

Approved
6/10/14

**New Milford Zoning Board of Adjustment
Work Session
May 13, 2014**

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

REVIEW OF MINUTES –

The Board Members reviewed the minutes for February 20 and March 11, 2014 and there were no changes.

RESOLUTION

06-08A Switzer – 197 Grand Street – Bock 1504 Lot 11

Request an appeal of the denial letter.

The Board Members reviewed the resolution and there were no changes. The Board Attorney confirmed the discrepancies in the prior 2007 resolution and corrected them.

**14-01 Berchtold - 605 Fernery Drive -Block 1709 Lot 6 - Addition/add a level
Building Coverage**

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

NEW BUSINESS

14 02 Mintz – 478 Arbor Place – Block 814 Lot 4

Addition/Add a level

The Chairman stated the applicant requested variances for lot area, lot width, side yard and building coverage. There was a letter from Boswell Engineering dated 4/16/14 to be discussed in public session. The Board Members had no comments.

OLD BUSINESS

13-02 Alex and Sons Real Estate, LLC – 391 Madison Avenue - Block 1211 Lot 32

Three story 10 unit multiple dwelling with parking underneath building

Use, building coverage, front yard and height

The Chairman noted there was revised plans with referral letters from the police dated 4/23/14 and fire department dated 5/5/14. The Chairman stated the applicant had to renote. The Board Attorney said the revised plans addressed the Board Members and public comments from previous meetings and the interior layout was revised for providing one and two bedroom units. It appeared that the revised plans were an effort to reduce the overall number of occupants, said the Board Attorney.

Ms. DeBari asked if the revised plan would be treated as a new application. The Board Attorney said no it was clearly not a new application.

Mr. Binetti asked, if approved, what would prevent them from changing the interior. The Board Attorney said the conditions of approval. The applicant was bound to design what was approved in the site plans. The Board Attorney further explained if it were approved there would be a developer's agreement that would incorporate the specific specifications. Mr. Binetti had concerns that the applicant could alter the interior units. Mr. Sproviero said they would need permits. Mr. Binetti thought they should have yearly inspections.

Mr. Loonam said they assumed these would be rental units but they did not know for sure. He said they could be sold as individual units and an owner could come to seek relief from that condition. Mr. Sproviero said just as the benefits of variance relief runs with the land so does the obligations. They would still have to come and ask for permits and whoever was the zoning officer must be aware of the fact that the prohibition exists in the ordinance and must be vigilant.

The Board Attorney said they anticipate an application that involves a Board Member so he looked into jurisdiction laws and conflict issues. He added that this was the only Board that had jurisdiction over the relief that the application would seek. The Board Attorney consulted with another attorney who sits on the State Board of Land Use Attorneys and was the Chairman of the Bergen District Ethics Committee. The Board Attorney said if any of the Board Members felt uncomfortable and could not hear this fairly for any reason and needs to recuse themselves, he asked that they contact him ahead of time. If there were a number of recusals, they would have to bring members from the planning board, said the Board Attorney.

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

**New Milford Zoning Board of Adjustment
Public Session
May 13, 2014**

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
Fr. Hadodo	Absent
Mr. Ix	Absent
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes	Present
Mr. Schaffenberger-Chairman	Present
Mr. Morris – Engineer	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

The Chairman stated that Mr. Morris would be covering for Ms. Batistic, Borough Engineer.

OFFICIAL MINUTES OF THE SPECIAL MEETING – February 20, 2014

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

OFFICIAL MINUTES OF THE WORK SESSION–March 11, 2014

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

OFFICIAL MINUTES OF THE PUBLIC SESSION–March 11, 2014

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

RESOLUTIONS TO BE MEMORIALZIED

06-08A Switzer – 197 Grand Street – Bock 1504 Lot 11

Request an appeal of the denial letter.

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

The motion passed on a roll call vote as follows:

For the motion: Members Loonam, Binetti, Rebsch, Schaffenberger

Approved 4-0.

