

Approved
8/11/15

**New Milford Zoning Board of Adjustment
Work Session
July 14, 2015**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:32 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	Absent
Ms. DeBari-Vice Chairwoman	Present (745)
Mr. Denis	Present
Mr. Joseph	Absent
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes	Absent
Mr. Weisbrot	Present
Mr. Schaffenberger-Chairman	Present
Mr. Sproviero - Attorney	Present
Ms. Batistic - Engineer	Present
Mr. Ascolese – Traffic Engineer	Present

REVIEW OF MINUTES

The Board Members reviewed the minutes for May 12, 2015 and there were no changes.

NEW BUSINESS

**15-02 TOP STONE CHURCH – 435 River Road – Block 1115 Lot 1.01
Child Care Center / Nursery School**

The Board Attorney explained this application seeks to permit the church to add an additional use that falls under the congregational function of having a nursery school. He added on a prior occasion the applicant was seeking permission to operate a Sunday school and he thought many of the same issues heard in that case would be present in this case. Some of the issues would be the expansion of the use which implicates a conditional use variance relief and there would be traffic and parking issues. The Chairman said in the referral letter from Chief Ramaci it read that if possible he would like to see a traffic study or assessment performed by a traffic engineer. The Chairman asked if we anticipate having a traffic report to forward to the chief. The Board Attorney did not believe there was a report but the Board would hear testimony from the traffic engineer.

The Board Engineer said no report was issued because there were no improvements. There were no engineering technical issues because there was nothing to review. Ms. Batistic said there were concerns and our traffic engineer was present regarding any parking issues.

15-03 HARRIS – 239 Graphic Blvd – Block 606 Lot 11
Second Story addition over garage and two story rear addition
Side yard, building coverage

The Chairman said this application had two preexisting non-conforming sideyards. The applicant has an existing 5.34' sideyard where 7.5' is required. The building coverage required is 20% existing 21.9% and proposed 23.3%. The Board Attorney said there was also a preexisting nonconforming lot width.

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

**New Milford Zoning Board of Adjustment
Public Session
July 14 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. Adelung	Absent
Ms. DeBari- Vice Chairwoman	Present
Mr. Denis	Present
Mr. Joseph	Present (8:01)
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes	Absent
Mr. Weisbrot	Present
Mr. Schaffenberger-Chairman	Present
Mr. Sproviero - Attorney	Present
Ms. Batistic - Engineer	Present
Mr. Ascolese –Traffic Engineer	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION – May 12, 2015

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

OFFICIAL MINUTES OF THE PUBLIC SESSION – May 12, 2015

Motion to accept the minutes were made by Mr. Rebsch, seconded by Mr. Weisbrot and carried by all.

The Chairman read into the record a letter dated May 27, 2015 from Mr. Alampi withdrawing the Alex and Sons Real Estate application at 391 Madison Avenue because they sold the property to the adjacent property owner.

NEW BUSINESS

15-02 TOP STONE CHURCH – 435 River Road – Block 1115 Lot 1.01

Child Care Center / Nursery School

Mr. Elliot Urdang, representing Top Stone Church, stated the applicant was seeking to permit an early childhood center. It was a center that would be run by the church and would not be rented to anyone else. It was using the same spaces that were used for the educational function by the

Jewish Center. Mr. Urdang stated that an early learning center /school was considered to be a customary usage of the church and therefore falls within the protection of the laws that benefit the church. The attorney said the subject property does not have or never had any onsite parking. The issue was not one of parking but rather drop off and pickup, said Mr. Urdang. He added to use a drop off and pickup procedure they have to utilize the public street.

There was a provision in the prior resolution that stated should a problem arise the board reserved the right to deal with such problems as it arises. Mr. Urdang said it was acceptable to the applicant then and was acceptable now. He added the applicant would do everything possible to diminish any deleterious effect on the neighborhood. They were concerned with the tranquility of the neighborhood and were concerned with safety. They would seek the guidance and suggestions of the police department that would ease any problem. Mr. Urdang said it would be difficult at this point to quantify everything because it would not reach full capacity for a couple of years.

