

Approved  
2/10/15

**New Milford Zoning Board of Adjustment  
Work –Reorganization Session  
January 13, 2015**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:00 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Binetti	Present
Ms. DeBari-Vice Chairwoman	Present (7:10)
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
Mr. Ten Kate –Engineer	Present

**REORGANIZATION – 2015**

The Board Attorney swore in both Mr. Binetti and Mr. Weisbrot for a four year term as a full member with terms expiring 12/31/18.

The Board Attorney swore in Mr. Joseph for a two year term as an alternate member with a term expiring 12/31/16.

The Chairman called for a motion to dissolve the Firm of Boswell Engineering.

Motion made by Mr. Stokes, seconded by Ms. DeBari and carried by all.

The Chairman called for a motion to dissolve the legal counsel of Scott Sproviero Esq.

Motion made by Mr. Stokes, seconded by Ms. DeBari and carried by all.

The Chairman called for a motion to dissolve Ms. DeBari from her obligation to the Zoning Board, that being Vice Chair.

Motion made by Mr. Binetti, seconded by Mr. Rebsch and carried by all.

The Chairman called for a motion to dissolve Mr. Schaffenberger from his obligation to the Zoning Board, that being Chairman.

Motion made by Mr. Loonam, seconded by Mr. Stokes and carried by all

Meeting turned over to the senior member, Ms. DeBari.

Ms. DeBari called for a motion to nominate a Chairman for 2015.

Motion made by Mr. Stokes to nominate Karl Schaffenberger, seconded by Mr. Binetti.

The motion passed on a roll call as follows:

For the motion: Members Stokes, Binetti, Denis, Loonam, Weisbrot, DeBari

Abstain: Member Schaffenberger

No other nominations

Karl Schaffenberger called for a motion to nominate a Vice Chair for 2015.

Motion made by Mr. Stokes to nominate Ms. DeBari, seconded by Mr. Binetti.

The motion passed on a roll call as follows:

For the motion: Members Stokes, Binetti, Denis, Loonam, Weisbrot, Schaffenberger

Abstain: Member DeBari

No other nominations

The Chairman called for a motion to nominate a Board Attorney for 2015.

Motion made by Mr. Loonam to nominate Scott Sproviero, seconded by Mr. Binetti.

The motion passed on a roll call as follows:

For the motion: Members Loonam, Binetti, Denis, Stokes, Weisbrot, DeBari, Schaffenberger

The Board Attorney thanked the Board Members.

The Board Attorney explained the Zoning Board is an autonomous agency capable of soliciting its own proposals and appoint whoever the Board want as the Board Engineer. However, it has been the Board's practice in the past not to seek proposals but to work with the Engineer engaged by the governing Body, said the Board Attorney. The Board has not solicited RFQs for that position and the Board chooses to recognize the appointment made by the municipality and the Board recognizes Boswell McClave as the Board Engineer. The resolution before the Board was regarding the appointment of the Zoning Board's engineer which contemplates that Boswell was engaged by the Borough as the Borough Engineer.

Mr. Loonam clarified that they were not appointing Ms. Batistic but rather Boswell Engineering. The Board Attorney agreed the appointment was for Boswell Engineering.

The Chairman called for a motion to approve the resolution for a Board Engineer for 2015.

Motion made by Mr. Stokes to keep Boswell under the existing contract with the borough, seconded by Mr. Binetti

The motion passed on a roll call as follows:

For the motion: Members Stokes, Binetti, Denis, Weisbrot, DeBari, Schaffenberger

Against the motion: Members Loonam

#### **REVIEW OF MINUTES – December 9, 2014**

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

#### **ANNUAL REPORT 2014**

The Chairman asked if the members had an opportunity to review the report and if there were any changes or comments. No one wished to comment or make a change.

