

**New Milford Zoning Board of Adjustment
Special Meeting
April 19, 2012**

Vice Chairman Stokes called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:10 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Appice		Present
Mr. Binetti		Present
Ms. DeBari		Present
Mr. Denis		Present
Father Hadodo		recused
Mr. Loonam		Present
Mr. Rebsch		Present
Mr. Stokes	Vice Chairman	Present
Mr. Schaffenberger	Chairman	recused
Ms. Batistic-	Engineer	Present
Mr. Grygiel	Planner	Present
Mr. Sproviero -	Attorney	Present

PLEDGE OF ALLEGIANCE

OLD BUSINESS

12- 01 - New Milford Redevelopment Associates – Block 1309 Lot 1.02

Mr. Del Vecchio member of the firm of Beattie Padovano on behalf of the applicant noted the 120-day clock would be expiring shortly and requested a special meeting in May. The Board Attorney agreed with the request. He explained the law stated the Board had 120 days to bring the application to a conclusion and believed the court would recognize that as long as the Board was proceeding with due diligence to prosecute the application that it would be unlikely that any court would determine the Board to be in default. The Board Attorney stated the docket of this Board had too many important applications pending and asked the Board Members to consider a special meeting for May and June. A special meeting was scheduled for May 17, 2012 at 7 pm.

The Board Attorney swore in Mr. Michael E. Dipple, L2A Land Design, LLC 60 Grand Avenue, Englewood, NJ.

The Board accepted the qualifications of Mr. Dipple as an expert in the field of professional engineering.

Mr. Dipple referred to Exhibit A-2 sheet C-02 Existing Conditions Plan and described the existing conditions of the site. Mr. Del Vecchio clarified that the Hackensack River Bypass was not on the subject property but just abuts it. Mr. Dipple agreed. The Engineer stated this irregular

shaped parcel lot 1.02 was 13.61 acres and he understood United Water would retain lot 1.01. He stated River Road was the highest point and the elevation was about 27' and Madison Avenue has an elevation of about 11' so there was a difference in grade of 16' from one side of the site to the other. He stated along the Hackensack River Bypass there was an existing berm, which goes to an elevation of 20 or 22 and shields the property from the Bypass. Mr. Dipple stated the berm was in good standing and the berm that runs along the waterway to the northwest keeps the floodwaters off the site and the flood plain runs along the western side of the site.

Mr. Del Vecchio marked Exhibit A-23 Flood Plain Map and Exhibit A-24 Map - Existing flood hazard area. Mr. Dipple described the maps in detail. He stated the flood hazard area line was a regulatory flood elevation and in the state of NJ a higher regulatory flood elevation was used than in most parts of the country. He stated in NJ they take the 100-year storm and increased the flow rate by 25. Mr. Dipple stated they were aware the flood hazard area touched the property and certain aspects of the property could be subject to a flood hazard area permit. Mr. Del Vecchio asked if this property received any wetlands approval and if wetlands exist on the property. Mr. Dipple answered they were aware that a Letter of Interpretation was procured by United Water using HDR Engineering to plot and survey the line and submit the plan. On August 5, 2011 the NJDEP agreed with the findings of HDR and their assessment of the wetlands. They determined there were no wetlands within the body of the project. The only wetlands were along the Hackensack River Bypass. Mr. Dipple said the wetlands were approximately 75 feet to the rear of property line. Mr. Del Vecchio clarified that these were standard wetlands that only received a 50 ft buffer. The engineer agreed.

Mr. Dipple referred to sheet C-O3 overall site plan to explain the proposed application. The Engineer described the 70, 500 sq ft supermarket, a 221 residential unit apartment building, a parking garage with 428 parking spaces and a 4,300 sq ft bank with a total of 826 parking spaces for the entire site. The supermarket proposed 354 spaces and the ordinance required 470 spaces, the residential component proposed 428 spaces and the ordinance required 426 parking spaces and the bank proposed 44 spaces and the ordinance required 29 spaces. Mr. Dipple explained they were short 99 parking spaces that were in the supermarket component of the site and the 5 spaces per 1,000 was a very good standard for parking.

The Engineer explained the site plan on sheet C-04. He reviewed the proposed setbacks and stated the supermarket setback was 316.10 ft to the center of Main Street where 42 ft was required and 297 ft to the center of River Road where 63' was required. He stated there would be 6 cart corrals.

Mr. Dipple explained the elevations along River Road. The parking lot sloped from River Road toward the front of the store and stopped at the landscaped islands. The storm water would collect in a series of storm water inlets surrounding the landscaped islands. They proposed a small retaining wall behind the sidewalk, retaining walls at the highest points along River Road and a small decorative fence to protect pedestrian traffic along River Road.