**14-01 Berchtold - 605 Fermery Drive -Block 1709 Lot 6 - Addition/add a level
Building Coverage**

Motion to memorialize the resolution was made by Mr. Binetti, seconded by Mr. Loonam.
The motion passed on a roll call vote as follows
For the motion: Members Binetti, Loonam, Rebsch, Schaffenberger.
Approved 4-0

NEW BUSINESS

**14 02 Mintz – 478 Arbor Place – Block 814 Lot 4
Addition/Add a level**

Mr. Al Alonso, representing the applicant, state he provided the notices and proof of publication to the board secretary. He explained this was an application to construct an addition to the house. Mr. Alonso provided a resolution for an application filed and approved a few years ago. Mr. D’Ambrosio was the architect at that time and would testify and give some history on the application. Mr. Alonso stated they were seeking four variances. Two were c (1) hardship variances that were existing conditions - minimum lot area and minimum lot width. He stated there was no additional available land to acquire. There was a c (2) variance for minimum side yard and that condition currently exists and they were not expanding on the side yard. The attorney said there was a variance for maximum building coverage. The existing building exceeds by .4% and they were proposing 28.8%. Mr. Alonso said the shed would bring it to 30.1%.

Mr. John D’Ambrosio, 482 Luhmann Drive, New Milford was sworn in by the Board Attorney. The Board Members accepted the qualifications of Mr. D’Ambrosio as an architect.

Mr. D’Ambrosio said the original application was three years ago. The house was a split-level with steps to go downstairs to the garage and family room and steps to upstairs to the living room, dining room, kitchen and bedrooms. The architect said the old application had an attic space that the applicant wanted to use for a bedroom. They had to expand the kitchen into the backyard to have conforming steps. The situation today was, Ms. Mintz remarried and her husband was handicapped. With the new plan they were trying to make everything on one level. One of the bedrooms would be an exercise room and the other room would be a computer room. Mr. Alonso noted the Boswell Engineering letter discussed a discrepancy between the dimensions of the existing dwelling shown on the survey and the architectural plan. Mr. Alonso clarified that the revisions were made on revised plans and were filed within 10 days of the hearing. Mr. D’Ambrosio agreed. Mr. Alonso stated that Ms. Batistic identified in her letter four variances.

Mr. D’Ambrosio reviewed the existing and proposed on the drawings and explained they have proposed a legal set of stairs and in the master bedroom there was a larger bathroom and closet. The dining room and the family room was now on the main floor. Mr. Alonso asked if the addition was in the rear. Mr. D’Ambrosio agreed. Mr. Alonso asked if the addition caused a rear yard variance. The architect said no. Mr. Alonso asked if there was a fence and bushes. Mr. D’Ambrosio said yes. Mr. Alonso clarified that there should be no impact to the neighbors. Mr.

D'Ambrosio agreed and said this addition was 12' out and the previous addition proposed was 17'.

Mr. Alonso asked the architect to explain why it was necessary to have everything on one floor. The architect said now they had to go downstairs to watch television and currently the living room was separate from the kitchen. They were proposing one basic space for the kitchen, living and dining room. Mr. Alonso clarified that the minimum lot area permitted was 7,500 sf and the existing condition was 6,600 sf proposing no change, lot width required was 75', existing condition 60' with no change, side yard required was 7.5' existing condition 6.68' with no change. The architect agreed. Mr. Alonso said the only variance being created by the addition was building coverage. He added that Ms. Batistic's report indicated the requirement was 20% with 20.4% existing and 28.8% proposed. Mr. Alonso said they also indicated on the plans the calculation for the shed. Mr. D'Ambrosio clarified that they had shown that the house was 6" narrower than it was and added that additional square footage. He added that the total proposed building coverage was 1,989 sf 30.1%. Mr. Alonso said the engineering report also recommended a seepage pit be installed. Mr. D'Ambrosio said they proposed three locations where downspouts would come with drywell in each location. The Board Attorney questioned if that was what the engineer proposed. Mr. Morris said he would like to see the size and the calculations to see if they were adequate. He added typically they figure 2" of rain over the entire roof. The architect clarified that for the back half. The engineer agreed.

