

Approved  
7/13/21

**New Milford Zoning Board of  
Work Session  
06 08 2021  
Virtual meeting (zoom)**

Acting Chairman Loonam 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
Mr. Birnbaum	Present
Ms. DeBari	Present
Mr. Hicks	Absent
Mr. Levine	Absent
Mr. Loonam - Acting Chairman	Present
Mr. LoPorto	Present
Mr. Rebsch	Present
Mr. Sproviero - Attorney	Present
Ms. Batistic- Engineer	Present

**REVIEW MINUTES OF THE WORK/PUBLIC SESSION – May 11, 2021**

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

**RESOLUTION**

**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 reviewed the resolution and had a change.

**OLD 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. The Board Attorney stated they were ready to proceed with how the application was amended. It was not for a change in design but the Board needed the correct data.

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

**Two story addition – building coverage and side yard setback**

Acting Chair Loonam stated the Board Members have received amended plans. The Board Members reviewed the amended plans and made no comments.

Mr. Adelung requested Engineer Review letters on all applications. Acting Chairman Loonam stated that they did discuss this concern last month. The board will not try to decipher information that should have been clearly presented on the zoning worksheet. The board needs to

take the position that if they do not have the correct information at the time of the meeting, it will be deemed incomplete. The Board Members had no objections.

## **NEW BUSINESS**

### **21-06 Chavez – 230 Graphic Blvd-Block 610 Lot 1**

#### **Addition – building coverage**

The Board Attorney stated when this application was reviewed there were serious questions concerning the calculations, especially as it related to no need for an impervious coverage variance. The Board Attorney stated he had a conversation with the applicant's counsel and gave the applicant the option that they could move forward and run the risk that the board would deem it incomplete or the application could be carried. Mr. Joel determined it would be in the best interest of his client to carry the application. The Board Attorney stated that they received a letter dated June 7, 2021 consenting to the application being carried. The Board Attorney stated there was no consent here since it was their determination not to move forward this evening. The Board will make the announcement when the board opens the public meeting so that any members of the public that were interested in the application would be advised that it would not be considered tonight but would be carried to July 13, 2021 and that no further notice would be necessary.

### **21-07 – Aliano – 688 Asbury St– Block 918 Lot 7**

#### **Two story addition – building and impervious coverage**

The board members reviewed the application and had no comments.

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

**New Milford Zoning Board of Adjustment  
Public Session  
June 08, 2021**

Acting Chairman Loonam 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
Mr. Birnbaum	Present
Ms. DeBari	Present
Mr. Hicks	Absent
Mr. Levine	Absent
Mr. Loonam -Acting Chairman	Present
Mr. LoPorto	Present
Mr. Rebsch	Present
Mr. Schaffenberger	Present
Ms. Batistic -Engineer	Present
Mr. Sproviero - Attorney	Present

**PLEDGE OF ALLEGIANCE**

The Board Attorney stated that he had the minutes from a Special Meeting conducted by the Mayor and Council on June 7, 2021 where Mr. Schaffenberger was appointed as a member of the zoning board of adjustment to fill the unexpired term of their former Chairman Weisbrot.

The Board Attorney swore in Mr. Karl Schaffenberger to assume the unexpired term.

Acting Chairman Loonam thanked Karl Schaffenberger for coming back and helping out the board under these horrific circumstances.

The Acting Chair stated that their fellow board member, Chairman Ari Weisbrot, passed away unexpectedly on Friday May 28<sup>th</sup>. The funeral service was held on May 30<sup>th</sup> where several members watched the incredibly touching service via stream service. Acting Chairman Loonam spoke of a heartwarming story that Ari's daughter shared at her father's service. Several board members sat Shiva at his home where Ari's wife, Francine, told them how much Ari loved being a part of the zoning board. The board members observed a moment of silence.

**OFFICIAL MINUTES OF THE PUBLIC SESSION- May 11, 2021**

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

## **RESOLUTION TO BE MEMORIALIZED**

### **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**

Motion to approve the resolution with one change was made by Mr. Birnbaum, seconded by Mr. Adelung.

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

### **21-06 Chavez – 230 Graphic Blvd-Block 610 Lot 1**

#### **Addition – building coverage**

The Board Attorney read into the record the letter from Joel & Joel, LLP dated June 7, 2021. Mr. Sproviero stated that this application is being carried to the July 13, 2021 meeting and no notice to any affected property owners would be required to reflect the new date that it will be heard.

