



**NEW MILFORD PLANNING BOARD  
COMBINED SESSION  
April 26, 2011**

**Motion by:**

**Seconded by:**

Vice Chairwoman Grant called the Work Session of the New Milford Planning Board to order at 7:30 p.m. The Chairwoman read the Open Public Meetings Act. All recited the Pledge of Allegiance. Vice Chairwoman Grant said Chairman DeCarlo was unable to attend tonight's meeting due to him being away for his job.

**ROLL CALL:**

Mayor Subrizi	Absent
Councilman Berner	Present
Vice Chairwoman Grant	Present
Mr. Castronova	Present
Mr. Pat Santino	Present
Ms. Thea Sirocchi-Hurley	Present
Ms. Carol Hudak	Present
Mr. Pecci	Present
Mr. Commerford	Absent
Mrs. Prisorndorf	Present
Chairman DeCarlo	Absent
Arthur M. Neiss, Board Attorney	Present
Margita Batistic, Board Engineer	Present

**NEW BUISNESS**

Application 11-01 United Water minor subdivision

Mr. Tom Herten from, Herten and Burnstein, Sheridan, Cevasco, Bottinelli, Litt & Harz with offices located in Hackensack said he wanted to give a preliminary explanation of the plans that the Board Members received with regard to the minor subdivision on Block 1309 Lot 1, known as the United Water property. He said this was a minor subdivision with no variances. Mr. Herten said when they proposed this subdivision last year the Zoning Officer suggested if we would consider treating this application as a public hearing and to notice and publish for the meeting due to the nature of the property and its prominence to the community. Mr. Herten agreed and that is why they were handling

this minor subdivision as a public hearing, he said he would notice all the neighbors within 200' and the public hearing is scheduled for May 17, 2011.

Mr. Herten said the property lies between, River Road, Main Street, Madison Avenue and John D. Cecchino Drive. He said, the property was formally used as sludge lagoons and had a residual area for the byproduct of the filtration system first from Oradell, then the property was later abandoned and the infiltration system was moved to Haworth. He said the sediment was brought to New Milford to dry then blended and removed from the site. The remediation procedure has been approved by the NJ Department of Environmental Protection. He said there is a no further action filed with the State and will be filed with the County. He said there is letter of interpretation from the NJDEP indicating that there would be no wetlands on proposed lot 1.02, and there are some wetlands along the Hackensack River on proposed lot 1.01.

Mr. Herten said the proposed subdivision line has been established by a sewer easement that has been there for years, which runs through the Borough of New Milford. He said historically in early 2000 when New Milford was considering this property for a potential site to accommodate senior housing, they were to come to the Planning Board for a minor administrative subdivision at that time, but for whatever reason that was never done. He said they are before the board at this time because there is a contract in place with S. Hekemian Group to purchase the property subject to a limited period of time to subdivide the property.

Mr. Herten said whether the town in exercising its rights years ago to purchase the property or, whether the developer wishing to purchase the property the subdivision line has not changed. Mr. Herten said this plan has not changed for ten years, he said this is not a development application. He said on May 17, 2011 at the public session he will advise the public who may show up wanting to ask questions regarding the development of the property, that this application is only for an administrative minor subdivision with no variances. Mr. Herten said this is a simple application it does not need Mayor and Council approval and the applicants do not need, nor seek any future planning board applications.

He said indicated on the plans are several existing buildings on the property, which were used as landscape sheds. Mr. Herten said he wanted to go on record they will have all those buildings raised prior to the application being perfected. He said due to the County Road, they do need Bergen County Planning Board approval and will be filing with them this week.

Mr. Herten explained to the board members that the County expressed their interest on parcel 1.01 to create a recreational trail; he said this is in the preliminary stages and at this time they have not gone any further, but they have indicated that proposed walkway on the plans.

In answer to Board Engineer, Mr. Herten said the letter of interpretation was with regard to storm water management where some of the property has dips and valleys, therefore the NJDEP wanted them to re-grade the property. In answer to Board Attorney, Mr. Herten said he would attend the meeting, as well as the surveyor, Peter Moore. Board Engineer questioned the application where the proposed buildings stating to remain after the proposed approval. Mr. Herten said that was an error on the application. He wanted

to be clear that the existing buildings will be removed and he would have the paperwork corrected in time for the May meeting.

Board Engineer questioned if John D. Cecchino Drive was a County Road, she seemed to remember around early 2000 the County vacating that street to the Borough. Mr. Herten said he would check with Mr. Moore and the County to see if there was any change in title. Board Engineer said she would check her file and send him anything pertaining to John D. Cecchino Drive. Planning Board Recording Secretary said she would check in the Borough Clerk files for clarification and notify Mr. Herten if she finds anything.

Board Attorney asked about the nature of the sewer easement being un-recorded. Board Engineer said in the past she checked with the DPW in which they could never find any actual evidence or recording of the sewer easement. She recalled at some point in time there was a sewer pump station, and that pump station was eliminated and there was a need to cut through this property to add to the sewer line. She said approximately fifteen years ago this was done and they never could find a record of the easement. Board Attorney asked Mr. Herten if he knew if the client would be against recording the easement. Mr. Herten couldn't imagine why the client would not want it to be recorded. Board Attorney said he would like to protect the rights of the Borough and have that easement recorded. Mr. Herten said some subdivisions get recorded by deed and not by plat which might be the reason of it not being recorded. Vice Chairwoman Grant questioned if the subdivision were to be granted on May 17<sup>th</sup> could it be recorded by plat? Mr. Herten said minor subdivisions can only be recorded by deed.

