

Approved
11/10/21

**New Milford Zoning Board of
Work Session
10 12 21
Virtual meeting (zoom)**

Vice Chairman Adelung 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 -Vice Chairman	Present
Mr. Birnbaum	Present
Ms. DeBari	Absent
Mr. Hicks	Present
Mr. Levine	Present
Mr. Loonam - Chairman	Present
Mr. LoPorto	Present 7:50
Mr. Rebsch	Present
Mr. Schaffenberger	Present
Mr. Sproviero - Attorney	Present
Ms. Batistic- Engineer	Present

Motion to go into closed session was made by Mr. Rebsch, seconded by Mr. Birnbaum and carried by all.

Closed session – Potential litigation 7:30-7:45

Motion to open from closed session made by Mr. Schaffenberger, seconded by Mr. Rebsch and carried by all.

REVIEW MINUTES OF THE WORK/PUBLIC SESSION – September 14, 2021

RESOLUTIONS

21-10 -472 Henley Avenue – Dagoro – Block 813 Lot 2

Front porch – front yard setback

The Board Members had no comments.

21-11 – 676 River Road – Burger King – Block 914 Lot 1.

Use variance, bulk variance, preliminary and final site plan review

The Board Attorney stated that the applicant’s counsel and their professionals made changes.

OLD BUSINESS

21-09 - 203 Main St Property LLC- 203 Main St-Block 1304 Lot 5

Use Variance

The Board Attorney received correspondence from Counsel of the applicant which advised the board that they were seeking to carry the application to the November meeting.

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NEW BUSINESS

21-12 -161 Grand Street – Tucker – Block 1504 Lot 17

Add a level - Side yard variance

The Board Attorney said there was one variance that was implicated and that was the exacerbation of a preexisting non-conforming minimum side yard setback. There is no change to the side yard but because it was an add a level that constitutes an exacerbation and triggered variance relief.

21-13 – 618 McCarthy Drive – Parlapanides-Block 1707 Lot 20

Rear covered patio/front portico

Building coverage, impervious coverage, front yard variance

The Board Attorney said there were three variances implicated – Maximum building coverage existing 24.4% proposed 25%, maximum impervious lot coverage existing 42.7% proposed 43%. The Board Attorney asked Ms. Batistic if the 43% included the 19 sf that was not in the application. Ms. Batistic said the plan did not indicate lot coverage change but there was a small lot coverage change.

Mr. Sproviero said there was a front yard setback variance and the board was provided with information concerning the setback for this property which was 31.22 ft – proposed 26.3 ft required 27.22ft.

21-14 – 654 River Road – Moses-Block 908 Lot 6

Front steps and platform-Maximum building and impervious variances, front yard setback

The Board Attorney explained a front yard setback was being sought and what currently exists was 17.5 proposed 15.5 ft. The applicant was proposing to construct a landing and reconstructing the steps at the front entry. The Board Attorney said the applicant stated that the steps were 19.9' from the property line. The 19.9 ft was the distance to the main building and not to the existing steps so the correct measurement was 17.5 ft. The applicant did not supply the average front yard setbacks from the homes located 200' but based upon the engineer's review letter, the house appears to be in line with the adjacent houses. Mr. Sproviero said it was the board members call if they want those average front yard setback calculus.

Vice Chairman Adelung said the board would hear application at 618 McCarthy last because Mr. Levine could not participate in that application but could hear the other two applications.

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

**New Milford Zoning Board of Adjustment
Public Session
October 12, 2021**

Vice Chairman Adelung 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 – Vice Chair	Present
Mr. Birnbaum	Present
Ms. DeBari	Absent
Mr. Hicks	Present
Mr. Levine	Present
Mr. Loonam - Chairman	Absent
Mr. LoPorto	Present
Mr. Rebsch	Present
Mr. Schaffenberger	Present
Ms. Batistic -Engineer	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION- September 14, 2021

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

OFFICIAL MINUTES OF THE PUBLIC SESSION- September 14, 2021

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

RESOLUTIONS TO BE MEMORIALIZED

21-10 -472 Henley Avenue – Dagoro – Block 813 Lot 2

Front porch – front yard setback

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

For the motion: Members Rebsch, Schaffenberger, Adelung, Levine, LoPorto

21-11 – 676 River Road – Burger King – Block 914 Lot 1.