## **OLD BUSINESS**

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

#### **Second Floor addition – building coverage, side yard setback variances**

Acting Chairman Loonam pointed out for the record, that Ms. DeBari, Mr. LoPorto and Mr. Schaffenberger did not attend the last meeting but all listened to the recording for this application. The members confirmed they listened.

Mr. Kozlowski recapped from the last meeting that they were requesting three variances: the preexisting side yard, the maximum impervious where they were replacing 280 sf of deck with 315 sf of building which would be an addition of 35 sf and the maximum building coverage.

Acting Chairman Loonam said at the last meeting, the applicant's numbers were inconsistent and wanted to review the numbers for variance relief.

Mr. Kozlowski clarified that the maximum building coverage existing was 1,239 sf proposing 1,554sf because they were adding 315 sf of building. Loonam stated that was 23.17% where 20% was allowed. The homeowner agreed.

The second variance requested was impervious coverage proposed 48.7% and 40% required. Mr. Kozlowski noted that there was 48.18% existing because of their large driveway. He explained that they were only increasing the maximum impervious by 35sf.

Ms. Batistic reviewed his numbers and they were correct. She did make a comment that there was a typographical error on the page one of the zoning worksheet. The maximum total impervious coverage requirement is 2,683.2 sf instead of 1,342 sf.

The Board Attorney commented that on the maximum building coverage issue it was previously conforming in nature and as a result of the proposed construction it has been rendered non-conforming. With the maximum impervious coverage, in its current condition, it is a preexisting

non-conforming condition and the existing non-conformity being exacerbated by 35 sf. The north and south side yard setbacks are currently preexisting non-conforming conditions and they were not being brought any closer to the property lines.

Mr. Kozlowski stated the house is small and having a main bathroom and kitchen would make it a nice home. He explained the addition is in the back so it will look just as nice from the street and they were not making it an eye sore. He felt these improvements will allow them to stay in this home for a long time.

Mr. Adelung had no problems with this application based on the size of the home and the very small lot.

Mr. Schaffenberger thought this to be a good application and felt the applicant was trying to bring the house up to modern standards. He noted that there were several preexisting non-conformities which makes this more difficult for the applicant.

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

The record reflects that no member of the public wished to comment.

**Motion** to close to the public was made by Mr. Rebsch seconded by Mr. Adelung and carried by all.

The Board Attorney stated there were three variances implicated:

**Maximum building coverage** which is currently a conforming condition at 1,239 sf (18.47%), proposed 1,554 sf (23.17%).

**Maximum impervious coverage** which is a preexisting non conforming condition. Existing is 48.18% where 40% required existing 3,232 sf, proposed is 35 sf larger 3,267 sf (48.7%).

**Side yard setback** – required is 7.5ft – while the setbacks are not being brought closer to the neighboring properties, they are both currently non-conforming. North side 7.1 ft and the south side is 4.6 ft. The variance is triggered because it is being extended to the rear of the house.

The Board Attorney noted that the Board's Engineer letter dated 6/3/21 states the applicant must provide drainage calculations and design in accordance with the borough Stormwater Management Ordinance. Ms. Batistic also pointed out a typographical error at the bottom of Page 1 of the zoning worksheet.

Acting Chairman Loonam asked the board members if they had any questions or comments. No members had any questions or comments.

The Board Attorney stated if a motion to approve was to be entertained, the motion should be conditioned upon compliance with the Board's Engineer Review letter dated 6/3/21.

**Motion** made by Mr. Birnbaum with conditions to grant the variances, seconded by Mr. Rebsch. The motion passed on a roll call as follows:

For the motion: Members Birnbaum, Rebsch, Adelung, DeBari, LoPorto, Schaffenberger, Loonam.

Approved 7-0

**21-04 Dubin – 1114 Korfitsen Road -Block 205 Lot 9**  
**Two story addition – building coverage and side yard setback**

Mr. Matthew Capizzi, Esq representing the applicant Miriam Dubin, stated that this was an application that was before the board on May 11, 2021. The architect revised the plans and reduced the building coverage variance and have shown more details.

