Approved

7/12/16

## New Milford Zoning Board of Adjustment

## Work Session

**June 14, 2016**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:35 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Adelung Present

Ms. DeBari Absent

Mr. Denis Present

Mr. Joseph Present

Mr. Loonam Present

Mr. Rebsch Present

Mr. Stokes Present

Mr. Weisbrot Present

Mr. Schaffenberger- Chairman Present

Mr. Sproviero - Attorney Present

Ms. Batistic Present

**REVIEW MINUTES OF THE WORK AND PUBLIC SESSION – May 10, 2016**

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

**OLD BUSINESS**

**16-03 Puglisi – 61 Bulger Avenue – Block 706 Lot 9**

**SOLAR PANEL INSTALLATION**

The Chairman stated there was a letter dated 5/24/16 from NRG Home Solar asking to carry the solar application to the July 12th meeting and it would be read into the record at the public session. The Board Attorney explained the Mayor and Council have introduced an ordinance that would permit the installation of solar panels where so ever located on the roof of the structure. The prohibition related to the front facing solar panels would be eliminated by way of the ordinance. Mr. Sproviero stated it has been introduced on first reading and understood it would be considered for public hearing and final reading on 6/27/16.

**NEW BUSINESS**

**16-04 Lombardi – 178 River Lane – block 307 Lot 2**

**Add a level – Building coverage/side yard variance**

The Chairman asked the board members if they had any questions or comments on the application. The Chairman had questions on the application which he would ask the applicant in the public session.

**16-05 Pitch – 549 Boulevard – Block 1004 Lot 19**

**Deck – building coverage**

The Chairman asked the Board Members if they had any questions or comments on the application. No one had any questions.

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

## New Milford Zoning Board of Adjustment

## Public Session

**June 14, 2016**

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

Ms. DeBari Absent

Mr. Denis Present

Mr. Joseph Present

Mr. Loonam-Vice Chairman Present

Mr. Rebsch Present

Mr. Stokes Present

Mr. Weisbrot Present

Mr. Schaffenberger-Chairman Present

Mr. Sproviero - Attorney Present

Ms. Batistic – Engineer Present

**PLEDGE OF ALLEGIANCE**

**OFFICIAL MINUTES OF THE WORK SESSION – May 10, 2016**

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

**OFFICIAL MINUTES OF THE PUBLIC SESSION – May 10, 2016**

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

**OLD BUSINESS**

**16-03 Puglisi – 61 Bulger Avenue – Block 706 Lot 9**

**SOLAR PANEL INSTALLATION**

The Chairman read a letter dated 5/24/16 from Brent Feeley, Roof Diagnostics Solar & Electric into the record. The letter requested the application be carried to the July 12th meeting. The Board Members accepted the request. The Board Attorney clarified that there was a pending ordinance that would eliminate the zoning board relief that they seek. Mr. Sproviero understood it would be considered for final reading and adoption at the Mayor and Council meeting on 6/27/16.

**NEW BUSINESS**

**16-04 Lombardi – 178 River Lane – block 307 Lot 2**

**Add a level – Building coverage/side yard variance**

Mr. Andrew Lombardi, the owner and applicant, was sworn in by the Board Attorney.

The Chairman asked the applicant to explain his application. Mr. Lombardi said they were living in a three bedroom one bath small Cape Cod house with six children. They decided they would need a second level for space and stated there was nothing fancy about it. John D’Ambrosio, architect, was present for questions, said the homeowner. The Chairman asked what variances they were seeking. Mr. Lombardi said building coverage and the setback on the two side yards. The Chairman asked how many of these variances were preexisting. Mr. Lombardi said both side yards. The Chairman asked if their frontage was 60’. The resident agreed. The Board Attorney clarified that there were a number of non-conforming elements. The lot area, lot width and front yard were non-conforming, said Mr. Sproviero. He added that currently both the right and left side yard were non-conforming. The Board Attorney explained that the maximum building coverage was pre-existing non-conforming although being exacerbated by the application. The impervious coverage was being increased but remained conforming.

