

Approved  
6/14/11

## **New Milford Zoning Board of Adjustment Work Session May 10, 2011**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:31 pm and read the Open Public Meeting Act.

### **ROLL CALL**

Mr. Binetti		Present
Ms. DeBari		Present
Mr. De Congelio		Present
Mr. Denis		Present (7:50)
Mr. Grotsky	-Vice Chairman	Present
Fr. Hadodo		Present
Mr. Stokes		Present
Mr. Thomsen		Present
Mr. Schaffenberger-	Chairman	Present
Ms. Batistic-	Engineer	Present
Mr. Sproviero -	Attorney	Present

### **REVIEW OF MINUTES –January 11, 2011**

The Board Members reviewed the minutes for the work and public session and there was an addition made on page 3.

### **RESOLUTION**

#### **INSERRA SUPERMARKETS – 814 River Road – Resolution to extend time for filing of Inserra Subdivision Plan with County.**

The Board Attorney explained when a subdivision application is made and granted a subdivision plat must be filed with the County Clerk within 190 days of the approval of the subdivision. Mr. Sproviero stated he wanted to hear from the applicant why the subdivision was not filed in 190 days. He explained the same statute that required the applicant to file in 190 days also permitted the applicant time to file the extension by resolution of the Board that granted the subdivision rights. Mr. Grotsky asked what the consequence was if the Board denied this request. The Board Attorney responded they would not have a subdivision and they would not have a project. Mr. Grotsky questioned why they waited so long to file the subdivision when it should have been filed around November 2010. The Chairman asked if there were any criteria they must meet to get the extension. The Board Attorney answered no. Mr. Grotsky asked if they could impose a time limit for the filing of the subdivision. The Board Attorney responded the Board could but did not know how that mattered to the Board but would like to know how this happened, what their intentions were and if this was an indication that the applicant was moving to proceed and move forward with the project. Mr. Binetti also questioned what would happen if this was not granted. Mr. Sproviero stated their subdivision would not be perfected, their site plan would be null and void and there would be no project. Ms. DeBari stated they would have to reapply. Father Hadodo asked if they did not approve

this request would they be able to reapply in the future. The Board Attorney responded yes. Mr. Sproviero clarified the relief being sought was only for filing the subdivision plat with the County and it does not relate to extension of any other approvals that were granted by way of relief that was memorialized on August 11, 2010. Mr. De Congelio asked if there were any other time restraints currently on them. The Board Attorney stated even with the permit extension act there was a time limit for the variances. Mr. De Congelio asked if they could assume they were ready to file now if the Board approved this request. The Board Attorney stated the Board can ask them how much time they needed.

#### **NEW BUSINESS**

**09-01+B – Pascali/Stancato - 725 River Road – Block 607 Lots 2.01 portion of 2.04 – Requesting Relief from condition in resolution for no food services and requesting to replace existing sign.**

The Chairman stated there were letters from the Chief of Police and the Fire Department stating they had no issues. The Board Attorney clarified the sign that was approved was the signage that was requested by way of the application.

**Motion** to close was made by Mr. Grotsky, seconded by Fr. Hadodo and carried by all.

**New Milford Zoning Board of Adjustment  
Public Session  
May 10, 2011**

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.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

Mr. Binetti	Present
Ms. DeBari	Present
Mr. De Congelio	Present
Mr. Denis	Present
Mr. Grotsky -Vice Chairman	Present
Fr. Hadodo	Present
Mr. Stokes	Present
Mr. Thomsen	Present
Mr. Schaffenberger- Chairman	Present
Ms. Batistic- Engineer	Present
Mr. Sproviero - Attorney	Present

**OFFICIAL MINUTES OF THE WORK/PUBLIC SESSION–January 11, 2011**

**Motion** to accept the minutes with an addition was made by Mr. Binetti, seconded by Mr. Stokes and carried by all.

**RESOLUTION**

**Inserra – 810 and 814 -820 River Road – Resolution to extend time for filing of Inserra Subdivision Plan with County**

Mr. Santos Alampi, Attorney for the applicant, stated the resolution was adopted in August 2010 pursuant to N.J.S.A.40:55D-47 with a 190 day requirement to file the subdivision map with the County. The Attorney stated the map was not filed mainly due to the necessity of the map being turned into a Mylar which is a special type of map in order to be filed with the County. The map was in recordable form now and had been signed by the necessary parties and was ready to be recorded. Mr. Alampi stated the applicant was seeking to have a brief extension in order to file. The Chairman asked Mr. Alampi to define brief. The Attorney answered it could be filed within a week. The Board Attorney asked the Board Members if there was any objection to a filing before June 1<sup>st</sup>. Ms. DeBari thought the extension of May 20<sup>th</sup> should be sufficient time. Mr. Sproviero asked the attorney if they would be able to file by May 20<sup>th</sup>. Mr. Alampi agreed. The Board Attorney stated that if the Board Members did not grant the request the applicant did not have a subdivision and without a subdivision the site plan would not be implemented and without a site plan the project could not move forward. Father Hadodo

asked the attorney if they would need more time and wanted to amend the extension to June 1<sup>st</sup>.

