebsch	Present
Mr. Weisbrot - Chairman	Present
Ms. Batistic -Engineer	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE PUBLIC SESSION- April 13, 2021

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

RESOLUTION TO BE MEMORIALIZED

21 02 – WALLACH – 358 SHERIDAN COURT – BLOCK 203 LOT 7

INGROUND POOL – MAXIMUM BUILDING AND IMPERVIOUS COVERAGE

Motion made by Mr. Birnbaum, seconded by Mr. Rebsch to memorialize the resolution.

The motion passed on a roll call as follows:

For the motion: Members Birnbaum, Rebsch, Loonam

NEW BUSINESS

21-03 Kozlowski – 515 River Road – Block 111 Lot 2

Second Floor addition – building coverage, side yard setback variances

The Board Attorney swore in Mr. John Gilchrist, architect, and Mr. Andrew Kozlowski, homeowner.

The Board members accepted the qualifications of John Gilchrist as an expert in field of architecture.

The Chairman asked the applicant why was there a question mark on the zoning work sheet for the right yard setback. Also asked was whose signature was on the zoning work sheet. The homeowner did not know.

The Chairman asked the applicant to find out the answers while the Board continues with the next applicant.

21-04 Dubin – 1114 Korfitsen Road -Block 205 Lot 9

Two story addition – building coverage and side yard setback

Board Members expressed concerns that the applicant was proposing too much for the size of the lot.

The Chairman asked Mr. Capizzi if he wanted to discuss these concerns with the applicant and proceed with the application or carry to June.

Mr. Capizzi said they would carry the application to June. No further notice was required.

21-05 Pollack – 285 Monmouth Avenue – Block 902 lot 28

Add a level/one story addition – bldg. coverage, side yard and preexisting non-conforming setbacks

Mr. Ronald Mondello, Esq, legal counsel was representing Joseph and Ann Marie Pollock at 285 Monmouth Avenue.

The Board Members accepted the qualifications of Mr. Marlon Cruz as an expert in the field of architecture.

Mr. Mondello asked the architect if they considered other plans that would not require a variance. Mr. Cruz said they looked at several options. He explained that the additional bedroom and bathroom to accommodate their elderly parents would push them over the limit.

The architect stated this was a two-story single-family home on a lot 100x125ft. The applicant proposed to demolish the existing detached garage and attach it to the main house. They also wanted to add a second floor and add a living room, bathroom and bedroom on the first floor.

Mr. Mondello asked if there would be only one curb cut. Mr. Cruz verified that there would be only one curb cut. Mr. Mondello said the zoning board engineer recommended that the proposed driveway be a minimum of 20' deep. Mr. Cruz said they can accommodate the 20' depth.

Mr. Mondello said the applicant is proposing a seepage pit for runoff to remain on the property. He asked if the seepage pit design calculations would be provided. Mr. Cruz agreed that now they were showing a location but exact calculations would be provided when filing for a building permit. Mr. Mondello asked what variance is the applicant seeking. Mr. Cruz answered they were seeking maximum building coverage based on the New Milford zoning requirements. They are allowed 20% requesting 22.24%.

Mr. Cruz said there was a mistake on the site plan on what was allowed for maximum building coverage and they clarified that it was 20%. He said the existing maximum building coverage of the property is 1,057 sf (8.5%) proposed is 2,780 sf. (22.24%).

Mr. Cruz said the engineer recommended that they increase the depth of their driveway from 17.8 to 20' which increased their impervious coverage by 48 sf.

Ms. Batistic said she suggested that the driveway be 20' deep so cars parked in the driveway do not encroach on the sidewalk or street. When the applicant deepens the driveway to 20', it will not change the building coverage because the garage would only be shifted 2' not increased 2'. The driveway is impervious coverage not building coverage. The increase in driveway square footage would not trigger a variance for impervious coverage. She clarified that building coverage would not change. Mr. Cruz apologized and agreed with Ms. Batistic.

Mr. Adelung clarified they were staying at 2,781 sf and increasing impervious which was not an issue. The board attorney confirmed that building coverage was 22.24%. All agreed.

Mr. Mondello asked Mr. Cruz is this addition fit in with the character of the neighborhood. Mr. Cruz agreed.

Mr. Rebsch wanted to clarify that the addition was one story and there would be no plan to add a kitchen in the addition. Mr. Mondello said there were no plans to add a second kitchen.

Mr. Hicks asked if the garage was going to be smaller for the new driveway. Mr. Cruz said no it would just shift.

Mr. Birnbaum clarified that there was an existing detached garage now and it would be converted to an attached garage. Mr. Cruz agreed. Mr. Birnbaum had questions on the new curb cut. Mr. Cruz said the proposed curb cut is 20' wide and it was currently 9.4 ft wide.