The Board Attorney asked what was the reason for the expansion and did either of the owners have any physical conditions that makes utilization of the second floor bedroom difficult to use. Mr. D'Ambrosio said the second floor bedrooms were proposed for the children to use when they visit. The bedrooms on the main floor would be used as exercise and computer rooms. He added that the expansion was because Mr. Mintz was handicapped. Mr. Sproviero asked how they tie in the handicap to the expansion. Mr. D'Ambrosio said the existing family room was in the basement were they watch television and entertain.

The Board Attorney marked the primary exhibit collectively A-1.

The Chairman asked what would change on the second floor. The architect answered there was a small bedroom with a sloped ceiling and now it would be full bedroom with a second bedroom. The Chairman said that would be in the back of the house and clarified that the front of the house would not look any different. The architect showed the proposed front elevation. The Chairman asked what was underneath the addition. Mr. D'Ambrosio said half of it was the garage and the other half a crawl space.

Ms. DeBari thought there was a lot of stairs. The Chairman clarified that the second floor had two bedrooms and a bath. The Board Attorney questioned that there was a rear yard expansion and they were also expanding the width of the home. Mr. D'Ambrosio said no. The Board Attorney said he testified to expanding the garages. The architect said they were going out in the back. The Board Attorney clarified they were only being made deeper. Mr. D'Ambrosio agreed. The Chairman said the applicant was making the side of the building longer on the nonconforming side. Mr. Alonso agreed. The Chairman asked if they were making any changes to the driveway. The architect said no. The Chairman asked if the applicant made any changes

that were approved with the prior application. The architect said no. The Chairman asked if they were relocating the patio. The architect said the patio would be relocated after the addition.

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

Paul Noonan, 465 Graphic Boulevard, said he was present at the 2011 application. Mr. Noonan asked if the existing bedroom had three bedrooms. Mr. D'Ambrosio agreed and said they were adding two bedrooms. Mr. Noonan clarified that with the five bedrooms one would be used as a master bedroom, one bedroom would be an exercise room, one bedroom would be used as a computer room and the other rooms would be used for guests. Mr. Noonan asked if the applicant was running a business out of the home. The architect answered no. Mr. Noonan asked how many square feet was this plan larger than the original plan approved in 2011. The architect said it would be doubled. The Chairman questioned if they were doubling the size of the improvement from the last application or doubling the size of the house. The architect said doubling the size of the improvement. Mr. Noonan asked how many square feet would the proposed house be. The architect said it would be 1,989 sf. Mr. Noonan said this house was on a hill and was concerned that if there were not adequate drainage the property on the down side of that house would be swamped. The resident said it was a lot of addition with four variances. He did not say the house should not be increased in size but did not think it had to be at this width, length and depth.

Motion to close was made by Mr. Binetti, seconded by Mr. Loonam and carried by all.

Mr. Alonso called upon Ms. Mintz, the applicant.

The Board Attorney swore in Ms. Barbara Mintz, 478 Arbor Place. The Board Attorney asked the applicant if she was the owner of the property. Ms. Mintz said she owned the property for 34 years. Mr. Alonso said construction was never done from the previous application. Ms. Mintz agreed and explained that Mr. Mintz was disabled and had difficulty with stairs. She explained if rooms were on two different levels then everything in his routine was based on not using the stairs too many times. Ms. Mintz said this proposed addition would make his life easier. She explained her first husband had developed dementia and with the first application she had requested a bedroom and bath upstairs for the home health aid. She explained her husband took a turn for the worse and went into a nursing home and that was why construction was never done. Ms. Mintz said in the future they might need a home health aid and would like to have the opportunity to have a room upstairs for an aid. Ms. Mintz said they both ride motorcycles and now he had to ride a three-wheel motorcycle. He also has a mobility scooter and a carrier to attach to his pick up truck. They would like to break through the back wall of the garage to extend it for more room for his scooter, carrier and bike. Mr. Alonso noted that Mr. Noonan had concerns about the water runoff swamping the neighbors. Ms. Mintz said they have already spoke to their neighbor and would not want to do anything that would have a negative impact on their neighbor with the water. They would put in whatever type of water system that would be appropriate.