Mr. Dipple reviewed the loading spaces at the rear of the supermarket building. He stated there were two loading spaces facing Main Street, seven angled spaces at the west side of the building and one compactor.

Mr. Del Vecchio marked exhibit A-25 truck turning exhibit. Mr. Dipple stated this represented a standard truck entering the site. Trucks would enter the site through an access point along Madison Avenue. The truck traffic would be separated from the majority of traffic entering River Road.

The Engineer discussed sheet C-05 which depicted the 221 residential building and bank. He stated they proposed no changes for student parking spaces along John Cecchino Drive. The setback for the bank was 63.14' from the corner of the canopy to the centerline of River Road and approximately 195' to centerline of Cecchino Drive. They were proposing a circulation roadway that links Madison Avenue with River Road. Mr. Dipple stated there would be no exterior trash enclosures because banks use private pick up for their trash because of the sensitivity of the materials. The residential building front yard setback was 55' to the centerline of John Cecchino Drive and 64.49' setback to centerline of Madison Avenue and they complied with the setbacks to both Madison Avenue and John Cecchino Drive for the residential building. The Engineer stated there was no vehicular access to the residential building from John Cecchino Drive or Madison Avenue. Mr. Dipple stated there were no roadway dedications proposed.

Mr. Dipple reviewed sheet C-06 Grading, drainage & utility plan. He stated there was an existing sanitary sewer, which runs along the western side of the property by the Hackensack River Bypass. Mr. Del Vecchio asked if they proposed to tap into it to provide sewer service to the site. The engineer agreed and they were proposing a sanitary sewer main that would run down the roadway between the residential building and the supermarket. He stated they would run a new water main directly down that roadway between the residential and supermarket and tap the different uses off of that main. He stated there was also a main along River Road and John Cecchino Drive. Mr. Dipple stated electric and gas was readily available around the site.

Mr. Del Vecchio marked as Exhibit A-26 the aerial image. Mr. Dipple described the images on the site. He discussed the grading of the site shown on sheet C-06. He stated they would be bringing in some soil to raise the building at the site.

Recess

The Engineer continued his testimony on grading. He stated the site grades from the east to the west side. The Bank had a finished floor of about 5' below River Road. The parking lot at the rear of the bank originates at an elevation of 24 along River Road and slopes to an elevation of 20 along the west side where water would be collected by a series of inlets. The finished floor for the eastern portion of the residential building was 20.5. He explained the Storm Water Management Rule states if you are creating a major development certain run off quantity, quality and infiltration standards must be met. Mr. Dipple stated this was a major development and they were bound by those standards. They proposed a number of storm water collection systems. On sheet C-03 he discussed the locations of the systems. He stated they were proposing two above ground detention /infiltration basins and their locations were at the east and west sides of the access drive to Main Street. There would be attractive landscaping surrounding them. Mr. Dipple stated there was another detention/infiltration basin at the rear of the site that collects runoff from the loading area and some of the runoff from the residential building and another above ground

detention infiltration basin on the west side of the proposed residential building. There was an underground infiltration detention systems situated beneath the courtyard and another behind the proposed bank within the parking lot. The Engineer explained United Water prepared applications to the DEP, which established a very low runoff rate from this site. Mr. Dipple stated he had a storm water management report, which showed he complied with the water quantity requirements of the rule.

Mr. Dipple discussed the lighting plans on sheets C-08 and C-09. The Engineer explained the different fixtures for the different locations on the site.

The Engineer discussed the trees and landscaping on sheets C-10 tree management plan and C-11 landscaping plan. He stated there was an ordinance relative to tree removal that required they give a count in excess of 10". Mr. Dipple stated they prepared a tree management plan that gave a summary of approximately 261 trees to be removed. He discussed the proposed tree plantings and stated the Sycamore trees in the right of way along River Road would not be removed with the exception of a few by the entrance. Mr. Dipple stated they would be planting 450 to 500 trees back into the site.

Mr. Del Vecchio stated they received a review letter from Boswell Engineering dated February 13, 2012 providing comments regarding this site and a review letter dated March 29, 2012 from the New Milford Fire Department. Mr. Dipple stated they met with the Fire Advisory committee and one of the comments in the letter was the circulation of fire trucks and a template for the largest apparatus on the market. The Engineer stated they looked at an apparatus that had the ability to extend a ladder 110 ft and prepared a plan showing how a truck could easily get through the facility. He stated the back of the site and coming in off of River Road had adequate room to make turns. There was a right in right out driveway on River Road that they would have to extend the radii. The Engineer stated they were trying to provide a flat area by John Cecchino Drive and would comply with the strength of the pavement supporting a fire truck. Mr. Dipple stated there was a comment regarding fire sprinklers in the parking garage area and they would do whatever the building code required. The Engineer stated they were exploring ways in which to provide a firm bottom in the detention basin and still comply with storm water management rule for infiltration. Mr. Dipple stated the architect's solution for access to the interior courtyard was to redesign the access way into the courtyard to be a straight access.