## **RESOLUTION**

### **14-04 Duffy – 356 Webster Drive – Block 1606 Lot 11**

Two Tier Deck – Building coverage and rear yard setback variances

The Chairman made changes on the resolution

## **OLD BUSINESS**

### **13-02B Alex & Sons Real Estate – 391 Madison Avenue – Block 1211 Lot 32**

Two duplexes on a single lot - Use, front yard and height variances.

The Board Attorney asked the new members if they had an opportunity to listen to the record or read the transcript. Mr. Weisbrot and Mr. Joseph did both and Mr. Stokes stated that he listened to the recording. The Chairman said there was a letter from Azzolina & Feury Engineering regarding 3 test pits excavated at the site. He explained in the letter it stated that the soils that were encountered are suitable for the construction of the proposed dwellings, the installation and operation of the proposed seepage pit system. The Chairman asked if there were any questions or comments regarding the application. No members had any questions or comments.

## **NEW BUSINESS**

### **14-05 Iskowitz – 1109 Korfitsen Road – Block 206 Lot 8**

Two Story Addition – building coverage

The board members reviewed the application.

The Chairman informed the new members of the mandatory training courses required for new members.

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

**New Milford Zoning Board of Adjustment  
Public Session  
January 13, 2015**

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. Binetti	Present
Ms. DeBari- Vice Chairwoman	Present
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
Mr. Ten Kate – Engineer	Present
Mr. Grygiel – Planner	Present

**PLEDGE OF ALLEGIANCE**

The Chairman stated that there were two new members appointed to the Board. He thanked Mr. Ix and Father Hadodo for their dedicated service to the Board.

**OFFICIAL MINUTES OF THE WORK SESSION-December 9, 2014**

**Motion** to accept the minutes were made by Mr. Loonam, seconded by Mr. Binetti and carried by all.

**OFFICIAL MINUTES OF THE PUBLIC SESSION – December 9, 2014**

**Motion** to accept the minutes were made by Ms. DeBari, seconded by Mr. Binetti and carried by all.

**ANNUAL REPORT 2014**

**Motion** to memorialize the resolution was made by Mr. Stokes, seconded by Mr. Binetti.

The motion passed on a roll call vote as follows:

For the motion: Members Stokes, Binetti, Denis, Loonam, DeBari, Schaffenberger

Abstain: Member Weisbrot

**RESOLUTION TO BE MEMORIALIZED**

**14-04 Duffy – 356 Webster Drive – Block 1606 Lot 11**

**Two Tier Deck – Building coverage and rear yard setback variance.**

**Motion** to memorialize the resolution with changes was made by Mr. Loonam, seconded by Ms. DeBari.

The motion passed on a roll call vote as follows:  
For the motion: Members Loonam, DeBari, Binetti, Denis, Schaffenberger  
Approved 5-0

## **OLD BUSINESS**

### **13-02B Alex & Sons Real Estate, LLC – 391 Madison Avenue – Block 1211 Lot 3 Two duplexes on a single lot with two bedroom units per building**

Mr. Stokes stated for the record that he listened to the recording of the meeting that he did not attend. Mr. Weisbrot recused himself from this application because it was a complicated application that has gone on long before the one that he listened to and to the fairness of the applicant and all interested parties he felt it prudent to recuse himself. The Board Attorney clarified that this application 13-02B before the board now is a new application which started in December 2014. He explained application 13-02 went on for approximately 18 months. The Board Attorney said there was indeed a continuing history but what is before the Board is a stand-alone application. He understood the reasons for his recusal and was not questioning it but wanted the record to be clear that this application was in its second hearing but preceded by proceedings related to the development of this property by the applicant.

Mr. Joseph also asked to recuse himself because he is a new member and did not think it would be fair to anyone for him to vote or recommend anything on this application.

The Chairman and the Board Attorney said there remained seven qualifying voting members.

Mr. Alampi, attorney for the applicant, stated at the December meeting there were questions raised by board members and the public asking the engineer to return to the site to do two additional soil borings. He added that the engineer had explained to the board that these were not done for purposes of environmental assessment but to see if the water would percolate on the site.