Mr. Loonam asked if the old application came before this board. Ms. Mintz said it was approved to extend 17', a full size stair and a bedroom and bath upstairs for the health aid and her husband passed away in 2012. Mr. Loonam clarified that this was a different situation with this application. Ms. Mintz agreed and said she anticipated that in the future they might need a health aid and would like them to have the bedroom and bath upstairs for an aid. Mr. Loonam clarified that the proposed application reflects what is going on in your life today as opposed to what was sought a few years ago. Ms. Mintz agreed.

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

No one wished to be heard in the public.

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

Ms. DeBari questioned what floor where they on when they enter the house. Mr. D'Ambrosio said it was a midpoint and they still have to go up or down.

The Chairman asked what was downstairs. The architect said to the right was the garage and the right was the family room. The Chairman asked if there were another family room. Mr. Alonso said it was a basement that was currently used as a family room. The Chairman said if this was approved it would not be a family room. The architect said it would be just a basement.

Ms. DeBari asked if there was access to the home from the garage. The architect said yes.

The Chairman asked if these things could be accomplished without going out 12'. The architect said no. The Board Attorney clarified they were considering the revised plans. The architect said yes.

Motion to open to the public for comments was made by Mr. Rebsch, seconded by Mr. Stokes and carried by all.

Paul Noonan, 465 Graphic Boulevard, said they testified to the applicant being handicapped yet he has not seen or heard the architect testified to the bathroom being handicap accessibility. He questioned the architect that they were enlarging the house but where the handicap accessibility in the house. The architect said they would need an elevator for handicap accessibility for someone in a wheelchair. Mr. D'Ambrosio said the applicant had a disability but was not incapable of working. The Board Attorney said this is being proposed as a matter of convenience not as a result of a medical condition. He added the hardship that Mr. Alonso referred related not to a physical condition but a topographic condition of the property. The land use law recognizes that there is a separate set of justifications for variance based upon topography of the land and dimensions.

Gail Ablamsky, 557 Mabie Street, questioned if this was a handicap hardship because he had difficulty going up and down the steps. Mr. Alonso said they were requesting bulk variances

which could be proved under c(1) or c(2) standard. He added the c (1) was a hardship standard which dealt with topographical conditions. Ms. Ablamsky clarified that the disability had nothing to do with the hardship. She thought the applicant might also want ramps.

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

The Board Attorney swore in Mr. Steven. Mintz, 478 Arbor Place.

Mr. Alonso asked if he was married to Barbara Mintz. Mr. Mintz said yes. Mr. Alonso asked if he was under the medical care of a doctor. Mr. Mintz said he was diagnosed with post-polio syndrome which affects his fatigue level, joints, strength and he was under the care of the doctors. He does specific exercises which is why he wants an exercise room. There are steps from the driveway to the house and a few steps to the main level of the house. Mr. Mintz explained he would like to live on the main level of the house where he would not have to use stairs to watch television, use the computer or access the bedroom, kitchen, living room and bathroom. He added by using a trike he could participate in things that his friends do and used a mobility scooter when there was a lot of walking. Mr. Alonso asked if he was able to walk up and down stairs. Mr. Mintz said with a railing and currently he does not need a ramp.

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

No one wished to be heard.

Motion to be closed was made by Ms. DeBari, seconded by Mr. Loonam and carried by all.

Mr. Alonso said he had no more witnesses and this concluded his presentation subject to providing additional calculations for seepage pit.