The Engineer reviewed the Boswell Engineering letter. Mr. Dipple commented that the applicant would be willing to comply with the Borough's streetscape standards. The Engineer discussed the comment regarding the landscape plan to include evergreens to provide screening and buffering. He said the retailers would not want it completely screened out and they would propose a shorter hedge row to buffer a large portion of the parking. Mr. Dipple stated in comment 13 it referred to the proposed lighting spilling over to the residential area. He did not believe the light spillage was that great because the post tops had the bulbs up in the hat of the fixture so they shine downward. The Engineer stated there were two pages of comments that they would comply with and the bulk of the comments were regarding storm water management and felt some of the suggestions were very good and they would tweak their storm management report but felt their storm water management design was sound. He said regarding the comments on Storm Water Management there was only one comment they did not agree on and that was

the way the bank would function regarding rain gardens and porous pavements. He stated the plan was sound and meets the code. Mr. Dipple stated the Traffic expert would review the Traffic Impact comments.

Mr. Stokes asked if they would be complying with all the comments up to the Traffic Review except with those items he discussed. Mr. Dipple agreed. The Board Attorney asked Mr. Del Vecchio if they would review all the comments in the letter so the public would be aware of the contents of the letter and what the applicant would comply with. The Engineer agreed and reviewed each comment. Mr. Dipple's opinion was should this site be designed and built this way it would comply with good practice and the engineering standards that were applicable.

Recess

Mr. Stokes asked if the existing DEP map was from 1980. Mr. Del Vecchio concurred. Mr. Stokes asked if there have been any updates. The engineer answered no. Mr. Stokes asked for clarification on the flood terms referred to on the maps. Mr. Dipple stated the flood plain was the overall extent of the flooding which is called the flood hazard area limit. The flood hazard area was made up of two components – the flood way and the flood fringe. Mr. Stokes asked the engineer if he personally saw the floods in that area. Mr. Dipple had not been in the area during the flood events but had seen photographs.

Mr. Stokes asked if the photographs depicted whether or not the floods in that area exceeded the flood plain and flood fringe. The engineer stated the photographs showed the football fields. Mr. Sproviero asked if the proposed parcel flooded within the last five years. Mr. Dipple stated there was a flood in 2007, which was a large storm and this property did take on floodwater. It was reported it entered through the access drive. He stated there was also a storm in August 2011. Mr. Stokes questioned that the roadway was at an elevation 11 on Madison Avenue and the loading docks were at an elevation of 12. Mr. Stokes stated the actual flooding on the roadway at that point was 3 ½' and the proposed loading docks would be under water if there was significant amount of rain. Mr. Dipple stated the water would not get into the site and discussed the roadway. Mr. Stokes asked if the residents of the apartment faced the loading docks and trash area of the supermarket. Mr. Dipple stated a portion of the higher floors would have some visibility of the area. Mr. Stokes asked if the storm water basins needed a management plan. The Engineer agreed. Mr. Stokes asked if they needed to be regularly maintained based on the amount of water and sediment that comes out. Mr. Dipple stated they had to stay in operating order to be effective. Mr. Stokes asked it was typical for banks to have a private service for trash. The engineer agreed. Mr. Del Vecchio clarified it was a private cleaning service.

Ms. DeBari asked how high and wide was the berms. Mr. Dipple answered they go up to an elevation of approximately 25 and the bottom width was about 50-60'. Ms. DeBari asked about the retaining walls in the front. The Engineer stated they varied between 2 1/2 and 4' high.

Mr. Appice asked the location of the trash for the residential building. The Engineer said they would be located near the parking garage and trash would be removed by a private company. Mr. Appice asked what would prevent residents from parking on Cecchino Drive overnight. The Engineer stated the Borough Ordinance would prevent it. Mr. Appice asked if the applicant was

adding a sidewalk. Mr. Dipple answered a sidewalk would be on the applicant's property. Mr. Appice asked if any of the infiltration basins were in the flood zone. Mr. Dipple answered no. Mr. Appice asked if the trucks for the supermarket would be entering in Madison Avenue and exiting Main Street. Mr. Dipple answered that was correct.

Mr. Rebsch asked about the illumination of the signage for the site and was concerned about the effect on the neighborhood. Mr. Dipple said they did not have specific details on the signage at this point. Mr. Rebsch questioned the trucks and how much load could the bridge carry. Mr. Dipple did not know but would get the capacity load information.