Mr. Alampi marked as an **Exhibit A-3** - Letter dated 12/19/14 from Azzolina & Feury Engineering -2 page report clarifying that the property will drain.

Mr. Alampi marked as **Exhibit A-4** - December 29 letter from Azzolina & Feury - Transmittal 2 page letter accompanying the plans last revised 12/19/15

Mr. Alampi marked as **Exhibit A-5** - the site plan with revisions

Perry Frenzel, engineer, was recalled and remained under oath to discuss the details made to the plan.

Mr. Frenzel stated that in response to comments in the Boswell letter and from the last meeting there were a few changes made on the plans. In the Boswell letter, it was suggested that the guardrail in the rear property should be extended to the catch basin. The engineer stated this has been done. He added in response to the Fire Advisory Committee they complied with the request for the driveway be widened from 18' to 24'. Mr. Frenzel stated they excavated three additional test pits. All three test pits for the most part had a soil that they considered suitable for foundations and a soil suitable for adequate drainage, said the engineer. He added that they got a

percolation rate of about 1” to 20 minutes which should be more than adequate. The Chairman questioned that he stated it “should be more than adequate” and asked if there was an ideal per number. Mr. Frenzel said 2” an hour you would be in good shape and added this was easily 3. He said this shouldn’t be a problem at all because ideally seepage pits should drain out in a period of 36 hours and at that particular rate the test pits would drain out in about a period of 12-24 hours. Mr. Frenzel stated it was more than adequate.

Mr. Frenzel stated in response to the Shade Tree Commission they added two red maples and one Weeping Willow as shown on the plan.

Mr. Alampi asked if there would be additional drainage from the 24’ driveway. Mr. Frenzel said there would be additional drainage from the driveway and they would provide the final calculations to Boswell Engineering.

Mr. Loonam thanked the attorney for conducting the additional samples that he requested. He asked if they were able to determine that the soil was consistent with the same type of soil throughout the property. Mr. Frenzel said yes and there was no evidence in the upper layers of any foreign material or material inconsistent with what they would expect to find at the site. There was no broken brick or concrete debris fill.

Mr. Sproviero asked with regard to the widening of the driveway what did that do to both the impervious and lot coverage percentages. Mr. Frenzel said it does increase the percentages but they were still conforming. He said the total building coverage remained the same and the impervious coverage was at 12.5% which was conforming. Mr. Sproviero clarified that the increase did not result in any new variances. Mr. Frenzel said no new variances.

The Chairman asked about the curb cut. Mr. Ten Kate said the 12.5% that he testified to was the proposed building coverage not the impervious. Mr. Frenzel said the proposed impervious coverage was 27.0% required 58%. The Chairman felt the curb cut would trigger a variance. The engineer said the curb cut was enlarged and the total length of the drop curb at the curb cut would be 34’ - five feet on either side of the extension of the driveway. Mr. Alampi questioned what the dimension of the curb cut was on the former plan. Mr. Frenzel said they had a drop curb of 39’. Mr. Alampi asked what the current drop curb was. Mr. Frenzel said the drop curb was 34’ and they reduced the radius at the street line. The Chairman asked how that was possible. Mr. Frenzel said with a narrower driveway they would need a larger radius at the street line to get in and out with a vehicle. He explained now that the driveway was wider, vehicles could make part of their turn within the driveway before they get out to the street.

Mr. Loonam questioned if 39’ was from the original application. Mr. Frenzel said no and added in the prior scenario it was 18’ of driveway and 39’ of drop curb at the curb line and now it was 24’ and 34’. The Chairman still felt that 34’ was larger than allowed. The Board Attorney said it would trigger a variance. Mr. Alampi said since the Fire Committee recommended a 24’ driveway, he did not think this was excessive. He did note that the drop curb cut was reduced. The Board discussed the requirements for a curb cut.