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

No one wished to be heard

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

**Motion** was made by Mr. Stokes to grant the extension for filing of the subdivision plat with County Clerk through May 20, 2011, seconded by Ms. DeBari and carried by all.

The **motion** passed on a roll call vote as follows

For the **motion**: Members Stokes, DeBari, Binetti, Denis, Grotsky, Hadodo,  
Schaffenberger  
Approved 7-0

## **NEW BUSINESS**

**09-01+B – 725 River Road – Block 607 Lots 201 portion of 2.04 – Requesting Relief from condition in Resolution for no food services and requesting to replace existing sign.**

Mr. Santo Alampi, representing the applicant Damiano Pascali, stated they submitted a set of drawings. He stated in March and April of 2009 the applicant submitted the application to the Zoning Board for a mixed use structure and the application was granted by the Board with a condition stating no food service or restaurant uses permitted. The applicant had constructed the structure which had two occupied residential units and half of the retail space was occupied by a Laundromat. Mr. Alampi explained the applicant was requesting relief from the condition regarding food services because he was seeking to operate a bakery. Mr. Alampi stated additionally there was a request for a signage modification. The Attorney explained there had been vandalism on the property and requesting the pole sign to be off the ground. The sign request was because their fence had been vandalized and believed the sign would be targeted.

Mr. Alampi stated the applicant would operate the bakery. The space had been vacant and businesses that had been interested in occupying the space have been food establishments and hair and nail salons which the town already had many in the Borough and did not believe it to be advantageous to the business owner.

The Board Attorney clarified that the applicant would occupy and operate the proposed bakery. Mr. Alampi agreed.

Michael Gadaleta was sworn in by the Board Attorney. The Board Members accepted the qualifications of Michael Gadaleta from MG New York as an architect.

Mr. Gadaleta stated the elevations submitted were for the proposed bakery. Mr. Alampi asked the architect if he prepared the plan to show a floor layout of the one retail store on

the south side of the ground floor and a proposed sign. Mr. Gadaleta agreed and explained the existing signage since removed was 35 sq ft and the proposed signage would also be 35 sq ft but 10 ft above the ground. The Chairman asked what the height was to the bottom of the sign. The Architect answered 6'6".

Mr. Alampi marked the plan as Exhibit A-1.

The Chairman questioned the sizes and height of the sign and asked about the illumination of the sign. Mr. Gadaleta stated it would be internally lit and there would be a dark brown aluminum housing to shield the pole. The Chairman asked if the sign proposed before this sign was also internally lit. The architect agreed. Mr. De Congelio asked what the reason was that the applicant was proposing the higher sign. Mr. Gadaleta answered because there had been vandalism with the fence and sign was located at the beginning of the fence. The Chairman asked how the sign was internally lit. Mr. Gadaleta answered it was lit by fluorescent tubes with a white acrylic face. Vice Chairman Grotsky asked if the lighting was low intensity. Mr. Gadaleta believed the bulbs were 32 Watt bulbs x 4 and were not high intensity. He added the sign would be placed on River Road not in the back where there were residents.

The Architect explained the proposed retail establishment would be occupied by an in-house Bakery and the entire retail space was 1500 sq ft. He explained the space was to accommodate the kitchen, retail sales area for prepackaged goods and customer pickup counters with an entrance in front and rear of store. The architect stated the kitchen consisted of a mixer, oven and three compartment sink. He stated there would be no fryers, no ranges, no ansel hoods and no cooking that was not bakery cooking. Mr. Binetti asked if there would be any donuts. The architect answered no. Mr. Grotsky asked if they would be serving coffee. Mr. Gadaleta answered coffee would not be for sale but espresso would be served to customers as a courtesy. The Board Attorney clarified that there were no provisions for tables. The architect answered there was no table service. The Chairman asked if there would be tables. The architect answered yes just to sit down at to wait for their order but no table service. He stated there were couches for customers to use while waiting. Mr. De Congelio asked why the need for couches and espresso in a Bakery Shop. Mr. Gadaleta answered that it would avoid customers waiting in line and the couches would take it to the next level. Mr. Grotsky asked what would prevent the Bakery expanding if the Laundromat left or preventing a fast food restaurant going in. Mr. Alampi stated they were seeking the second retail space as a bakery. Mr. Alampi stated they were not seeking a McDonald's or a restaurant, no tables and chairs, no waiter staff but a retail bakery. The Vice Chairman stated the applicant was not seeking a bakery two years ago. Mr. Alampi agreed but added the space has been vacant. The Vice Chairman stated an economic condition could not be considered by the Board. Mr. De Congelio asked the Board Attorney if this application was approved could there be conditions. The Board Attorney stated there could be conditions on the scope of relief. Mr. Sproviero thought the relief that was granted by way of this application was limited to the proposed use of a bakery at this particular unit and provides no further relief for any other similar use at any other units located on the premises. The Chairman stated the variance goes with the property and if the bakery goes out of business there will be

variance for a bakery. The Board Attorney stated another bakery would be permitted that did not have on site consumption. Mr. Grotzky stated only in that particular unit. Ms. DeBari added the applicant could come back to the Board for a change of use. The Attorney agreed and added that any other use permitted could occupy the space.