Mr. Capizzi stated the nature of the relief being sought was that the Dubin's were purchasing this house to raise their family. The existing house had no garage but there were sheds on the property for storage. The applicant was proposing an in-fill addition on the back left corner of the house which requires a 4" variance for side yard setback. The existing building is non-conforming as to the left side setback and they were following the existing building wall with the in-fill addition. The applicant was trying to spruce up the front elevation by providing a covered front porch. Mr. Capizzi noted that element requires a front yard setback variance. The front yard set back required was approximated 29' and the proposed setback to the proposed covered porch was approximately 24'. Also proposed was a two-story addition to the right side of the house to provide a garage and storage area. The right side complied with the right-side setback.

Mr. Capizzi stated also needed was a building coverage variance since they were exceeding the allowable building coverage by 194 sf which relates to a combination of the in-fill addition and the two-story addition on the front right side of the house.

Acting Chairman Loonam noted for the record that their plans indicated that the maximum impervious was 60% required where it should be 40%. Mr. Capizzi said it should reflect that it is 40%.

The Board Attorney swore in Mr. Christopher Blake, 24 New Bridge Road, Bergenfield NJ.

The Board Members accepted the qualifications of Mr. Christopher Blake as an expert in the field of architecture.

The Board Attorney marked the architectural plans sheets A1-A3, originally dated 3/4/21 revised 5/24/21, as **exhibit A-1**.

Mr. Blake explained this is an existing two-story single-family residence to the southern portion of the property. The house was 9.7' from the rear corner where 10' is required for the side yard setback. The right-side setback is 29.8' where they are proposing a 2-story addition with a one-story garage structure and bedroom above. A covered front porch is also being proposed to give the front façade some character and protection for the visitors. The front porch and the garage structure will trigger a driveway repavement.

Mr. Blake said the existing dwelling did not have a garage. The garage will be able to store items and eliminate the eye sore of odds and ends on the property as well as being able to have a car in

the garage. Mr. Blake said it was good planning by bringing the house up to today's standards by adding a garage structure on the right-hand side. He felt the front porch helps the aesthetics and keep the occupants and visitors dry. The addition in the rear is giving more living space to the first floor and a laundry element to the second floor.

There was an existing landing and they were proposing some columns and expanding the porch to the right, said the architect. They were making it a few more inches deeper than what was existing. The porch will be open to the front and sides and was one story tall.

Mr. Blake reviewed with the board members the existing and proposed floor plans. The garage would be 19' with mudroom and pantry function. The garage addition had a 10' side yard setback. It could be at some point a 2-car garage. Mr. Capizzi commented that there would be a two-garage door even though there was not the depth on the one side of the garage. Mr. Blake agreed.

Acting Chairman Loonam asked for clarification on the 4" side yard setback for the in-line addition. Mr. Blake said it was not stepping out but explained the house and the property line were not parallel to the each other. There was a slight skew because the front of the house was a little bit further away. He said the proposed could be 4.5'

The proposed front porch with the railings to the right side would be protruding out from the base of the house creating the front yard setback variance. They believe it is an aesthetic feature and give character and depth to the house and a function of protection to the elements. Mr. Blake said it has not been determined whether there would be two single garage door or one large garage door.

The architect described the exterior characteristics of the home. Mr. Capizzi asked the architect if it was his opinion that this would result in a significant aesthetic improvement to the front elevation. Mr. Blake answered yes.

The architect reviewed the rear elevations and different rooflines proposed on the house to add character. He also noted that they were adding a deck in the rear.

Mr. Capizzi clarified that the applicant was 194 sf over the allowable building coverage. The architect agreed. The attorney stated that 79 sf of the 194 sf was attributed to the covered porch element. Mr. Blake agreed. Mr. Capizzi clarified that the balance of the overage of 115 sf is from the other additions discussed. Mr. Blake agreed. The architect stated that the building height, rear yard and right side setbacks and impervious coverage conform.

Mr. Schaffenberger pointed out that there was a one double door for the garage on one part of the plans and two single doors on another part of the plan and clarified that it has not been determined yet what would be used. Mr. Blake agreed. Mr. Schaffenberger said as per the plans one of the bay doors is not a garage unless it was for a motorcycle. Mr. Blake agreed. Mr. Schaffenberger noted that the proposed front porch is extended across the house and clarified that it does not extend out further to the street than the existing porch. Mr. Blake believes that the original porch might be 6" further back than what it being proposed. The applicant is proposing a 5' front porch which is an acceptable standard for a front porch.