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

Terence Mc Mackin, 400 Madison Avenue, asked if the perc test included the composition of any possible contamination or was strictly the water seepage. Mr. Frenzel said it was strictly a soil analysis and checking for ground water for impenetrable layer. Mr. Mc Mackin said he questioned at the last meeting the possibility of contaminants because of the garages being rented out to landscapers. Mr. Alampi said it was not part of the checklist requirements. He said regarding his statement on contamination there was no basis for the question. The Chairman thought there was testimony on that subject that if there were contamination in the site it would be clear by odor and visual. The Board Attorney asked if a DEP no further action letter was in the record for these proceedings. Mr. Alampi said there was a DEP line verification letter not a DEP no further action letter. Mr. Mc Mackin wanted to know the impervious coverage. Mr. Frenzel said it was 27% for the entire piece of property. Mr. Mc Mackin asked what the impervious coverage for the usable property was before it slopes down to the wetlands. Mr. Frenzel estimated between 35-40%.

Lori Barton, 399 Roslyn Avenue, said it was testified at the last meeting that before widening the driveway the impervious coverage of the entire lot was 26% and 50% usable. The Chairman referenced a statement previously made by Mr. Alampi regarding the non-usable property. Mr. Alampi discussed the Manalapan doctrine that was a case in the Supreme Court. He said for the common good of the community if some area of the property was going to be preserved or undergo some type of conservation easement, that doesn't mean that the property owner doesn't own that property or pay taxes on it. It resulted that a developer was entitled to full use of the property for purposes of measurement setback.

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

Mr. Grygiel said regarding the borough ordinance on curb cuts it was under "streets and sidewalks" chapter of the code section 18-4. He said the Board could not grant a variance from it but there was a requirement of 20% maximum for a driveway. The Chairman asked for clarification on if a variance was required for the driveway curb cut. Mr. Alampi said it was not a variance but a control measure in a different section in the town ordinances. Mr. Alampi said the Board might want to comment in their annual report to look at that ordinance. Mr. Ten Kate asked if the applicant would comply with the streets and sidewalk ordinance. Mr. Alampi said they could not if they comply with the Fire Departments recommendation to enlarge the driveway to 24'. The Board Attorney asked if it would be appropriate for the Board, if they were to favorably consider the application, to grant a waiver of that requirement. Mr. Ten Kate and Mr. Grygiel thought since it was a recommendation of the Fire Department they would concur with the Board Attorney's statement.

The Board Attorney swore in Ms. Mia Petrou on behalf of Kenneth Ochab Associates, 12-16 Fair Lawn Avenue, Fair Lawn, NJ.

The Board Members accepted Ms. Petrou qualifications as a licensed professional planner.

Mr. Alampi marked as exhibit **A-6** two page photo exhibit  
Mr. Alampi marked as exhibit **A-7** Aerial photo of 391 Madison Avenue.

Ms. Petrou said for the record she reviewed the December 9<sup>th</sup> transcript.

The planner said exhibit A-7 was from a Bing map dated 7/13 revised 1/15. The revision was removing the prior building footprint for the multiple unit dwelling. The subject property located on Madison was approximately 550' to the west of the Dumont border. Ms. Petrou said looking at the land use pattern in the Residential A zone starting on the left was a school, subject property, two single family residents, existing building with a auto garage/cabinet maker in the business zone and then a garden apartment complex in the multifamily zone. Mr. Alampi clarified that across the street was the Residential A zone. The planner agreed. Ms. Petrou stated in Exhibit A-6 photo A showed the subject property, photo B showed the adjacent school to the west of the site, photo C showed the neighboring single family dwelling to the east and photo D showed the northerly neighbor with frontage on Neumaier Drive towards the rear of the property, photo E showed the commercial use, photo F showed the Milford Arms development, photo G showed the conditions across Madison Avenue and photo H showed the duplex development. Mr. Alampi asked if the side-by-side duplex style dwelling shown in photo H was similar to what was proposed on the subject site. Ms. Petrou said yes particularly that they would be incorporating the garage into the building footprint.