The Board Attorney asked the applicant how the building coverage was being increased if they were just building an add-a-level. Mr. Lombardi answered that they were going forward over the front of the house but not changing the foundation. Ms. Batistic stated the ordinance was changed and projections were counted as coverage. Mr. Loonam clarified that if a second level of a house went out 12” above the footprint of the first level, it would be added to coverage. Ms. Batistic agreed. Mr. Stokes thought there was a 2’ cantilever that was acceptable. Ms. Batistic said a 2’ cantilever was not really a coverage issue but more of a building issue.

Mr. Adelung did not understand how an overhang could be counted for coverage. Ms. Batistic stated they have building coverage and lot coverage. Lot coverage is all impervious area including building. Ms. Batistic explained New Milford had a situation where a homeowner built a second level that cantilevered with columns and it was too big but they did not have to go to the board because they were below 20% coverage. The Board Attorney explained that situation resulted in the Mayor and Council changing the ordinance to say overhangs were calculated in the building coverage. Ms. Batistic said some towns calculate the roof eaves. The engineer explained when looking from above everything seen under the roof is building coverage regardless if it hits the ground.

Mr. Loonam questioned that the zoning work sheet on the plan indicated that minimum right side yard existing was 5.58’ and proposed 6’. Mr. Lombardi said it was correct on the zoning work sheet. Mr. Sproviero asked that the architect explain the discrepancies.

The Board Attorney swore in John D’Ambrosio, architect.

Mr. Loonam asked if the existing right side yard was 5.58’ or 6’. Mr. D’Ambrosio clarified that the existing right side was 6’ and proposed 6’.

The Board Attorney thought the only variance that appears to be implicated by this application was building coverage. The Chairman asked Mr. D’Ambrosio if the right side of the house had the cantilever. Mr. D’Ambrosio said yes. The Chairman asked how it could be existing 6’ proposed 6’. The architect said it was initially a 9’ setback. The Board Attorney stated it showed that existing was 5.58’. Mr. Loonam said page 2 of the drawing had a set of stairs and questioned if that was the discrepancy. The Board Attorney said the Board needs the correct data to make their determination. The Chairman clarified that it was 9’ from the side of the house to the property line but with the steps it was 6’. Mr. D’Ambrosio agreed. The Chairman and Mr. Stokes questioned if the steps/platform was part of the square footage. Ms. Batistic said yes it was square footage but not the setback.

The Board Attorney asked Mr. Lombardi if he was amending the zoning worksheet with respect to minimum right yard setback to reflect the proposed 7’ setback. Mr. Lombardi agreed. The Chairman clarified that the other side was not changing but just going straight up. Mr. D’Ambrosio agreed. The Chairman questioned how he measured the height. Mr. D’Ambrosio said he measured the average of the five corners and the proposed height was 29.8’.

The Chairman said there was building and side yards variances. The Board Attorney said there were a number of non-conforming elements that were not being expanded. The Chairman said the only ones being expanded was side yard by ½’ and building coverage which is already over by 3%.

Mr. Stokes asked how the columns fall into play. Mr. D’Ambrosio said they did not exceed the existing front. The Chairman asked if there was any change to the existing front steps. Mr. Lombardi said they were making the steps wider.

The Chairman asked what the increase would be in the building coverage without the cantilever. Ms. Batistic said there was no change in the footprint but just a change on the second floor. The Chairman clarified that the cantilever accounts for the additional 3 percent.

The Chairman stated there were two variances and the left side setback was a non-conformity and not changing.

The Board Attorney said minimum lot area, minimum lot width, minimum front yard and left side setback were preexisting non-conforming conditions not being expanded.

Motion to open to the public was made by Mr. Loonam, seconded by Mr. Stokes and carried by all.

No one wished to be heard.

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

Mr. Loonam said this was a small lot with 6,600 sf and did not know how much the applicant could do with their property other than what they were proposing. He said they did not try to expand out the back and their rear yard existing was 37% and proposed 37%, the front yard setback existing was 46.3’ and proposed 46.3’, their right yard setback existing and proposed was 6’ and they were not trying to go over the 30’ height. Mr. Loonam had no problem with this application. The Chairman asked Mr. Loonam if he had any problem with the cantilever with the neighbor. Mr. Loonam had no problem with it because no neighbor was here to question or complain about the application.

Mr. Stokes commented that the cantilever on the second floor was only encroaching the side line by only 1/2’. He was in favor of the application.

The Chairman asked the applicant if he planning on demolishing the house. Mr. D’Ambrosio said no.