Acting Chair Loonam thought the current front yard setback is 54.4' and the proposed is 49.4' and asked if that was the front porch difference. Mr. Capizzi said that the bulk table did not reflect the existing covered front porch. Blake agreed. Mr. Capizzi clarified that the question is that the bulk table is incorrect as to the existing front yard setback reflected on the plan. Mr. Blake answered yes. Mr. Loonam asked if the current existing is 49.5' as opposed to 54.5'. Mr. Blake said it is closer to 50' as opposed to 54. Ms. Batistic said their survey did not show the setback to the existing porch but only showed 29.4' to the property line. Ms. Batistic said in her review letter she indicated that the existing front yard setback was 29.4' to the building wall.

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

The record reflects that no member of the public wished to comment.

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

Mr. Capizzi thought the Dubin's took the advice that the board that the board provided in May and incorporated them in the amended plans. Some of the new elements added to the plan will enhance the look of the streetscape and will be a better benefit to the neighborhood. The building coverage variance was trimmed down to be as minimalistic as possible and the side yard setback variance qualifies as de minimis. The building coverage was 197 sf where 70 sf was for the covered porch which was an open structure. The balance of that was spread out to both the rear and right side of the building which would not have any substantial negative impact. Mr. Capizzi asked the board to grant the application.

Acting Chairman Loonam asked what was the intention of the existing driveway area that was being removed. Mr. Blake said it would be grass. The proposed driveway would be centered on the garage door and the sheds will be removed. The Acting Chair clarified that area would not be used for an unpaved parking area. Mr. Blake agreed.

Ms. Batistic said if this is approved there should be a stipulation that there will be no grading or changing of the existing grade be done in the back. The Engineer pointed out that the back is steep and if they plan to build it up they would have to apply for a soil movement permit but their plans do not reflect that. Mr. Capizzi said the applicant can make that stipulation.

**Motion** to open to the public for comments or questions on this application was made by Mr. Birnbaum, seconded by Mr. Rebsch and carried by all.

The record reflects that no member of the public wished to comment.

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

Mr. Rebsch commented the neighbor's garage is also on the right side. He felt it would fit nicely in the neighborhood.

Ms. DeBari asked if the maple tree in the rear is being removed. Ms. Dubin said the inspection report noted that the tree was dead so it would be removed for safety reasons.



Mr. Schaffenberger asked for clarification on the variances being sought - two preexisting non-conformities: one being the left side and one for the front yard setback and a building coverage variance. The Board Attorney agreed.

Mr. Birnbaum thought they did a good job with the proposed plans.

The Board Attorney said there were three variances implicated. Two of the variances were an exacerbation of existing non-conforming elements.

The front yard setback where currently the front yard setback has been calculated at 29.4' to the building wall, proposed 24.40' to the proposed covered porch required is 29.34'.

The side yard setback along the south property line existing 9.8' required 10' proposed 9.7'.  
Maximum building coverage 20% required, existing 15.27% and proposed 22.32%.

Mr. Sproviero pointed out when this application was originally filed the proposed maximum building coverage was in excess of 25%.

**Conditions** suggested by the Board Attorney:

The applicant shall repair any damaged curbs and sidewalks in accordance with Borough standards.

Compliance with the Engineer's letter dated 6/3/21.

Prohibiting any future enclosure of the covered front porch (and rear deck).

All sheds to be removed that currently exist on the property.

No change in the rear yard grade.

Mr. Schaffenberger asked if there could be a condition to not enclose the rear deck. The Board Attorney and Mr. Capizzi agreed.

Acting Chairman Loonam felt the first time this application came to the board, it was too much. He pointed out that the modifications made were incredibly conscientious. His opinion was that the applicant and professionals did a good job coming back to the board with something that seems to be functional to the applicant but with something that made sense to the town. Acting Chairman Loonam thought it was a good well thought out application.

**Motion** made by Mr. Schaffenberger to grant the variances for the front yard setback, side yard and building coverage in accordance with his plan with conditions, seconded by Mr. Rebsch.