Mr. Urdang said there was a specific legal matrix that the Board has to deal with when dealing with a house of worship. One part of the matrix is the fact that it was inherently beneficial and the other part of the matrix was the federal statute of religious land use and institutionalized persons act. The attorney explained it did impose a heavy burden on the board and does structure the way the board must consider an application of this type. He asked the board to recognize that this was a public street and they were entitled to utilization of the street.

The Board Attorney swore in David Yi, pastor of the Top Stone Church.

Mr. Urdang asked Pastor Yi how long the church has owned the subject property. Pastor Yi answered 2 years. Mr. Urdang asked if the New Milford Jewish Center had a school. Pastor Yi believed they did. Mr. Urdang asked if there were existing classrooms that were utilized for that purpose by the New Milford Jewish Center. Pastor Yi said yes.

Mr. Urdang marked as exhibit A-1 depicting floor plan of classrooms.

Pastor Yi stated there were 7 classrooms and one multiuse classroom. Mr. Urdang asked if it was his intention when he purchased the property that part of the usage would be an early learning center. Pastor Yi said yes. Mr. Urdang asked if it was important for the church to have an early learning center. Pastor Yi said it was very important because the children need to learn religion and the 35-40 age group do not go to church as much and the children education would attract the younger generation. Mr. Urdang clarified that part of it was for the children to have an appreciation of the Korean customs and religious education. The other purpose would to provide a service that might result in more people becoming members of the church. Pastor Yi agreed. Mr. Urdang asked if the school was solely for children that were members of the church. Pastor Yi said anyone in the community was welcomed. Mr. Urdang asked if the school would be rented out to any other operator. Pastor Yi said no. Mr. Urdang clarified that it would be operated by the church and would remain so. Pastor Yi agreed. Mr. Urdang clarified that there would be no changes being made to the 7 classrooms and multi-purpose room. Pastor Yi said no changes.

Mr. Urdang asked what the days of operation would be. Mr. Yi said Monday thru Friday. Mr. Urdang asked how many children would be in the facility. Pastor Yi said the state allows 100 children in the basement but the maximum the church wanted was 70-80 children for the school with an office staff of 12-13 and 8 teachers. The Chairman asked if that was 12-13 plus the 8 teachers. Pastor Yi said 8 was part of the 12. Pastor Yi said the staff would arrive between 7-730 am and leave at 4 pm. Mr. Urdang clarified that the staff would not be parking on the side of the street on Baldwin Avenue where there would be drop off and pick up. Pastor Yi agreed.

Mr. Urdang asked Pastor Yi to explain how they proposed the drop off of children. Pastor Yi said they would be staggering the times for the drop off. The driver would stay in the car and a staff member would take the children from the car and escort them to another staff member who would bring them into the building to an assembly room. Mr. Urdang clarified that a car comes and the driver would not leave the car. A staff member takes the child/children from the car who escorts them to another staff member where ultimately the child/children would end up in an assembly. After that, the children would go to their respective classrooms and would be supervised at every stage. Pastor Yi agreed. Mr. Urdang clarified that no driver would be parking but just stopping the car and the children were taken from the car. Pastor Yi agreed. Mr. Urdang asked if he could explain the staggering at this time. Pastor Yi could not figure it out at this time but they would set a time in the future. Mr. Urdang asked if he thought the parents would adhere to the staggering. Pastor Yi believed so. Mr. Urdang asked if most students would stay for the whole day. Pastor Yi said yes and the dismal time would be 3 pm and there would be a convenient time for parents who need to pick up later. Mr. Urdang asked if the pickup process would be the reverse of the drop off. Pastor Yi agreed. Pastor Yi said most of the staff would leave at 4pm but some would stay for the 6pm pick up. Mr. Urdang asked if the church was committed to making appropriate adjustments in the staggering times and would they seek input from the police department. Pastor Yi agreed that they would have a mediator between police and community.

