

Approved
5/13/14

**New Milford Zoning Board of Adjustment
Work Session
March 11, 2014**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:36 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Binetti	Present
Ms. DeBari	Absent
Mr. Denis	Present
Fr. Hadodo	Present
Mr. Ix	Present
Mr. Loonam	Absent
Mr. Rebsch	Present
Mr. Stokes	Present
Mr. Schaffenberger-Chairman	Absent
Ms. Batistic – Engineer	Present
Mr. Sproviero - Attorney	Present

REVIEW OF MINUTES – January 14, 2014 and January 23, 2014

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

OLD BUSINESS

**13-02 Alex and Sons Real Estate, LLC – 391 Madison Avenue - Block 1211 Lot 32
Three story 14 unit multiple dwelling with parking underneath building
Use, building coverage, front yard and height**

The Board Attorney believed the applicant has determined to further amend the application and did not anticipate this matter coming to a vote at this hearing or hearing any substantive testimony with regard to the modifications. Mr. Denis clarified that this property was for single family residence. The Board Attorney agreed and added what made this application unique was that it was a border property surrounded by several uses.

NEW BUSINESS

**14-02 Switzer – 197 Grand Street – Bock 1504 Lot 11
Request an appeal of the denial letter.**

The Board Attorney said the members would not hear this application tonight but explained Mr. Switzer bought this house after the Board granted variance relief to the prior owner with regard to an addition. He recalled the applicant sought variance relief for lot coverage and front yard setback. He added Mr. Switzer came in to avail himself of the variance relief and request permits to do the work previously approved in January 2007. Mr. Sproviero said the two issues that confronted the zoning officer was whether the permit extension act applied to the relief granted and whether or not Mr. Switzer was seeking to do, by way of the renovation, the same that the

prior owner sought to do. A denial letter was issued saying Mr. Switzer needed variance relief on whether or not there was enough to make a determination as to whether or not he was seeking the same, modified or different relief. The Board Attorney said to Mr. Switzer this was not a formal application and he was not under oath but this was just for discussion purposes. Mr. Switzer said he was building the same house as per the plans submitted in 2006 and variances granted in 2007. The Board Attorney asked if the dimensions were all the same. Mr. Switzer answered no that he checked the zoning worksheet to find on the resolution that the existing lot coverage was different. The Board Attorney clarified that was not him making changes but that was details of the resolution that need to be cleaned up. Mr. Stokes asked if he took the plans submitted for the application and put his plans on top of them would they be the same. Mr. Switzer said the he was using the same architect and the exact same plans. The Board Attorney said he was not seeking variance relief but an appeal of the zoning officer's denial of permits which the Board had a right to hear. Mr. Sproviero said he had a discussion with Mr. Rutherford, an attorney on behalf of Mr. Switzer, regarding the Board having a special meeting to adopt a resolution for NMRA. The Board Attorney explained while the 45th day fell on the day before the regular scheduled meeting in April, the Board has been granted an extension by the applicant to adopt the resolution on April 8th. Mr. Sproviero told Mr. Switzer April 8th would be his meeting date. The Board Attorney said he would be and he was sure Mr. Rutherford would be more comfortable if Mr. Switzer noticed. He added he could not give him advice and he would have to make his own decision. Mr. Switzer said he would notice. Ms. Batistic clarified the seepage pit was part of the resolution. Mr. Switzer agreed and said as well as the demolition of the existing shed and carport. The resident asked if he had to bring counsel or the architect or could he present the matter on his own. The Board Attorney said he was not presenting it as variance relief and thought he could do what he did tonight on April 8th.

The Board Attorney wanted to reemphasize that the Board had 45 days to adopt the NMRA resolution. Mr. Sproviero explained to Mr. Del Vecchio that he could do this within the 45 days but the Board would have to schedule a special meeting because the 45th day was Monday April 7th or do it on the 46th day at the regular scheduled meeting. Mr. Del Vecchio obtained permission from his client and agreed to the one day extension and the Board would adopt it on April 8th.

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

**New Milford Zoning Board of Adjustment
Public Session
March 11, 2014**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 8:05 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Binetti		Present
Ms. DeBari		Absent
Mr. Denis		Present
Father Hadodo		Present
Mr. Ix		Present
Mr. Loonam		Absent
Mr. Rebsch		Present
Mr. Stokes		Present
Mr. Schaffenberger-	Chairman	Present
Mr. Sproviero -	Attorney	Present
Ms. Batistic	Engineer	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES – January 14, 2014

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

OFFICIAL MINUTES OF THE SPECIAL MEETING – January 23, 2014

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

OLD BUSINESS

**13-02 Alex and Sons Real Estate, LLC – 391 Madison Avenue – Block 1211 Lot 32
Three Story 14 Unit Multiple Dwelling with parking underneath building
Use, Building Coverage, Front Yard and Height**

Father Hadodo recused himself from the application.