Mr. Adelung asked what the dimensions were for the two-car garage. Mr. Cruz said 24x20. Mr. Adelung clarified that the variances that were preexisting non-conforming would not change. Mr. Cruz agreed. Mr. Adelung said if this was a single car garage there would be no variance needed. Mr. Cruz said the request was to accommodate for cars being in the driveway and not on the street.

Mr. Loonam asked what year was the house built. Ms. Pollack answered 1922.

The Chairman questioned that there were numbers reviewed that did not reflect on the submission to the zoning board. Mr. Mondello agreed that Mr. Cruz would have to submit a corrected site plan to the building department. Mr. Cruz explained that part of the discrepancy was in the original survey. The decimals of feet led to a discrepancy in the conversion to feet to inches in the site plan. The Chairman accepted his explanation and would not hold it against the applicant.

The Chairman stated that plans that are not accurate make it very hard for the members to review and make conclusions. The Chairman felt that the board should discuss next month that maybe

the board should automatically reject every application that does not come to the board with accurate information.

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

No one wished to speak.

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

Ms. Batistic explained her review letter discussed her concern regarding the depth of the driveway and the applicant would comply with the 20' deep driveway. She also asked the applicant to provide a seepage pit calculation for the additional runoff. The applicant would comply. Ms. Batistic was satisfied.

The Board Attorney stated there were four conditions:

Proposed driveway be a 20' deep

Seepage pit design calculations shall be submitted

Approval subject to the submission of revised site plan to reflect relief requested and consistent with the testimony

Approval subject to no second kitchen shall be permitted at the premises.

Mr. Hicks had concerns with the size of the garage and additions and felt that minimizing one of the additions would eliminate the variance.

Mr. Adelung thought there was always room to reduce but that is the reason residents come to the board. He said everyone was noticed and had an opportunity to come to the meeting and express their feelings. He felt they had a large piece of property and New Milford has rules on overnight parking. Mr. Adelung was ready to make a motion and felt they were talking about 282 sf.

Mr. Birnbaum had a concern about the driveway in relation to the telephone pole. He questioned if the pole was being removed. Mr. Montello said the telephone pole would not be moved and there shouldn't be any safety issues with regard to the driveway. Mr. Cruz agreed and said they would add the pole to the site plan for clarification to show that it clears the driveway.

Mr. Loonam said this was a 100-year-old house with a footprint of 800 sf tucked into the corner of the property with a detached garage. He thought it incorporated what made sense in a house 100 years later. He felt they did not take advantage of everything that they could and it was a well thought out application to make a 100-year-old house functional while not upsetting the neighborhood. Mr. Loonam was in favor of the application.

Motion made by Mr. Adelung, seconded by Mr. Rebsch to approve the application subject to the four conditions set forth.

Proposed driveway be a 20' deep

Seepage pit design calculations shall be submitted

Approval subject to the submission of revised site plan to reflect relief requested and consistent with the testimony

Approval subject to no second kitchen shall be permitted at the premises.

The motion passed on a roll call as follows:

For the motion: Members Adelung, Rebsch, Loonam, Birnbaum, Hicks, Weisbrot.

Approve 6-0

21-03 Kozlowski – 515 River Road – Block 1111 Lot 2
Second Floor addition – building coverage, side yard setback variances

The Chairman stated that the applicant was seeking variances for building coverage and side yard setback variance.

Mr. John Gilchrist and Mr. Bainbridge were representing Mr. Kozlowski. The Board Attorney already swore in Mr. Gilchrist and Mr. Kozlowski.

The Board Attorney swore in Mr. Timothy Bainbridge 700-76 Broadway, Westwood, NJ.

The Chairman asked who filled out and signed the zoning worksheet. Mr. Bainbridge said he did. He was asked why there was a question mark next to the right-side yard setback line on the zoning worksheet. Mr. Bainbridge answered that he was not sure if it would require a variance because it was a preexisting non-conformity.

The Chairman asked if he ever testified before this board. Mr. Bainbridge said no but other boards in NJ. The Chairman asked if he was a licensed contractor in NJ. Mr. Bainbridge said yes. The Chairman asked if he ever did construction in New Milford. He answered yes. The Board Attorney stated that Mr. Bainbridge was testifying as a fact witness as opposed to a professional expert witness.

Mr. Bainbridge stated they were proposing an addition where the existing deck was so he thought the coverage would be staying the same. They were following the same line as the existing house. It was a preexisting non-conforming side yard.

Mr. Sproviero questioned that neither of the side yard setbacks were being exacerbated as a result of this construction. Mr. Bainbridge answered that was correct and they were only following the one side.

The homeowner loved the area and because of Covid everyone is working from home which has caused a hardship to them and they need the space. Mr. Kozlowski said they have three children and his job is closing their office and they are all working from home now. In addition to needing a bedroom, he needs work space and a bathroom on the main floor. The house was built in 1927 and there is no bathroom on the main floor. There is a bedroom on the main floor without a bathroom on that floor. Mr. Kozlowski said they don't want to move and would prefer to stay there was a long time.