Use variance, bulk variance, preliminary and final site plan review

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

For the motion: Members Rebsch, LoPorto, Adelung, Levine, Schaffenberger.

OLD BUSINESS

21-09- 203 Main St Property LLC- 203 Main St-Block 1304 Lot 5

Use Variance

The Board Attorney read into the record correspondence from Counsel of the applicant dated October 12, 2021 which advised the board that they were seeking to carry the application without further notice to the November meeting. The Board Attorney informed any members of the public present for this application, that it will be heard on November 9, 2021 and no interested members of the public would receive any formal written or published notice. The Board Members agreed to carry the application.

NEW BUSINESS

21-12 -161 Grand Street – Tucker – Block 1504 Lot 17

Add a level Side yard variance

Mr. Ronald Mondello, representing Andrew and Katherine Tucker at 161 Grand Street, stated there was no decrease in the existing variance, however, they were exacerbating it by going up.

Katherine Tucker, homeowner, was sworn in by the Board Attorney.

Ms. Tucker stated that currently there were two bedrooms with one bathroom on the second floor and they were proposing to expand the second floor by adding an extra bedroom and bathroom. Ms. Tucker explained that before the pandemic she partially worked from home but now is working full time from home. Her office is currently in the basement which was not a perfect solution. Her children were constantly in her phone calls and meetings and it was not professional. Their children also needed their own bedrooms and two bathrooms were not enough for their family.

Mr. Mondello asked the homeowner if she was converting a bedroom on the first floor into an office. Ms. Tucker agreed. Mr. Mondello asked if they were removing any trees. Ms. Tucker said no.

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

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

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

Mr. Marlon Cruz was sworn in by the board attorney.

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

Mr. Cruz prepared a 13-page drawing A-101– A-403 which was marked as **Exhibit A-1**.

Mr. Cruz stated this was an existing 1 ½ story house with four bedrooms and 2 bathrooms on a lot approximately 100'x90'. The total area of the existing home was 1,941 sf. The applicant was

proposing a second-floor addition to add one bedroom and one bathroom. The architect stated they would be adding 300 sf to the total building. The variance being sought for the side yard setback was currently 24.3' from the property line. Mr. Mondello clarified that they were not decreasing the existing condition. Mr. Cruz agreed and said this was a preexisting condition.

Mr. Mondello stated that the Board Engineer requested that a seepage pit be installed on the site and asked if there was any objection to this request. Mr. Cruz agreed to install a seepage pit and said they have a location for the seepage pit and will provide calculations.

Mr. Mondello asked if this proposed addition fits into the neighborhood. Mr. Cruz said yes.

Mr. Schaffenberger asked if the side of the house with the preexisting non-conformity was parallel to the property line. Mr. Cruz answered yes.

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

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

Motion to close to the public was made by Mr. Schaffenberger seconded by Mr. Levine and carried by all

Mr. Mondello asked that the Board grant the relief that the applicant seeks.

Mr. Birnbaum asked for verification on the overall height of the addition as asked on the denial letter. Mr. Mondello said the overall building height was 29'6".

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

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

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

Motion made by Mr. Schaffenberger to grant the variance based on submitted plans with the condition that the seepage pit be installed as per the engineer review letter, seconded by Mr. Rebsch.

The motion passed on a roll call as follows:

For the motion: Members Schaffenberger, Rebsch, Levine, LoPorto, Birnbaum, Hicks, Adelung
For the motion – 7-0

21-14 – 654 River Road – Moses- Block 908 Lot 6

Front steps and platform – Maximum building and impervious, front yard variance

Mr. Robert Moses was the homeowner from 654 River Road representing himself and his wife, Allison Moses.