The Chairman asked Mr. Morris if he anticipated any runoff problems with the recommended seepage pit from Boswell Engineering. Mr. Morris said no and explained that 2" of the entire volume will equal the new volume created by the new impervious area. The Chairman noted that this house was built on top of a hill and once the water enters the seepage it will flow sub terrain downhill. He asked if it would have any effect on the neighbor downstream. Mr. Morris could not guarantee it would not and explained it could resurface but even if it hit grass it would do the same thing. The whole purpose of a seepage pit was to mimic if this was grass. If it soaks into the ground today as grass it would do the same thing with a seepage pit. The Chairman asked if there was an existing seepage pit. The homeowner said no.

The Board Attorney summarized that there were two c (1) variances for lot area and lot width that were preexisting conditions. There was a side yard encroachment, which would have more of an encroachment in the length by the proposed renovation but not closer to the abutting property. He added there was a building coverage issue. The Chairman noted which was already over the permitted amount. The Board Attorney said by .4% currently over and proposed 30.1% where 20% permitted. The Chairman questioned if that was a 50% increase. Mr. Morris said in the new building area. Ms. DeBari asked if there was a shed. Mr. Morris said there was an existing 8x8 shed in the backyard. Mr. Alonso said that was part of the 30%.

Mr. Stokes said with the small amount they were increasing in the back of the house to accommodate a family room, increase the master bedroom and especially to enlarge the size of the bathroom and shower so the applicant would be able to walk in and take a shower he would make the motion.

Motion made by Mr. Stokes to grant the variances, seconded by Mr. Binetti.

The motion passed on a roll call vote as follows:

For the motion: members Stokes, Binetti, Denis, Loonam, DeBari, Rebsch

Against the motion: Schaffenberger

Mr. Schaffenberger understood the existing lot width and side yard variances but felt most of this could be accomplished without the 12'.

Approved 6-1

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

Mr. Alampi reviewed the application stating it began with a development of 14 units with three and two bedroom units. He added they were met with resistance from both the residents adjacent to the property and board members. The attorney said the site was on Madison and recognized it as a single-family zone. It was a heavily traffic road with the development pattern having commercial businesses, apartments and nicely maintained single-family homes. Mr. Alampi thought with this size property a multiple dwelling was the right use for the site because it was adjacent to an academic institution. The Attorney said it was reduced to a 10-unit configuration reducing the square footage of the footprint by 1000 sq ft. They met the required onsite parking. He added they still ran into issues with regard to the garage removal operation on the site and the turnaround for a truck on the site. Mr. Alampi said they presented their expert witnesses and reintroduced the testimony twice when they scaled down the project but had the feeling the neighborhood opposition was still rigid and the board was skeptical so they filed a revised set of plans. Mr. Alampi said with the last set of plans the building was reduced 1,000 sf and the interior floor plan had six 2 bedroom and four 1 bedroom units. He said the applicant was sensitive to the issue to the school system and the number of vehicles occupying the site. The revised plans has more than sufficient parking under the RSIS standard with a widened area for the garbage facility. The garbage area with the dumpster was pushed back about 3', the concrete pad was widened and they cut back on the building. Mr. Alampi stated they now have a free flow open space area for the garbage truck to enter the site and adequately turn around and come out to Madison. They would no longer be bringing the garbage canisters to the front. He said the updated memorandum from the police chief dated 4/23/14 found no public safety issues providing the amount of parking spaces meets the ordinance requirements. There was also a memo from the Shade Tree Commission that recommended the applicant change the pear trees to hornbeam trees. The applicant agreed to it. The Fire Advisory Commission dated 5/5/14 reiterated the same concern for the firemen putting a ladder into the grass and it would be uneven. They were asked to put a sidewalk on that side and they would address that issue. The

Boswell letter dated 5/5/14 highlighted the layout of the bedrooms, the reduction of the building footprint by 1,050 sf, and there was a concern with the dumpster layout that the retaining wall would intrude in the wetland area. Mr. Alampi said they would not do any disturbance in violation of the state permit that they have. They would have the engineer inspect the retaining wall system and a structural engineer would certify it.