Mr. Rebsch questioned the impervious coverage calculations. Mr. Loonam also questioned that the calculations on the zoning work sheet stated the total impervious coverage was 1,993sf proposed is 1607 sf. Mr. Bainbridge thought it might be that because the deck was being removed. Mr. Gilchrist said the impervious was 3,232 sf going to 3,547 sf. Mr. Gilchrist said the total increase was 314 sf. Mr. Adelung said the numbers on the drawings don't match the numbers on the worksheet.

Mr. Loonam said it is checked off on the worksheet that there is no impervious variance needed. He noted that there is a handwritten note attached that said the proposed addition would be 52.88% where the ordinance is 40% and on the notice of appeal the impervious coverage was 48.18%. Mr. Loonam said that the application has three different numbers indicated.

Mr. Bainbridge answered that the zoning officer reviewed the application and sent a denial letter and the engineer review letter was sent out to the members which matched the plan. He felt they should be going off of the engineer letter. The Chairman asked if his explanation was it was the fault of the engineer and zoning officer. Mr. Bainbridge answered it was his fault because he made the mistake but the zoning officer and engineer corrected it. The Chairman asked where they corrected his mistakes. Mr. Bainbridge said the engineer letter matched the architect's plans.

The Chairman said that this application was a "no" for him on this application because of the confusing information that the members and professionals have to try to figure out.

The Chairman asked the members if they had any questions or concerns.

Mr. Rebsch said it was incomplete, confusing and there was no way to vote on it.

Mr. Hicks thought there was no way to redo the worksheet once they are denied and filled out a notice of appeal. He was not sure how they were to correct the information.

The Chairman said the board is entitled to a complete, accurate and clear record in order to consider an application. If the information is inconsistent or incomplete and confusing, the board can vote on it and deny it and they can reapply or they can ask for permission to carry and correct.

Ms. Batistic said the architectural plan is prepared by a professional and that is what she reviewed and those numbers were correct. She explained the worksheet was only half correct with their numbers. Mr. Adelung asked what variances are they seeking. Ms. Batistic said building coverage which they are proposing 2,078 sf (23.17%) which is an increase of 212 sf. and impervious coverage which was 3,547 sf (52.88%)which was an increase of 864 sf.

Mr. Loonam said on the worksheet the building and impervious coverage did not total the impervious coverage on the plan. Mr. Kozlowski said that was because they are removing the 386 sf patio.

Mr. Loonam said the plan is incorrect now and the impervious would be 3,161 sf without the patio.

Mr. Loonam said this application was looking for a considerable amount of both building and impervious coverage from what the ordinance allows. He explained that the board needs to know all the facts to vote on this application.

Mr. Loonam requested at the conclusion of the meeting that the board go into closed session. Mr. Sproviero asked what was the purpose of going into closed session. Mr. Loonam answered personnel. The board attorney agreed to the closed session.

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

No one wished to speak.

Motion to close to the public was made by Mr. Birnbaum, seconded by Mr. Loonam and carried by all.

The Board Attorney said if the board decides to make a determination on this application any motion to approve it must be subject to compliance to the requirements set forth in the Engineer's letter.

Mr. Hicks questioned why Mr. Gilchrist did not know the patio was being removed. Mr. Kozlowski told the contractor that they didn't need it. Ms. Batistic clarified that the existing total impervious (48.18%) is an existing non-conformity. Mr. Adelung said without the patio the only thing they were talking about is the 212 sf on the building coverage. Ms. Batistic agreed. The Board Attorney clarified that they still need an impervious variance and asked what was the new impervious coverage. Ms. Batistic said 3,161 sf which is 47.12%.

Mr. Loonam wished they had accurate information and would rather have the correct information at the next meeting but would vote on this application tonight.

Mr. Kozlowski had questions on requesting a vote at this meeting.

The Board Attorney said the zoning board is a quasi-judicial body who make legal conclusions, findings and facts. The Board Attorney felt that was a reason for an applicant to have legal counsel to represent him. If the applicant refiles the application, he has to show that there has been a substantial modification to the relief already sought.

The Chairman said the applicant could request to carry the application where he would have the opportunity to submit what he wants to make everything clear based on the comments.

Mr. Adelung felt the applicant should speak with his professionals before making a decision.

Mr. Kozlowski requested to carry the application to June. The Board Attorney stated this was being carried to the June 8th meeting with the work session starting at 7:30 and no further notice required.

Close session –

The Board Attorney explained the purpose of going into closed session was to discuss personnel matter and it is not anticipated that any formal action relating to the subject matter would be adopted at this meeting.

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

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

Respectfully submitted,
Maureen Oppelaar