Mr. Stokes questioned at another meeting it was said that they could not have a specific use for just one unit. The Board Attorney stated what was being sought was for food services and not a specific use. The Chairman had questions on the proposed hours for the Bakery, how many people would be in for the prep work, deliveries and vendor trucks. Mr. Alampi stated it was not a commercial bakery. Mr. Thomsen asked the architect if he anticipated any increase in vehicular and truck traffic in the parking lot in the area and how it would impact the neighborhood. Mr. Gadaleta stated there would be car traffic but not truck traffic because they were not a commercial bakery. He added they would not be making deliveries and felt the parking provided was adequate. The Chairman asked if they considered the fact that the bakeries were busy on Sunday mornings and there was a church next to the site and the traffic could be a problem. The Architect only thought there would be a problem on the holidays. Mr. Binetti questioned the increase of garbage in the dumpster near Trenton Street. Mr. Gadaleta stated the owner would monitor that and would pick up garbage more if there was a problem. Mr. Alampi said food that was no longer fresh would be removed from site and sometimes given to local shelter or organizations.

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

The Chairman stated this was the public's opportunity to ask this witness questions on his testimony and also to comment on the application

Mr. John Durr 320 Graphic Boulevard was sworn in by the Board Attorney for any comments. Mr. Durr welcomed a bakery to the town and was in favor of the application.

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

Damiano Pascali was sworn in by the Board Attorney.

Mr. Alampi asked if he was the owner of the property and if it was his intention to operate a bakery on the southern side of the ground floor. Mr. Pascali agreed. Mr. Alampi asked him to explain the hours of operation. Mr. Pascali stated the retail hours would be 7am to 5pm and did not think preparation would be before 5 am unless it was a holiday. The Chairman asked how many people would be working in the kitchen. Mr. Pascali thought two people.

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

No one wished to be heard.

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

Mr. Alampi stated he had copies of the memos from the Police Department and Fire Department both of which had no concerns. The applicant was proposing to operate a bakery, owner occupied premise and intended to be a bakery to service the community. The sign was to alleviate the vandalism problems at the property which would be an elevated sign.

Mr. Stokes had concerns on what else could be interpreted as a use of a bakery besides what the board perceived as a bakery. The Board Attorney stated some conditions would be no commercial distribution or no table service.

Mr. De Congelio asked if the applicant would consider having no sign in front of the building because he did not want it to look cluttered. Mr. Alampi stated the sign was necessary. The Board Attorney stated the applicant had an approved monument sign and was proposing a raised sign.

Ms. DeBari could not think of a better establishment to bring to New Milford. She stated it was rare to see a good bakery in a town and most of the residents had to travel outside the town for a bakery and would be an asset to the town.

Fr. Hadodo did not like to see vacant stores and the fire and police had no objections. He felt it would be beneficial to the neighborhood and supported the request.

The Chairman did not agree to give into the vandalism and was not in favor of the request for the pole sign. Mr. Binetti asked why this spot was being targeted by vandals. Mr. Alampi had questioned the Police on that matter. The Chairman thought the sign on the street would be more difficult to vandalize. Mr. Denis stated that River Road was a main street and people need to be able to see a sign. Mr. Denis felt the safety for the community on River Road depends on ability for residents to be able to see signs without stopping short or slowing down to look for a sign. Mr. Denis felt camera security would solve the problem because if people thought they were being watched they would go away.

The Board Attorney suggested the application be bifurcated. Mr. Alampi stated was also going to request it be bifurcated.

There was discussion on tables in the store. Ms. DeBari stated there were six tables on the plan and asked if they were being eliminated. Mr. Gadaleta stated there were six coffee tables and were low and couch height. There was discussion on opening the bakery at 6 am.

A **motion** was made by Mr. Hadodo to replace the existing sign as per plans, seconded by Mr. Denis and carried by all.

The **motion** passed on a roll call vote as follows

**For the motion:** Members Hadodo, Denis, Binetti, DeBari

**Against the motion:** Members Grotsky, Stokes, Schaffenberger

Approved 4-3

A **motion** was made by Mr. Hadodo, seconded by Mr. Binetti to request relief from condition in the resolution for a Bakery with the following conditions:

Relief limited to the proposed bakery use at this particular unit and implied no further relief for any other similar use or relief at any other unit located on the premises.

No commercial distribution of any baked goods or any baked goods prepared on premises.

Waiter/waitress table service for the retail area shall be prohibited.

No frying shall be permitted on premises.

Retail hours of operation are 6am-5pm preparation operation 5am – 5pm except holidays and one late night opening a week.

The **motion** passed on a roll call vote as follows:

**For the motion:** Members Hadodo, Binetti, Denis, Hadodo, Stokes, DeBari, Schaffenberger

**Against the motion:** Members Grotsky

Approved 7-1

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

Respectfully submitted,  
Maureen Oppelaar