The Board Attorney swore in Robert Moses.

The applicant said they purchased their house in 2020 which is zoned residential and for professional use. His wife is a dentist licensed in New Jersey and New York and performs dentistry in the home. His wife took over the practice of the previous owners/dentists in the house, said Mr. Moses.

The homeowner explained that the front steps to the main entrance was the primary entrance for the home and patients. The steps currently do not have a platform at the front door. The existing steps consist of three risers and have railings but there is no safe landing area so it poses a tripping hazard for them as well as his wife's patients. Mr. Moses said this was an unsafe condition that they would like to remedy by adding a 3' platform in lieu of the first 12" step outside the front door and then move the other two steps out further which would end up getting closer to the street. It also adds impervious coverage. Ms. Batistic stated the pavers already exist so they were not increasing impervious coverage.

Mr. Adelung asked if he would explain the 19.9 ft that ends up 15.5 ft. Mr. Moses apologized for the error and explained that the 19.9 ft was the measurement from the front yard property line to the foundation of the home. The existing stairs were 17.5' away from the property line so the additional 2' would result in 15.5' setback from the property line.

Mr. Adelung asked Ms. Batistic if she agreed with the homeowner based on her review letter. Mr. Batistic agreed.

The Board Attorney said that the Board was not provided with the calculations for the average front yard setback for homes located within 200' on both sides of their home. Mr. Moses agreed. The Board Attorney said to Ms. Batistic that her review letter stated that the house appears to be in line with the adjacent houses. Ms. Batistic said they were in line to the house to the north and might be a little more set back than one of the houses. She had looked at google earth image and it appears the houses line up and then as River Road curves the houses were a different set back from River Road. The Board Attorney asked if she felt the average front yard setback calculus was necessary for this application. Ms. Batistic did not believe they were because they were not moving the house and they were just pushing the steps closer to the street. Ms. Batistic did not feel it was necessary to get the exact measurements because only the steps were encroaching into the front yard. Mr. Adelung asked if any of the board members had an issue with not having the worksheet. No members had an issue.

After receiving the review letter, Mr. Moses took some measurements using a laser measuring device and his house would now be 38' from the curb line and the adjacent houses to the north were 20.5 and 19.5. They were proposing to add 2' and the steps would be 36' from the road.

Mr. Schaffenberger asked if the front door opens out. Mr. Moses said the door opens in.

Motion to open to the public for questions to Mr. Moses was made by Mr. Rebsch, seconded by Mr. Levine and carried by all.

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

Motion to close to the public was made by Mr. Schaffenberger seconded by Mr. Levine and carried by all.

Mr. Moses said the request for this variance was based on safety and his wife, as a healthcare professional, worries about her patients getting in and out of the house safely.

The Board Attorney asked the homeowner, if what he was proposing, undermines the character of the neighborhood. Mr. Moses said no and both houses on each side of his house have a landing outside of the door and felt it would match the character of the neighborhood. The Board Attorney asked if his testimony was that this variance was primarily driven by safety purposes. Mr. Moses agreed and said it was not for aesthetics but for safety getting in and out of the home.

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

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

Motion to close to the public was made by Mr. Schaffenberger seconded by Mr. Hicks and carried by all.

The Board Attorney asked the board if they wanted to condition that the landing area would not be enclosed now or any time in the future.

Mr. Rebsch was in favor of this condition. Mr. Moses agreed to keep it open and had no objection.

Motion made by Mr. Rebsch to approve the application subject to the conditions, seconded by Mr. LoPorto.

The motion passed on a roll call as follows:

For the motion: Members Rebsch, LoPorto, Levine, Birnbaum, Hicks, Schaffenberger, Adlung.

Approved 7-0

21-13 – 618 McCarthy Drive – Parlapanides-Block 1708 Lot 20
Rear covered patio/front portico
Building coverage, impervious coverage, front yard variance

Mr. Levine recused himself from this application because he lived within the 200' of the applicant's property.