The planner said the subject property was just over an acre approximately 48,000 sf where the minimum lot area in a RA zone was 7,500 sf. There were three variances requested by this application, which included a use variance. This would be a D1 use variance for a use that was not permitted in this zone. The applicant was proposing two 2 family dwellings consisting of 4 units in zone for a single-family usage. Mr. Alampi said in the RA zone other than the school were there were any other one-acre properties in the area. Ms. Patrou said no but the property in the multifamily zone was larger than an acre. There was a second D6 variance for height and 30' was permitted in the RA zone and they were proposing 35.9'. Since it exceeds 10% it requires a D variance, said the planner. A bulk or C variance is requested for the front yard setback and they were proposing 25' setback where 38.6' was required. The Board Attorney asked if there were any other variances requested. Ms. Patrou said a waiver would be requested for the curb cut but no other variances. The Board Attorney questioned if two principal structures on a single lot implicated a C variance. Also the Board Attorney thought a property or structure that doesn't front the public street required a variance. Mr. Alampi said there was a driveway and the houses were orientated that they did not face the street but faced sideways. Mr. Alampi said the property does front a public street. The Chairman clarified that two principal structures on a single lot required a variance. The Board Attorney and Mr. Alampi agreed it implicated a variance as discussed. Ms. Patrou agreed but said to a certain extent it was subsumed by the use variance.

The planner said Madison Avenue was a major arterial roadway and it was appropriate to concentrate some of the denser developments where they could be accommodated.



Ms. Patrou thought those were part of the reasons why this site was particularly suited for the proposed use, which was part of the criteria for granting use variances, which was established by the Medici case. The first prong discussed why the site is particularly suited for the proposed use and granting of the requested use variance would promote the intent and purpose of the municipal planning goals as established in the master plan. The planner said looking at the character of the area it was clearly mixed use and not exclusively or dominantly single-family homes on that side of Madison Avenue. She said adjacent to the proposed site on the west was the school, to the east was a business and Milford Arms. Mr. Alampi clarified that the rear portion of Milford Arms had a common boundary with the subject property. The planner agreed and added that across the street were primarily single-family homes and some two family homes. The parking at the school creates a separation between the subject site and the school.

Mr. Alampi asked what special reasons exist to support the variances. The planner said this particular site was unique in its size, location and its configuration with the neighborhood. Ms. Patrou reviewed 35 properties with frontage on Madison between Boulevard and the Dumont border. The subject property was the third largest property in the neighborhood. It was the planner's opinion that this size and the large area of the lot supports a multifamily approach rather than a single-family usage because it results in more suitably sized homes more consistent with the neighborhood. Ms. Patrou explained the minimum lot size of a RA zone of 7,500 sf has a permitted coverage of 20 percent not the 18% that applies to their larger piece of property. Mr. Alampi asked how large of a home could they build on the subject property within the permitted coverage. Ms. Patrou said the coverage potential would 8,670 sf. Mr. Alampi said a house with two levels could be 30,000 sf. The planner said probably a little less but the potential was there. Mr. Alampi asked her opinion as to breaking up the buildings into two buildings and separating them as duplexes and if it would be more beneficial than having one monolithic structure Ms. Patrou said it would be more beneficial because it would result in homes sizes that were consistent with the developed character of the neighborhood. The planner said the proposed design because of its being consistent with the home sizes result in a benefit to the neighbors and public. Two duplexes on a single lot provide greater buffers and setbacks to adjoining properties by developing into the interior of the lot. Instead of having a single family home with a 10' setback from the neighbor they were providing almost 60' from the neighbor to the east.