Conditions;

The applicant shall repair any damaged curbs and sidewalks in accordance with Borough standards.

Compliance with the Engineer's letter dated 6/3/21.

Prohibiting any future enclosure of the covered front porch (and rear deck).

All sheds to be removed that currently exist on the property.

No change in the rear yard grade

The motion passed on a roll call as follows:

For the motion: Members Schaffenberger, Rebsch, Adelung, DeBari, LoPorto, Rebsch, Loonam.

Approved 7-0

**21-07 – Aliano – 688 Asbury – Block 918 Lot 7**  
**Two story addition – building and impervious coverage**

The Board Attorney stated this is an application that implicates two variances – building coverage existing 20.05%, allowed 20%, proposed 22.90%. The impervious coverage required 40%, existing 45% proposed 47.84%. Mr. Graziano clarified that the proposed impervious is 48.0%. There were two non-conforming conditions: lot area, minimum lot width and minimum front yard setback. There is also a question on the minimum side yard setback.

The Board Attorney swore in Mr. Vincent Graziano, PO Box 8106, Paramus, NJ and Elizabeth Aliano, homeowner.

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

Ms. Aliano said they love their house and neighborhood and they want to expand their family so they need to expand their home.

Mr. Graziano stated existing was a two-story home with a two car detached garage in the rear. They are proposing a two-story rear addition which is 355 sf seeking relief for – Building coverage required 20% existing 20.05% proposed 22.90%. Impervious coverage: required 40% existing 44.99% proposed 47.84%. Mr. Graziano stated that he was notified by Ms. Batistic that he was off on his calculations. He stated the discrepancy was that he included the 5x2 area of the existing fireplace in both the existing building and impervious coverage and the new coverage calculations. The architect clarified that he was 10' over (.16 %).

Mr. Graziano said the existing house is small and the homeowners need more space to accommodate a growing family. The footprint of the addition is 15 x 12.5 and the useable space in the room is 11.6 x 12.4 for the downstairs guestroom and the upstairs bedroom. They were eliminating the existing bedroom in the back left of the second floor for a sitting room and to access the new bedroom. They were going from a three bedroom to a four-bedroom house.

The architect stated the hardship was the existing property is 6,250 sf required 7,500 sf. He noted that both building and impervious numbers would be compliant on a 7,500sf lot.

Mr. Adelung clarified that the existing square footage of the house was 872 sf. Mr. Graziano said on the second floor it was in the 600 sf range. Mr. Adelung clarified that the building footprint proposed was 1,060 sf. Mr. Graziano said plus the 381-sf garage. Mr. Adelung has no issue with what the applicants were proposing.

The Board Attorney clarified that that first floor footprint was 1,060 sf plus 381 for the garage totaling 1,441 sf. Ms. Batistic corrected that it was 1,431 sf removing the 10' for the fireplace.

Mr. Graziano stated because of the undersized nature of the property and that it is a very reasonable project it would improve the property consistent with the neighborhood. They feel that the application merits the board's favorable consent. Mr. Graziano added that the applicant does have a deficient lot width existing 50' required 75'.

**Motion** to open to the public for comments or questions was made by Mr. Rebsch, seconded by Mr. Schaffenberger and carried by all.

The record reflects that no member of the public wished to comment.

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

Acting Chairman Loonam thought the applicant was looking for a minimal amount and noted the impervious coverage was about 48% . He commented that a large portion of the impervious coverage is due to their existing large driveway. The applicant had an undersized lot and the applicant was looking for less than 200 sf of building footprint. He thought it to be a well thought out and functional application.

Mr. Schaffenberger referred to Ms. Batistic's letter stating the average setback within 200 ft of the property was not provided. He questioned if that required a variance. Ms. Batistic explained it was existing but since they did not know the average was it was safer to address it.

The Board Attorney stated building and impervious coverage variances were implicated and both were preexisting non-conforming elements where each were being expanded. There were no special conditions or requirements specified by the zoning board engineer.

**Motion** made by Mr. Adelung to grant the variances, seconded by Mr. Birnbaum

The motion passed on a roll call as follows:

For the motion: Members Adelung, Birnbaum, DeBari, LoPorto, Rebsch, Schaffenberger, Loonam.

Approved 7-0

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

Respectfully submitted,  
Maureen Oppelaar