Mr. Loonam clarified that the trees in the right of way would not be removed except for a few by the entrance. The Engineer agreed. Mr. Loonam asked if his testimony was there was a right in right out on River Road. The Engineer agreed and stated it was at the northernmost driveway. Mr. Loonam asked if there were any left hand turns traveling north on River Road into the site. Mr. Dipple said a left hand turn could be made at the entrance near Demarest Avenue. Mr. Loonam's concerns were the High School was a block from this entrance and believed it would back up traffic at that point. Mr. Dipple stated the traffic engineer would testify to that question. Mr. Loonam asked how many 100-year storms New Milford had in the last 10 years. Mr. Dipple answered it seemed like the frequency of severe storms have increased over the years. Mr. Loonam asked in designing this site had anything been done from an engineering standpoint to ameliorate the amount of water at this property whether it comes from a storm or floodgates being opened. Mr. Dipple referred to document Exhibit A-23 to explain the science of hydrology and hydraulics and added it was not an exact science. He stated they could not predict how a storm hits but they use the best data they have available. Mr. Loonam asked if New Milford's Ordinance for one parking space per 200 sq ft was typical or similar to other towns. The Engineer answered he rarely sees a town with an ordinance one space for 200 sq ft. Mr. Loonam referred to sheet C-03 and questioned that the existing use was labeled United Water Residual Lagoons. The Engineer answered that was the way it was described on the United Water Flood Hazard Area Permits. Mr. Loonam said there was testimony that there was a small portion of the property that existed in the flood area and was any part of the proposed development in this area. Mr. Dipple answered it was the driveway on Madison. He stated the applicant felt this was a good place to put an access point and just 20' of this driveway hits the floodplain. Mr. Loonam asked if they were going above and beyond what they were mandated to do. Mr. Dipple stated he testified that was exactly what they were doing. He said in reviewing the Boswell Letter he pointed out a couple of times that they were held to a more stringent standard than asked of them in the letter. Mr. Loonam disagreed saying there were items he did not comply with in the letter. Mr. Dipple stated there was one item that he disagreed with in back of the bank that had nothing to do with storm water management.

Mr. Rebsch added that the water reached the wall of the cafeteria and stated it was because of the release of the reservoir and who would manage that. Mr. Dipple stated they were held to very strict standards.

Mr. Stokes commented on testimony stating the roadway and berm would hold back the water from coming in from the floods. Mr. Stokes said there was a certain point if there was flooding that the water would not leave the site. The Engineer said the water leaving their site has to be

significantly less than what it is now. Mr. Stokes wanted to know the saturation point in terms of inches in a 24 hour period. Mr. Dipple answered they analyze to a 100-year storm which in Bergen County was approximately 8" of rain in 24 hours. He said United Water established a very low discharge rate and they take half of that rate. Mr. Sproviero questioned how United Water established a rate. Mr. Dipple answered they applied for two flood hazard area permits in the last several years and did a significant analysis of the runoff rate of the site and it was accepted by New Jersey as the runoff rate.

Mr. Sproviero asked if he was aware of the flooding events that have taken place over the last several years. The Engineer was aware. Mr. Sproviero said regardless of the DEP maps everyone knows there are some problems in that area and how will you make his work. Mr. Dipple thought he had. He was aware water has entered this area and does not believe anyone knows why. He stated there had been alterations done to the access route at one time and maybe it was lowered. He stated they design everything by an accepted standard and felt the maps were very consistent. Mr. Dipple stated it was his gut feeling that these maps were not that far off and that the map depicts the story.

Mr. Rebsch stated it does not depict the water flow coming down from the reservoir. Mr. Dipple did not agree with that because it contemplates that reservoir being there. Mr. Denis asked if this site was man made. The Engineer answered yes. Mr. Denis asked how long ago the walls were built. The Engineer did not know.

Ms. Batistic said they were concerned with the water table at the site and the design of the detention system. She stated the applicant was achieving the reductions required by the State and the laws that were in effect now. Ms. Batistic agreed that they were required to use the State Map and Standards. Mr. Sproviero appreciated what the legal standards were depicted on the map and it was the database that we were bound to recognize as the appropriate standard but suggested that practical experience may tell us there will probably be events of flooding on the property and it was important to know how the applicant will deal with that.

Mr. Sproviero asked Del Vecchio if he would consent to the extension of the 120-day limitation. Mr. Del Vecchio will consent to the Board carrying this application and extending the time through the conclusion of the May 8, 2012 meeting.

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

Respectfully submitted,
Maureen