Mr. Stokes questioned that the police referral letter found no issues proving the amount of parking spaces met the ordinance requirements. He asked if they met the ordinance requirements. Mr. Alampi said they met the RSIS requirements.

Mr. Denis stated this was a one family zone. Mr. Alampi agreed and said they were required to show by the evidence that the site was particularly well suited which was clarified in the Hoboken case for particular suitability. He addressed the concern in the rear of the property on any unauthorized work with regard to any fill and the wetlands. They have all the necessary state permits in place and their engineer has certified that there was no disturbance.

The Board Attorney stated the Mr. Rebsch would be leaving at 10:15pm.

Mr. Alampi recalled the architect, Albert Dattoli, 70 Chestnut Ridge Road, Montvale, NJ. The Board Attorney said he has already been sworn in. Mr. Alampi stated they have renoticed the public and published in the newspaper.

Mr. Alampi marked as exhibit A-16 Architectural plans revised 4/10/14.

Mr. Dattoli reviewed the floor elevations. The finish materials remain the same, the front elevation remain the same, the east and west sides have changed that the building does not go back as deep on the property. Mr. Alampi said that would allow for the truck to go down the driveway and have a full turn around. Mr. Dattoli agreed. The first floor was at Madison Avenue level and in the back of the building there was entrance to underbuilding parking shown on the rear elevation.

The Chairman said Mr. Dattoli testified the building moved up and clarified that only the back wall has been moved up. Mr. Dattoli agreed and said the front yard setback was still the same. Mr. Alampi said some of the parking would not be under the building. Mr. Dattoli agreed and said there were 11 parking spaces outside of the building footprint and the balance of the parking was under the building. Mr. Sproviero asked if there were 12 parking spaces underneath. Mr. Dattoli agree. Mr. Dattoli reviewed the parking level floor plan. The architect stated on the first floor there were 2 two bedroom units and 3 one bedroom units. The second floor plan was not submitted but it would have 4 two bedroom units and 2 one bedroom units. Mr. Dattoli said it was the same footprint just a different mix on each floor with a total bedroom count of 6 two bedroom units and 4 one bedroom units. He added there were two means of egress by way of stairwells and an elevator. The building is fully sprinkled and at the request of the fire department they have agreed to have standpipes although they are not required by code.

Mr. Loonam asked what safeguard was there against the garbage truck backing in and backing out. Mr. Alampi said they would be fired and added it was private sanitation and they would

have to do what was required. Mr. Dattoli added most of garbage trucks were front load and would come down in a forward manner and make the k-turn and leave in a forward direction. The Board Attorney said if the application was approved they could make it a condition that would prohibit any reverse backing into or reverse backing out of the driveway.

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

Terence McMackin, 400 Madison Avenue, asked if the footprint of the building remained the same. The Architect said no the footprint of the building has been reduced by about 2,500 sf from the original plan.

Gene Murray, 425 Madison Avenue, asked if the rear windows above the garage were bedrooms shown on the left elevation on the drawing. Mr. Dattoli agreed. Mr. Murray said there were three parking spaces below those windows and commented that the multiunit dwellings in town restrict parking adjacent and below any secondary egress. The architect said there was no restriction to that in the building code. The Board Attorney said there was no restriction in the zoning ordinance and said there was no comment to that issue from the fire advisory committee letter. Mr. Murray said he raising a safety issue to the Board to look into.

Alison Clare, 396 Madison Avenue, had a concern for the safety of children with the truck making a k-turn in the parking lot. The architect said it could be if they were in the parking lot. Mr. Alampi said the original concern was on Madison Street that they would be backing up. The architect noted that the garbage truck has a warning signal as they go into reverse.

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

Mr. Richard Burns, 30 Madison Avenue, Paramus, NJ engineer, was reminded by Mr. Alampi that he was still under oath.

Mr. Alampi marked as Exhibit A-17 engineering plans last revised 4/9/14.