Mr. Alampi asked if there were any goals of planning that were accomplished with this development. The planner said they would provide for sufficient space and appropriate locations for variety of uses. It was an appropriate development for the site and was promoting appropriate population densities. She added in theory from an appropriate population density calculation a 7500 sf lot resulted in a calculation of 5.8 units per acre. On this size lot it would result in 6.4 units so they were not overdeveloping the site with the proposed 4 units, said Ms. Patrou. The planner said in the 2014 master plan update, a goal was to provide for an appropriate mix of commercial and residential uses as well as open space and parks in the location specified. She said it went on to say to talk about maintaining the borough as a predominately single-family residential community while allowing for other housing types and densities in specified locations. The plan allows, said the planner that deviations may be permitted "when they were due to site specifics circumstances and it can be demonstrated there would not be a substantial detriment to the master plan and zoning ordinance". Ms. Patrou thought the plan recognized there were certain locations where zoning was not a "cookie cutter" approach and it takes a

second look at the unique and special characteristics of a site that might merit deviation from that zoning. Ms. Patrou said the plan also recognizes that existing two family uses are interspersed throughout the single family residential A zone.

The planner said they were proposing a more compact development footprint in the form of these duplexes units. By centering and by having the compact development form it was avoiding impacts at the rear of the property and any environmental constraints on the wetlands. Mr. Alampy asked what cluster development was. Ms. Patrou said it concentrates development in a portion of the lot so it was more compact in exchange for keeping it away from environmental constraints. The planner added that you have the ability to minimize impervious coverage at a site and provide more distance and buffering to adjacent properties and more green space. Mr. Alampy said cluster development usually is for more units and asked if it was appropriate for a proposal of 4-6 units. The planner responded that the principles of it apply with this site and was present. Mr. Alampy asked if they established the proofs required for the special reasons. The planner said yes for the D1 variance. Mr. Alampy said these were market rate housing and were not considered inherently beneficial. The planner agreed. Mr. Alampy asked if this plan reconciles with the master plan goals. The planner said it does. Ms. Patrou added that the compact development that minimizes impervious coverage and provides more open space promotes sustainable building and site design.

The planner said the negative criteria discusses the impact of the requested variances. There can be no substantial detriment to the public good and the impact on the zone plan. Ms. Patrou believed there was no substantial detriment to the public good as a result of the proposed use variance. There was a unique largely oversized lot that has the ability to provide sufficient distance and separation from neighboring properties. They do not exceed the zone density for the RA zone and all parking for the use is provided on site. The planner believed there was no substantial impairment to the zone plan because it was a unique property. They were proposing two duplex properties and there are two family uses in the neighborhood and the site is proximate to a very large multifamily residential development. She felt it was an appropriate planning use for the site. Mr. Alampy asked about impact to the one family home east of the site. The planner said there was 60' separation between structures where 10' side yard is required.

Mr. Alampy clarified that the proposed development would not impair the purpose of the zoning scheme. Ms. Patrou agreed. Mr. Alampy asked her opinion on the fact that the property was on a main street as opposed to a secondary roadway. The planner said a benefit was that it is on a major roadway and the proposed development had a driveway into the interior of the lot which resulted in a safe circulation and efficient movements.

Mr. Rebsch was concerned that flooding could wash out the back of the property causing the building to collapse. Mr. Ten Kate would have to research it. Mr. Grygiel said there was a wetlands on the site but a transition area provided as required. He added as long as the buffers were met and it could be safely designed he did not think it was a major issue from a planning point of view.

Mr. Loonam asked if the wetlands designation contribute to the uniqueness of the property. Ms. Patrou said it did because it contributes to the fact that they had some restraints but they still

have available property to provide a functional development and one that was consistent with the neighborhood while avoiding those environmental areas. Mr. Loonam asked if particularly suitability and peculiar suitability the same thing. The planner said the standard was particularly suitability. Mr. Loonam said if the property was particularly well suited to be developed, could the Board find that the height was not particularly suitable or other bulk variances should not be considered. The planner said in terms of D1 use variance where there are particular characteristics that were intrinsic to the use that they may be subsumed by the use variance established in the Puleio v Board case. In this case, the proposed duplex development has three stories, they incorporate the garage in the building footprint which contributes to the added height which can all be part and parcel of the board's decision. Mr. Loonam said to the planner that her testimony was that this was the third largest property in the neighborhood so how could this be consistent with the neighborhood. Ms. Patrou answered the home sizes would be consistent with the neighborhood as opposed to a single family home that would have excessively large building floor area. It would have the potential for a larger floor area than a conforming 7500 sf lot.