Mr. Urdang asked if the church has received any complaints from anybody from the conducting of services. Pastor Yi said no. Mr. Urdang asked what they proposed for lunch for the children. Pastor Yi said the children would bring lunch but later on they might provide a simple lunch. Mr. Urdang asked if there was an existing facility that they use to provide a hot lunch. Pastor Yi said yes. Mr. Urdang asked if he was aware from the prior resolution that the board has reserved the right to maintain jurisdiction should any problem arise. Pastor Yi was okay with that.

The Chairman said the Board went into great detail in terms of what would be allowed with the cooking facility with the prior application and questioned if he anticipated going beyond their limitation put forth in the prior resolution. Mr. Urdang said they would not go beyond that and they would have simple lunches. The Chairman clarified that the facility would not change. Mr. Urdang agreed. Mr. Denis asked if the kitchen facility was set up for a kitchen or outside catering. Mr. Urdang said there has always been a kitchen. Mr. Denis questioned if it met the fire regulations. Mr. Urdang assumed so but it would have to come up to code. The Board Attorney clarified that what was there now would not be in anyway expanded by what they were proposing in way of the nursery school.

The Chairman questioned his testimony that if traffic or parking was a problem that it would fall back on the board's jurisdiction. He thought it would fall to the governing body. The Board Attorney said if there were problems they could be presented to the police and the governing body. If any changes had to be made, the Zoning Board did retain jurisdiction for the purpose of modifying what was approved if problems developed. The Board Attorney was comfortable maintaining that process to exercise continuing jurisdiction so that modifications could be made should problems arise.

Ms. DeBari asked what day were the services for the church. Pastor Yi said Sunday. Ms. DeBari asked what they used the classrooms for during the week. Pastor Yi said they do not use them Monday thru Saturday. Ms. DeBari asked why they were now proposing a daycare center. Pastor Yi said because the younger generation do not go to church so children education is the best way to bring them to church. Ms. DeBari asked how many parishioners they have presently. Pastor Yi said around 100 people. Ms. DeBari clarified there were 10-12 staff members, one teacher to 10 children and hours of operation are 7-4 pm. Ms. DeBari had concerns about the drop off working.

The Board Attorney thought that the 60 second drop off and pick up turnaround might be unrealistic given the age of the children. Mr. Sproviero thought if they staggered this over 5 minute intervals over the course of the hour with the limitation of 6 cars for 5 minutes. Mr. Urdang thought it was different if someone parked and someone took the children from the car. Mr. Urdang thought the total time spent there in the morning and midafternoon was minimal. The Board Attorney thought 2 ½ children might not want to get out of the car. Ms. DeBari said it was a great concept but it was unrealistic. Mr. Sproviero agreed but said not in a minute. Mr. Urdang said they had a traffic engineer to testify. Mr. Urdang said the applicant wants this to work, they were not trying to annoy anyone and it is a public street.

Ms. DeBari asked why this was not proposed in their original application. Pastor Yi said financially, mentally and the young generation did not ask them to run the school. Ms. DeBari asked if this was for financial reasons. The Pastor said they did not have the funds for renovations and the classrooms were not ready. Ms. DeBari asked if the daycare was free. Mr. Urdang said it would cover the cost of the staff.

Mr. Weisbrot loved the idea, thought it was important and great for the children and community. He thought the problem was there were too many questions marks. Mr. Weisbrot asked why there was 70 children with a parish of 100 members. Mr. Sproviero said the Board can impose conditions. Mr. Urdang said they were trying to be as reasonable as possible but they could not give them finite figures. He said they were willing to accept something less than what the state permits. He agreed with the Board Attorney that the board could impose conditions. Mr. Weisbrot did not even know if 5 minutes was sufficient with children ages 2 ½ - 6.. He felt there must be a way to do this without so many question marks and speculation. Mr. Urdang answered that they do not know now exactly how it works and would have to experiment with it. They would try to get input from the police department and their recommendation.