Mr. Burns reviewed the revisions on the plans. Mr. Burns said the building has been made smaller. Mr. Alampi clarified that the building was moved further from the wetlands and the building itself has been reduced in its length. Mr. Burns agreed and said the impervious increased by 680 sf because of the three parking spaces and by moving the dumpster area back to provide for the turn around. Mr. Burns said they added a guardrail and a block masonry retaining wall. Mr. Burns reviewed the vehicular traffic pattern for the driveway. There would be 12 parking spaces underneath the building and 11 onsite parking. Mr. Alampi said the recommendation from the fire advisory committee was a sidewalk on the opposite side of the building. Mr. Burns said they indicated on the plan a 6' grass paver area. The drainage system shows it as 28x28 but it should be 30x30 and they would have revised storm water calculations. Mr. Alampi asked how they were handling the water runoff. Mr. Burns said a detention system for a 100-year storm. Mr. Alampi asked if the wetland permits issued by the state were still in good standing. Mr. Burns agreed. Mr. Alampi asked if they filed a county application. Mr. Burns said they have not and were waiting for municipal action. Mr. Alampi asked if they anticipated

any issues with the county on the Madison Avenue egress and ingress. Mr. Burns said no. Mr. Alampì said they would provide an easement from the centerline for potential of road widening. Mr. Burns said there were some minor changes to the landscaping. They would be providing low arborvitae to the east and low shrubs by the school and the landscape in the front remained unchanged.

Mr. Loonam asked for was the size of the area from the garbage receptacle to the back of the building. Mr. Burns said 50'. Mr. Loonam asked what for the size of the garbage truck. Mr. Burns thought it was less than 40'. Mr. Alampì asked if they did a turning template. Mr. Burns said yes. Mr. Loonam asked for the total size of the property. Mr. Burns said 48,168 sf. Mr. Loonam asked what portion of the property was developable. Mr. Burns said 22,000 sf would be the wetlands transition area and roughly 25,000 sf outside the DEP restricted area. Mr. Loonam said of the 25,000 sf what is the total impervious coverage. Mr. Burns answered 16,760 sf which included the area of porous pavement leaving about 9,000 sf for landscaping around the building that was not in the DEP restricted area. Mr. Loonam had a concern that the open space area was part of the property and thought you had to subtract it from the total size of the property. Mr. Alampì said that was not what the Supreme Court said. There was a case that dealt with that issue if the applicant was being double charged because of the preservation of the wetlands and taking the remainder of the site and redoes the calculations. Mr. Alampì said they own the property, it is private property, pay taxes on the property and not developable so since it has been constrained once you cannot penalize them. Mr. Loonam understood that but the size of the property with the wetlands makes the property seemed bigger. Mr. Alampì said out of a 25,000 sf section the size of the building and impervious coverage was within normal range. He understood this was a single-family zone and this was a multiple dwelling but this was a use variance. He added with a 100x100 lot and a 3,000 sf house there would be same layout of square footage and the ratio to impervious coverage.

The Board Attorney asked the distance from the dumpster to the Madison Avenue curb. Mr. Burns said 177'.

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

Gail Ablamsky, 557 Mabie Street, questioned the parking spaces by the dumpster area. Mr. Burns said there was a parking area and there was a striped area for no parking. Ms. Ablamsky had a concern that a truck could back into a car parked by the dumpster area. Mr. Alampì said the turning template had all cars in all spaces.

Terence McMackin, 400 Madison Avenue, asked if there were any plans to drive any pilings or sheathing to prevent any erosion going into the wetlands. Mr. Burns said no. Mr. McMackin asked if that would be a prudent measure because there was erosion in the surrounding areas. Mr. Burns said prior to construction there would be a geotechnical report. Mr. McMackin asked for the capacity of the seepage pit that was being install. Mr. Burns said 30,000 gallons. Mr. McMackin asked if there would be any environmental issues that might happen from the runoff from the driveway or impervious coverage and asked if it would drain into the wetlands. Mr. Burns said it would seep into the ground and eventually percolate to the lowest area. Mr. McMackin had concerns with the drinking water and asked if there were any measures taken to

prevent any increased pollution to the area. Mr. Burns said the act of the water percolating to the soil and then the water is treated by United Water.