Mr. Joseph Cestaro was sworn in by the Board Attorney.

The Board Members accepted the qualifications of Mr. Cestaro, J. Cestaro Architecture, LLC, as a licensed architect.

Ms. Andriana Parlapanides, homeowner, was sworn in by the Board Attorney.

Ms. Parlapanides said they were proposing a portico in the front which would help with packages being left in bad weather and a back covered patio which was starting to fall apart.

Motion to open to the public for questions for the homeowner was made by Mr. Birnbaum, seconded by Mr. Hicks and carried by all.

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

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

Mr. Cestaro discussed the 11x17 plan of three sheets.

The Board Attorney marked the plan as Exhibit A-1.

Photo - back of house Exhibit A-2

This was an existing cape with a 75x110 lot and they were proposing to add a front covered portico over an existing landing and rebuild the covered porch in the rear. There are three non-conformities on the lot. The side yard setback on the left is 8.7 where 10' is required and they were not proposing any changes to it or any work in that area. The building coverage existing is 24.4% where 20% is required. They are proposing a small increase to 25.0%. The impervious lot coverage existing is 42.7% and they are proposing a small increase to 43%.

The architect stated that the front porch was being built directly over the existing 8'x6' landing. The back covered patio would be built in place but a more substantial structure. The covered patio needed repair and it would be built to match the rest of the house.

The Board Attorney asked if the rear porch would be expanded in anyway. Mr. Cestaro answered they were expanding the patio to square it off which was mentioned in the review letter. The Board Attorney clarified that was the 19 sf which increased to 25%. Mr. Cestaro noted the awning of the survey was drawn short because it comes out to the existing patio.

Mr. Cestaro stated that the 19 sf was not reflected on the zoning chart but it should be 43% under impervious lot coverage. He discussed the drawings on the plan.

The architect said the applicant was seeking three variances.

Building coverage which was existing non-conforming and proposing an increase of 54 sf – existing 24.4% proposed 25.0%. He explained this was a new roof overhang over an existing landing which was not increasing the size but just having two columns and a portico.

Impervious lot coverage was existing non-conforming which they were proposing an increase of the 19 sf for squaring off the back patio.

The front yard setback proposing 26.3 where 27.22 is required - the ordinance allows a 4' encroachment so they will be encroaching 11".

Mr. Adelung asked Ms. Batistic if she reviewed the front yard set back sheet. Ms. Batistic answered yes.

The Board Attorney asked for the total increase in building coverage. Mr. Cestaro said 54 sf which was the roof over the landing in the front and 19 sf for the impervious coverage.

The Board Attorney asked how the proposed renovations were going to enhance the neighborhood and not undermine the character of the neighborhood. Mr. Cestaro said the rear covered patio would not negatively impact anyone or the intent of the zoning ordinance. The front portico will help with packages in the bad weather and add curb appeal and improve the streetscape. It was a very small variance of 11” and definitely improves the home both aesthetically and practicality. It would not overburden the lot or have any detriment to the streetscape or to the neighborhood.

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

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

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

Mr. Birnbaum said that the Schmidt Survey showed a concrete patio and the plans showed existing pavers and noted it was an existing concrete patio. Mr. Cestaro agreed.

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

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

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

Mr. LoPorto thought a condition should be not to enclose the front portico or the back covered patio. The Board Attorney agreed.

Motion made by Mr. LoPorto to approve the application subject to the conditions, seconded by Mr. Rebsch.

The motion passed on a roll call as follows:

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

Approved 6-0

The Board Attorney asked the applicant if they understood that they could not enclose the front portico or back covered patio. The homeowners understood. Mr. Cestaro questioned if a future owner could ever enclose the back patio. The Board Attorney said they would return to the zoning board for a variance to rescind the condition. Mr. Cestaro understood.

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

Respectfully submitted,
Maureen Oppelaar