Mr. Denis said the location was a residential location with homes and children. He was concerned with children in the street and weather conditions. Mr. Denis questioned how the

children would get to the school when there was a snow bank at the curb. Mr. Denis was concerned about residents trying to get out of their driveways. Mr. Urdang said there was already a condition in the previous resolution that if there was a problem the board retained jurisdiction. He added that drop off and pick up was less intrusive than parking.

Ms. DeBari asked if there were any parking agreements with the bank or a lot for any parishioners to park. Pastor Yi thought some members might park at the bank.

Mr. Loonam lived by a school and had the experience of the traffic. He stated a problem was the people park in front of driveways and block residents from leaving their homes. Mr. Loonam agreed it was a public street and residents/public could also park in front of the church where they plan to utilize for drop off or pick up of the children. He had a concern that cars will be dropping off in the middle of the street.

Mr. Loonam asked if they were creating a school to get more members between the ages of 35-40. Pastor Yi said after they moved to this location not all the members followed the church. He wanted for the future to have a school for the younger generation. Mr. Urdang said besides trying to attract a younger generation with children to be members another thing was it was a typical function of a church to have a religious school. Mr. Loonam agreed but said it was also typical that there would be onsite parking. Mr. Urdang said they inherited that situation. Mr. Urdang said they have a situation where it is considered an integral part of a house of worship and some houses of worship have a lot of parking and some have very little. Mr. Loonam commented that they said it was an integral part to have an early childhood center. Mr. Loonam said two years ago he put finite limitations as to what the expectations were and at no point was there a mention of a school down the road. Mr. Urdang said the board ruled it was a continuation of a non-conforming use. Mr. Loonam agreed but asked if the Jewish Center had a school. Mr. Weisbrot thought they had a Montessori school there for a while. Pastor Yi agreed.

Mr. Loonam commented that the high school was in close proximity to the site. He noted there was significant car and foot traffic for the school. Mr. Loonam added that the same thing happens on Charles Street and the applicant needs to consider this. Mr. Urdang said they could adjust the times if there was a problem. Ms. DeBari said people have schedules and the staggering time might not work for them.

Mr. Joseph suggested a designated location where the children would be picked up and brought to the school which would solve the problem of the cars. Mr. Urdang said they have not considered that. Ms. DeBari asked if was suggesting an alternate site where the children would be dropped off and bused to the site. Mr. Joseph agreed.

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

Karly Tritthart, 223 Myrtle Avenue, asked what the months were of the operation of the school. Pastor Yi said same as the public schools with winter and summer vacations. The resident asked if there would be summer school and if the hours would be the same as September thru June. . Pastor Yi said there would probably be summer school and the hours could be 9 – 3 pm with

most of the staff leaving at 4 pm. The Pastor stated that the Church would always be open on Sunday.

Meg Bassillo, 218 Myrtle Avenue, asked if the early childhood center would be open to non-parishioners. Pastor Yi said it was open to everybody.

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

Ms. DeBari commented that the school was open to everyone but asked if this would be a religious school. Pastor Yi said they will teach religion and traditions but will not exclude anyone.

Mr. Charles Olivo, principle with Stonefield Engineering & Design, 75 Orient Way, Rutherford, NJ was sworn in by the Board Attorney.

The Board Members accepted the qualifications of Mr. Olivo as an expert in the field of traffic engineering.

Mr. Olivo stated that they looked at the surrounding roadway network. He explained the site was located to the north and bound by Baldwin to the south by Myrtle and to the west by River Road. He stated River Road was the main artery throughout the borough and carries approximately 20,000 vehicles trips daily. He added that Charles was the next road over to the east and the Boulevard further to the east. In terms of parking regulations this area has more parking regulations than you would typically see.