Mary Ann Milligan, 407 Madison Avenue, had questions on the snow removal on the property. Mr. Burns said there was some limited area for snow otherwise the snow would be removed from the site. The resident also asked about a proposed sidewalk in front of the building and the school. Mr. Burns said that was requested by the county. Ms. Milligan had safety concerns for children crossing the street and how the land would handle the multi dwelling building.

Gene Murray, 425 Madison Avenue, asked if the 177' distance from the dumpster was from the front of the pad or the back. Mr. Burns answered front. Mr. Murray asked what it would be from the back of the pad. Mr. Burns said 29.7' to the rear of the wall. Mr. Murray said the northeast corner of the new pad abuts the wetlands and asked how close was the pad in the previous drawing. Mr. Burns said about 20'. Mr. Murray commented that 20' further back was 20' closer to the adjacent playground. Mr. Burns said there would be a screen. Mr. Murray asked if they were exposing the wetlands to greater exposure to road salts and oils from plows pushing snow back. Mr. Burns said in the limited area there could be a little bit of snow melt to the wetlands but for a larger storm it would be removed from the site. Mr. Murray asked if he thought a snow removal company would be required on site after any major snow to pick up instead of plowing. Mr. Burns assumed other apartments had the same issues. Mr. Murray noted they were not next to the wetlands. Mr. Murray asked if the new pad was 18-20' square. Mr. Burns agreed. Mr. Murray asked how many garbage bins it would hold. Mr. Burns believed two dumpsters and two pickups a week. Mr. Murray did not think that would support New Milford recycling requirements. Mr. Burns said if they needed three dumpsters they would provide it. Mr. Murray asked if the location of the pad was for front-loading garbage trucks. Mr. Burns said they could have rear-loading trucks. Mr. Murray had questions on the turning radius that was required. Mr. Burns said if the Board Engineer wanted they could provide copies of it. Mr. Murray said they took the problem off Madison Avenue and now introduced the same danger of trucks to the site. Mr. Burns did not know what else they could do because they took the problem off Madison Avenue and provided onsite turn around. Mr. Murray said maybe the site wasn't particularly suited for the development. Mr. Murray asked if there was any way to enforce the activity of the trucks. Mr. Burns said they would be fined if they did not abide by the restrictions placed by the Board for onsite turn around. Mr. Murray was concerned that would happen after some bodily injury to someone residing there. Mr. Murray felt there was no way to enforce this until something happened and thought this was not a good plan on paper. Mr. Burns did not agree.

Paul Noonan, 465 Graphic Boulevard, asked if the building would be fully sprinkled including the garage. Mr. Burns said yes. Mr. Noonan asked if there would be a one or two fire divisions or one common roof. Mr. Dattoli said this did not require a firewall and the building would be in complete compliance with the NJ Uniform Construction Code. Mr. Noonan questioned the rear elevation and asked what the distance was from the sill to the ground. Mr. Dattoli said 22'.

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

The Chairman asked for a motion to open to the public for comments.

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

Terence McMackin, 400 Madison Avenue, asked if he could show photos. Mr. Alampi objected to putting in new evidence after the case was closed.

The Board Attorney said if the objectors want to present their case now was the time to do it and if they had evidence to present they were free to do that. Mr. Alampi said if they want to put on a case they need to request it and then this was not public comment. He suggested they adjourn the case and give the public their opportunity.

The Board Attorney asked for a motion to close public comment.

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

The Chairman said the public wanted to present evidence and Mr. Alampi would have an opportunity to cross-examine. The application would be carried to June 10, 2014.

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

Respectfully submitted,
Maureen Oppelaar