Motion to open to the public for general comments was made by Mr. Rebsch, seconded by Mr. Adelung.

No one wished to be heard.

Motion to close to the public was made by Mr. Adelung, seconded by Mr. Denis and carried by all.

The Board Attorney said certain projects that were expanding were subject to an assessment of additional fees for affordable housing purposes. He added this was be a condition of the application. Mr. Lombardi understood.

Motion made by Mr. Weisbrot to grant the variances as requested with the condition, seconded by Mr. Loonam.

A motion passed on a roll call vote as follows:

For the Motion: Members Weisbrot, Loonam, Denis, Rebsch, Stokes, Joseph, Schaffenberger.

Approved 7-0

Mr. Loonam told the applicant to be careful with the height since he was very close to the 30’ when building the house.

**16-05 Pitch – 549 Boulevard – Block 1004 Lot 19**

**Deck – building coverage**

Ms. Vanessa Pitch, owner and applicant of 549 Boulevard, was sworn in by the Board Attorney.

The Chairman asked the resident to explain the application.

Ms. Pitch said currently on her property was a concrete patio that was a tripping hazard due to cracks and not being level.

Ms. Pitch submitted 5 photos. The Chairman asked if the applicant took the photos, if they were altered in any way and if they accurately represent the back yard area. Ms. Pitch answered she took them, they were not altered and they represent the area.

The Chairman marked as Exhibit A-1 - 5 photos of the patio.

The Board Members reviewed the photos.

Ms. Pitch explained she had a small house which was 1400 sf. The homeowner said the kitchen was not large enough to have a table and there was one family room and one table that three people could fit at. Ms. Pitch requested a larger livable space outside so they could have a table fit their family of five.

The Board Attorney asked the applicant if her testimony was that were requesting additional livable space and asked if the deck would be covered, surrounded by walls or enclosed by any windows. Ms. Pitch said no it was 11” off the ground and had no railings. The Chairman asked if there were any plans to do what the Board Attorney asked in the future. Ms. Pitch said no. The Chairman asked if there were any plans to take up the cement patio. Ms. Pitch said they would remove the cement for the footings.

The resident said they were before the board to request a building coverage variance. Ms. Pitch stated that the current lot size was 7,741 sf .The building coverage allowed was 1,548 sf and with the proposed 608 sf deck it would be 2,103 sf. Ms. Pitch said her overage was 555 sf.

Mr. Stokes asked for the dimensions of the deck. Ms. Pitch said 16x38 feet (608 sf).

The Chairman asked what the current building coverage was. Ms. Pitch answered the existing building coverage was 1,495 sf and with the proposed deck it would be 2,103 sf.

Motion to open to the public for questions to the applicant or comments on the application was made by Mr. Weisbrot, seconded by Mr. Denis and carried by all.

Ms. Batistic questioned that the zoning sheet had the deck listed at 504 sf. Ms. Pitch said that was the first submittal denied but the paperwork for the deck submitted to the board was 608 sf.

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

Ms. Batistic asked if the patio would be removed. Ms. Pitch said only where the footings would be. Ms. Batistic recommended some holes be drilled in the concrete for drainage. The Board Attorney asked if that should be a condition. Ms. Batistic said it was not required. After the board members discussed the matter on the drainage, they agreed not to make it a condition.

Mr. Stokes questioned if the deck would be higher than 11” high to get the girder, 2x8s and deck within the 11”. Ms. Pitch said it was possible.

Mr. Sean Layne was sworn in by the Board Attorney.

Mr. Layne said in the back of the house there was a step down that was about 12” and the proposed deck would be flush to the house. He added most of the patio would be broken up and the deck would have one step down to the backyard. Mr. Loonam asked if they determined it would not be higher than 11”. The Chairman answered yes because it would be flush with the door. Mr. Layne agreed.

Motion made by Mr. Stokes to approve the application without conditions, seconded by Mr. Denis

Motion passed on a roll call vote as follows:

For the motion Members Stokes, Denis, Loonam, Rebsch, Weisbrot, Joseph, Schaffenberger

Approved 7-0

The Board Attorney stated that part of the resolution would be that the deck would not be covered or enclosed. The applicant agreed.

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

Respectfully submitted,

Maureen Oppelaar