Mr. Olivo explained the proposal was to have the drop off and pick up occur along Baldwin as the vehicle travels in an easterly direction. There was approximately 120' of stacking area which would conservatively stack approximately 6 vehicles. The engineer stated that there was no interior parking lot and no off street parking. The vehicles would be parking temporarily curbside for drop off/ pick up during the morning or afternoon peak times of the operation. Mr. Olivo said in studying day care facilities, most facilities are different from this site. In some facilities, a driver would pull into a parking stall and the parent is required to remove the child from the car, walk them into the site, check them in and return to their car. Mr. Olivo said according to studies, walking a child into a school for early childhood averages 5 minutes and pick up in the afternoon takes 8 minutes. He clarified that none of these sites were curb side pickup/drop off. Mr. Olivo said from personal experience with dropping off curb side with his children he would agree with 60 seconds at its best and added 5 minutes would not happen at the site especially when managed by staff. He stated that in a minute with 6 vehicles queuing positions over an hour could process 360 cars and at 5 minutes 72 cars. Mr. Olivo said the Board could control the student population as part of the project.

The engineer noted that this was public parking and they had the ability to use curb side. They conducted observations in the morning and in the afternoon time periods of when the site would be operating and they have not seen cars parked in the area.

The Chairman questioned his testimony regarding 5 minutes for drop off. Mr. Olivo felt 5 minutes was unrealistic. The Chairman asked if he thought it would take longer. Mr. Olivo answered considerably shorter. The Chairman said he pictures a younger child having a melt down because someone is trying to take them from their mother. He felt it would go smoother if the parent was removing them from the car instead of a stranger. Mr. Olivo said it would not be a stranger. The Board Attorney said it would be a stranger in the beginning.

Ms. DeBari questioned if a parent is not picking up what kind of security would be in place. Most facilities make someone sign for taking a child home that is not the parent. Mr. Olivo said the church would have to consider that as part of their operations. He added that there are certain things put forth by the State that must be met.

Mr. Weisbrot commented that from experience in dropping off/picking up they would not have 6 families showing up at the appointed time. He felt there would be a line around the block. Mr. Weisbrot asked what his expectation for pick was up at 4 pm. Mr. Olivo said this was not a conventional school where everyone is let go at 4 pm. He felt with the typical pick up there would be 3 or 4 waiting vehicles within that area.

Mr. Denis agreed it was a public street but questioned how this would work while cars are parked for cars turning into the street. Mr. Olivo said there was on street parking. Mr. Denis said in a “perfect world” it works but they are far from a perfect world. Mr. Olivo said he was not saying in a perfect world but he was trying to give a range of what could be expected here based on the queuing capacity. He added there was adequate width in the roadway system to accommodate parked cars on either side of the road and vehicles travelling. The Board Attorney asked Mr. Denis if he was questioning if someone was making a turn from River road and wants to queue up in front of the school. Mr. Denis agreed. Mr. Sproviero said they would have to keep going and maybe go around the block. Mr. Olivo said this scenario might be common if there was a student population of 200 but would be unlikely with 70-80 students. The Board Attorney felt the church might have to have someone out there to direct traffic. Mr. Olivo agreed and said the church has agreed to have staff members out there at those times to assist.

Mr. Loonam asked if he has done traffic studies for early childcare school where there was no onsite parking. Mr. Olivo said yes.

Ms. Batistic asked if the 120’ queuing was measured from the curb on River Road. Mr. Olivo said no it was measured from the first “do not block driveway” sign at the first residential driveway to the east of the site on Baldwin. Ms. Batistic stated the property line is 105’. Mr. Olivo said it does extend off their property frontage.

Mr. Rebsch questioned what would happen if an ordinance was passed in the future for a “no stopping or standing” sign along their frontage. Mr. Olivo said if the Mayor and Council did pass such an ordinance that would have a direct impact on the operator and there would have to be alternative means of drop off/pick up.

The Chairman asked if his expert could come back next month because there was another application to be heard. The Board's traffic expert had questions. Mr. Urdang agreed. The application would be carried to August 11th.