Mr. Loonam said the school would not be there if it weren't for the inherently beneficial use variance so how do they use the school as a basis for saying "this is okay". The planner answered that it was not being used as a basis for "this is okay". Each variance and property needs to stand on its own and the property and school is part of the neighborhood. Mr. Loonam asked if the school had wetlands on their property. Ms. Patrou did not know. Mr. Loonam asked if there were any other properties in town that have more than one primary structure on a lot. The Planner was not aware of any. Mr. Loonam asked the planner if she thought the governing body would have identified or contemplated that this lot specifically should have been something other than a residential A in their update. Ms. Patrou could not speak as to the contemplative process that the board went thru in their deliberations and in their vision but she could only state that in particular cases and special reasons the Board is permitted to grant deviations from the standards based on particular site conditions.

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

Lori Barton, 399 Roslyn Avenue, asked if the 60' separation to the neighbors would be paved. The planner said no. The planner thought there was 20' of open green area and then the driveway. Ms. Barton asked what the advantages this site had for the neighborhood. Ms. Patrou responded there were more suitable sized homes consistent with the neighborhood and uniformity and consistency is a well recognized planning goal. Ms. Barton asked if a single duplex on the property be more consistent with the community. The planner said it would depend how it was designed. There would be a potential of vehicles backing out onto Madison, they could come within 10' from the neighboring property and it doesn't take into account that this was a very unique and oversized lot. Ms. Barton said this seemed to be very oversized and asked if they could be downsized so a height variance would not be required. The planner said the ceiling heights were reasonable and the duplexes were not excessive in height.

Terence Mc Mackin, 400 Madison Avenue, said they were proposing two units each structure with eight bedrooms and asked how many homes along Madison had eight bedrooms. The

planner said there was no way for her to evaluate the number of bedrooms. Mr. Mc Mackin asked her opinion if there were any homes along Madison with eight bedrooms. The planner did not know. Mr. Mc Mackin could not understand how her opinion was that 16 bedrooms on a ½ acre were suitable. The planner said it was an acre of land and they were four bedroom units.

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

The Chairman said there was another application to be heard. Mr. Alampi extends the time of the application thru the end of February in case of inclement weather.

Recess

**14 05 Iskowitz - 1109 Korfitsen Road – Block 206 Lot 8  
Two story addition – Building Coverage**

Chris Blake, 155 N. Washington Avenue, Bergenfield, NJ was sworn in by the Board Attorney.

The Board Members accepted Mr. Blake’s qualifications as a licensed architect.

The Board Attorney swore in the homeowners Steven and Sandra Iskowitz.

Mr. Blake explained the applicant was requesting a two-story addition. He stated that the proposed building lot coverage was 25.53% where 20% is permitted. The architect said the minimum lot area required is 7,500 sf and 7,778 sf is existing. He added there was a 9.20 preexisting side yard condition. He added there was a similar setback. He discussed some of the room sizes on the first floor plan and felt they were in line with the sizes for the homes in the neighborhood. The 2<sup>nd</sup> floor had five bedrooms and 3 bathrooms.

Mr. Blake felt they were keeping with the intent of the zoning ordinance by keeping yards, streetscape and matching the neighborhood. He said the existing house was a small ranch house that was in need of updates.

There was discussion on the basement and the Board Attorney asked if there would be a kitchen in the basement. Mr. Blake said no.

Mr. Schaffenberger asked if the proposed side porch on the plan was a covered porch. Mr. Blake said it was. The Chairman thought that would need a variance. The Board Attorney agreed it was an expansion of a preexisting non-conformity. Mr. Schaffenberger was concerned about the neighbor and asked how close the house was to their property. The Architect thought about 10-11’ and believed there was a garage on that side.