Mr. Alampi said the applicant concluded the testimony of the case and completed the review and opportunity of the Board and public to question witnesses. Mr. Alampi said Mr. Ochab completed his testimony and answered questions from the public and the Board. As a result of that meeting and listening to the concerns of the Board Members and several members of the public, it was clear that the issue of the sanitary truck activity on Madison Avenue and the truck backing out of the site seemed to be a focal point of discussion. He said the applicant initially proposed a 14 unit project with one and two bedroom units. The client reduced the application to 10 units with a bedroom configuration of six 2 bedroom units and four 3 bedroom units. There was a reduction of the footprint of the building, a reduction of the number of units and a

reduction of the demand of parking at the site. Mr. Alampi stated the two and three bedroom configuration seemed to concern the Board that it was equally or more intense than the original proposal. He believed they submitted strong evidence that the reduced number of units was a decrease in intensity but he felt the Board and public were not convinced. Mr. Alampi said instead of bringing this matter to a conclusion, he asked the architect to do a preliminary sketch to see what would happen with the building if the 10 units were reconfigured. They retained the six two bedroom units and converted the larger units into one bedroom units. It would not only reduce the size of the units and number of bedrooms but it would result in assuring the community that there would not be many children, it would not impact the school system and would reduce the vehicular activity, said Mr. Alampi.

Mr. Alampi distributed to the Board two simple schematics and added these were not a submission of final plans. He explained when the architect reconfigured the bedrooms and size of the units the building became 2' wider and was pushed back 9.5'. They were able to create a generous area for a garbage truck to go into the driveway, make a k-turn, back to the garbage dumpster area and then leave from the site head out.

Mr. Alampi explained there was a schematic layout and an alternate layout. The schematic layout (the application now before the Board) was taken from the plans on file showing just the footprint of the building and the parking spaces. He stated on this plan the building is set back 55' from the centerline and 25' from the property line with the building 37.7' on the driveway side with the dumpster and parking spaces shown in the rear. Mr. Alampi said on this plan there was not enough room for a large garbage truck to go down and turn around if the parking spaces were occupied.

Mr. Alampi asked the members to compare it to the new alternate plan. This was a basic preliminary plan that showed the building pushed back from the property line 34.3' and noted the architect did not make the correct calculation regarding the centerline. Mr. Alampi said the building was 35.5' on the driveway side and the rear property wall on the eastern side is still the same. There was more physical area created for the sanitary function and dumpster area. He noted on the plan there was a striped area for no parking which gave them more room to maneuver a vehicle. Mr. Alampi said a garbage truck would be able to enter the site safely, properly and make a clean three point turn and exit.

Mr. Alampi explained the applicant wants to ask for a continuance and take the plans and make a full submission. He asked the Board if they would indicate whether or not the Board felt the applicant addressed the pickup of garbage and the site issues adequately before they invest more time and money in upgrading the formal plans. Mr. Stokes asked if they should poll the members. The Board Attorney thought that would be appropriate. Mr. Stokes asked the members if Mr. Alampi addressed the sanitation appropriately at this point. Mr. Ix said it appears to be clear, Mr. Binetti said it gave more room to move around, Mr. Denis said it was good and Mr. Rebsch had no problem. Mr. Alampi was not asking the Board to take a vote on the application. Mr. Stokes added there were other members absent that have not looked at this. Mr. Alampi said this plan with 10 units with one and two bedroom configurations require 19 parking spaces and they proposed 22. He added this was a more user friendly site plan.

The client would have to make a decision on how much more they would spend on detailed plans and it was his suggestion that it be presented to the Board to see if they would go further with the plans. Mr. Alampi asked the Board to have this matter be continued and would renote and publish because these were dramatic changes to the plans. The Board Attorney agreed.

Mr. Denis questioned that the wetlands were not indicated on the plans. Mr. Alampi said it was not on this plan but said they had DEP approval and permits and it was noted on the full set of site plans. He added that they also agreed to provide a fence because there was a 15' drop.

Mr. Binetti asked if they would address the traffic flow in the front again. Mr. Alampi did not see a need to do that because they reduced the number of units and now reduced the unit size and bedroom count. Mr. Binetti had concerns about the abundance of cars from the complex and the flow of traffic heading towards the light on the Boulevard. Mr. Alampi clarified that they had County approval and the County would extract from the centerline a marginal easement. He said should the county have the funds available they would have the ability for road widening. Mr. Alampi said they were pulling back the building 9.5' and would be obligated to provide the county with a 5' widening easement which they get on every county application. He explained further that did not mean the widening would happen in their life time and they could consult with the county to confirm that issue. Mr. Binetti would like them to confirm the widening of the area because the existing width was too narrow for the cars coming out of the other streets. Mr. Alampi said he could file the county application while he files this revised application and arrange to meet with the county engineering department and get a letter from them. Mr. Alampi clarified if he did not have the county review in time for the next meeting, he would ask the matter be continued to the May hearing.

Mr. Rebsch questioned how they would address the amount of coverage in the application. The Board Attorney said they have to look at the totality of the property and when calculating the lot coverage you include the wetlands. Mr. Alampi said under the state law and under the cases decided by the Supreme Court, you cannot build on the wetlands and you cannot penalize the property owner double. Mr. Alampi clarified that they own the land and the setback and coverage was the entire property. He said the applicant has only 30% coverage when considering the whole land. They cannot build on them, they cannot disturb them but they do put it into the calculus.

The Board Attorney said this application would be carried to the April 8th meeting.

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

Respectfully submitted,
Maureen Oppelaar