Ms. Batistic asked if there was a traffic report. Mr. Urdang said no because there was an opening for this meeting and there was no time to get it all together. Mr. Urdang asked if Mr. Ascolese would be preparing a report. Mr. Ascolese answered not without more data. Mr. Urdang asked for a list of the data he would want. Mr. Ascolese assumed their expert would supply the data. The Board Attorney suggested Mr. Olivo and Mr. Ascolese speak before the next meeting and come up with a plan.

**15-03 HARRIS – 239 Graphic Blvd – Block 606 Lot 11
Second Story addition over garage and two story rear addition
Side yard, building coverage**

Peter Rebsch recused himself from the application.

The Board Attorney sworn in Amy Hummerstone, architect.

The Board Members accepted the qualifications of Amy Hummerstone as an expert in the field of architect.

The architect stated the applicant was requesting a variance for each side yard and building coverage. Ms. Hummerstone stated the applicant wanted to extend out the back on their Cape approximately 5' and also extend the second floor out the back. The architect explained they were not going into the existing non-conforming side yard but proposing a second story. The architect stated there was a preexisting side yard of 6.25' and 5.34' where 7.5' were permitted. The building coverage required was 20% where 23.3% was proposed. The Board Attorney stated the lot width was also non-conforming and would need a variance.

The Board Attorney clarified that other than the non-conforming nature of the lot, the variances that exist are the two preexisting non-conforming side yards and the building coverage. Mr. Sproviero stated that the building coverage was the only one that would be increased as a result of this project.

The architect explained that there were two existing bedrooms on the first floor and two upstairs. They were proposing two eliminate the two bedrooms downstairs to enlarge the kitchen and dining room. There would be three bedrooms upstairs. The Board Attorney asked if they would be expanding in the front. Ms. Hummerstone clarified that the expansion was from the peak of the roof back and over the existing garage.

The Board Attorney swore in Tiffany Harris, the applicant/homeowner at 239 Graphic Boulevard.

Ms. Harris stated they had a small Cape Cod house and would like a little more room. The Board Attorney clarified that all the bedrooms would be moved upstairs and downstairs would be a

kitchen, living room, dining room and den. Ms. Harris agreed and added they also needed a place for their in-laws when they visit.

The Chairman questioned on the left side elevation was there a window for the new bedroom over the garage. Ms. Harris said there was no window on that side that faced the neighbor but there would be a window in the front and back. The Chairman asked what was existing in the area where the 5' addition was proposed. Ms. Harris said there was an existing patio. There would still be part of the patio after the 5' addition and there was a patio on the side. The Chairman clarified that they would be removing some of the patio for the 5' addition but not adding to it. The homeowner agreed they would be removing some of the patio because they wanted to maintain a grass area for the children. The Chairman asked if only difference that would be seen from the front was over the garage. The homeowner agreed and said they did not want to spoil the charm of the Cape Cod.

Ms. DeBari said she loved it.

Mr. Loonam said he usually has issues with applications with preexisting non-conforming side yards because they continue to go up and block a sight line. He was typically receptive to neighbors of the applicant that were not happy about it. Mr. Loonam did not think a neighbor for this application would have a problem. He added that this was an application on a small lot and there was not much they could do. Mr. Loonam felt this was a basic improvement and very functional. He did not feel the applicant was asking for much for the size of their home. Mr. Loonam did not have any concerns.

The Board Attorney said for the record the one preexisting condition that was being expanded was building coverage. The requirement was 20% existing 21.9% and proposed 23.3%.

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

No one wished to be heard.

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

A motion was made by Mr. Weisbrot to grant the variances in bulk as presented, seconded by Ms. DeBari.

The motion passed on a roll call vote as follows:

For the motion: Members Weisbrot, DeBari, Denis, Loonam, Joseph, Schaffenberger

Recused: Member Rebsch

Approved 6-0

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

Respectfully submitted,
Maureen Oppelaar