The Chairman asked what the current footprint was. The Architect answered 1,560 sf. He added there is an existing concrete patio that would be removed for part of the addition.

Mr. Ten Kate asked about their roof leaders. The architect said all rainwater would stay on site and they would supply seepage pit and drain calculations. Mr. Loonam said there was a preexisting side yard setback and could the addition be moved in. Mr. Blake said it would be an economic hardship to bring in the house and would like a mistake.

Karl Schaffenberger asked what the proposed height was. Mr. Blake answered 29.85'. The Chairman asked if they considered using the existing footprint and going straight up. Mr. Blake said they did consider it but this plan fits what the homeowners need.

Mr. Weisbrot thought the proposed plan would be identical to the houses in the neighborhood and felt visually it appeared to fit with the neighborhood.

Mr. Stokes asked if the room sizes were excessive. Mr. Blake did not think so and thought it was in line with the other homes in the neighborhood. He added that the house to the right is a single-family ranch but most of the other homes were updated. Mr. Stokes thought they did have a large rear yard.

Mr. Loonam said the variance that the applicant was seeking for lot coverage was 25.53 % where 20' was required. He noted that the existing lot coverage was a preexisting non-conformity because it was 20.05%. The Board Attorney agreed that both variances were preexisting non-conformities. Mr. Loonam said when an architect meets with a client he designs to what they want and questioned why the applicant needs this size addition. Mr. Blake said they were establishing a certain number and size of rooms. Mr. Loonam asked why the Board should grant these variances. Mr. Blake's said the positive criteria were the proposed plan was similar to the neighbors and today's standards. He said they were keeping with the intent of the zoning plan.

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

Lori Barton, 399 Roslyn Avenue, had concerns that just because the neighborhood had large homes why they should be granted a 25.5% lot coverage. The resident asked if there was a special reason that they needed the house to be so large. Mr. Blake did not think it would be beneficial to make it smaller in the rear and did not think it would set a precedent to allow other homes the same size in the neighborhood. Ms. Barton questioned that there was no reason other than they want something bigger. The Board Attorney said they were not basing the application on any hardship and thought she was concerned that they were setting a trend. Ms. Barton agreed. The Board Attorney said maybe the trend has been set. Ms. Barton thought they could go up on the existing footprint.

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

Mr. Rebsch stated they were proposing 7 bedrooms and could they reduce the number of bedrooms. He questioned the bedrooms in the basement. Mr. Blake did not know there was any ordinance for seven bedrooms. The Board Attorney said the variance relief was for a preexisting non-conformity for side yard and lot coverage.

Mr. Loonam questioned what was requirement were needed to have bedrooms in the basement. Mr. Binetti said they would need proper egress and smokes. Mr. Blake said they would comply with all building codes. The bedrooms in the basement would not house children or be for a 2<sup>nd</sup> family. He added there might be a rec room or used for overnight guests.

The Board Attorney stated they were not approving design plans.

Mr. Loonam commented that the architect stated he was keeping the plan in line with the homes in the neighborhood. He felt some of the larger homes in the area might have complied with the ordinances. He asked why grant this variance for a 25.5% building coverage.

The Chairman questioned that on A2 of the plan there was a fireplace that looked like it was encroaching on the side yard setback and it did not show on the site plan. Mr. Blake said it would not encroach. He said a condition could be to comply with seepage pit and drainage calculations and the chimney would be in the setback.

Motion was made by Mr. Binetti, seconded by Mr. Weisbrot to grant the variances with the conditions that the applicant must supply soil movement and seepage pit and drainage calculations for the Engineer and the preexisting non-conforming variances were for lot coverage and side yard.

The motion passed on a roll call vote as follows:

For the motion: Members Binetti, Weisbrot, Denis, Stokes, DeBari

Against the motion: Members Loonam, Schaffenberger

Approved 5-2

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

Respectfully submitted,  
Maureen Oppelaar