Mrs. Prisendorf wanted clarification if one of the buildings on the property were to be removed because it was not listed on the plan as to be demolished. Mr. Herten answered that all existing structures would be raised, and that structure she pointed out was an error not to be marked. Ms. Sirocchi-Hurley asked if one of the buildings at one time was used as a garage for trucks. Mr. Herten said he was unaware but they will all be removed. Councilman Berner asked if the macadam parking area was going to be removed. Mr. Herten said he thought that would remain but he will make sure before the next meeting. In answer to Ms. Hudak, Board Engineer showed her the location of the proposed recreational trail. In answer to Ms. Hudak, Mr. Herten said as part of the storm water management plan they were required to berm some of the property around the bank in the river to an elevation of approximately seventeen (17') feet with it being five to six (5'-6') feet wide. After reviewing the NJDEP requirements for United Water, the County suggested berming a little bit wider for a future recreational walking trail. He said whether or not the County wants it or, it would be a proposed County future project, he said his client agreed to widen the width to approximately twelve (12') feet wide. In answer to Ms. Hudak, Mr. Herten said that would be adequate for a walking trail.

Mr. Herten thanked the Board for their time. He asked Vice Chairwoman Grant if he needed new plans for the corrections they discussed at the meeting. Vice Chairwoman Grant said she would prefer all the changes to be on new plans so as to be clear, because there were new members on the board this year. Mr. Herten said he would have the revised plans delivered to the Board Secretary before the deadline. Vice Chairwoman Grant and the Board Members thanked Mr. Herten for his explanation of the application.

## **DEFINITION OF BUILDING AND IMPERVIOUS COVERAGE**

Vice Chairwoman Grant said the Planning Board has been working on updating some of the existing archaic codes. She asked Board Engineer to explain the definition she prepared for the Board intended for decks and patios. Board Engineer said at the suggestion of the Board she was asked to clarify a patio from a deck, she felt a good way to distinguish between decks and patios is to make a clearer distinction with steps and height. Board Engineer said she prepared a few definitions in order to reduce any confusion. She felt using the word improved lot coverage instead of impervious lot coverage would be more beneficial because there are some pavers that are considered to be pervious and this would eliminate a result of covering a whole lot with a pervious material. She said if it is the pleasure of the board to leave the definition of impervious coverage, she recommended defining what material would be considered impervious. Vice Chairwoman Grant said she felt improved lot coverage was a broader definition and would allow more leeway in defining coverage. Board Attorney agreed with Board Engineer in using the term impervious lot coverage. He felt someone could get around using a different material, therefore being allowed to cover forty percent (40%) of their lot with this material. Board Attorney said using the concept of improved lot coverage would be a more modern approach.

Vice Chairwoman Grant said she would like to see the word “deck” defined such as the word “patio” which had a separate definition which included a definition of deck. She said as it is proposed now under the definition of “deck” it states see structures and patios. She said there is not a subsection titled structures and patios. She recommended making two separate definitions one for deck and one for patio. Vice Chairwoman Grant said she was concerned structure could be loosely interpreted to be maybe a shed, or a building. She also had concerns of what had to be 12” more or less. She was unclear if the top had to be 12” more or less or the bottom had to be.

She suggested one of the possibilities was to change the definition of deck to state a roofless structure the minimum height of which is twelve (12”) inches above the finished grade measured at any point of the structure. She said the definition for patio could then be a roofless structure that maximum height of which is no more than twelve (12”) inches higher than finished grade measured at any point of the structure. Secretary Castronova said he would like it to be less than twelve (12”) inches high, he felt it should be a maximum of six (6”) inches high because you could fall off patio twelve (12”) inches high. Board Engineer said this definition has nothing to do with safety factors; the International Construction Code takes care of that. She said the board recommended that to clarify a raised patio from a deck. She said at last month’s meeting the board members suggested twelve (12”) inches because you have to allow for sloping of some backyards. Vice Chairwoman Grant thanked Board Engineer for her definition recommendations to the Board Members.

## **DEFINITION OF FAMILY**

Vice Chairwoman Grant said at the last month’s meeting the she suggested updating the antiquated definition of family. She said she looked at a variety of definitions from different boroughs, she suggested the definition be changed to “*one or more persons whose relationship is of a permanent, stable and domestic character living together in a dwelling unit as a bona fide single, nonprofit housekeeping unit*”. She said this would

cover not allowing boarding houses, renting of rooms, and any type of sorority or fraternity type of use. Mr. Santino wondered how that could be enforced. Vice Chairwoman Grant same type of enforcement that is in place now. Councilman Berner suggested definitions of specific relationships. He said that sometimes there is a family who are living with certain families and which would create a burden on our schools. Vice Chairwoman Grant felt that in these days that could get very complicated. Mrs. Prisdorf asked if that's why she is suggesting removing the words through blood and marriage because of the complexity of today's relationships. Ms. Grant said yes. In answer to Councilman Berner, Ms. Grant said she felt this definition didn't have anything to do with burden on the schools it was a definition of family in terms to disallow boarding houses, group homes, and renting.

In answer to Mr. Pecci, Board Attorney said the word bona fide is not a legal term, it generally means *gives credence to*. He said it would help guide a court rather than using it as a definition. The Zoning Officer asked if this definition would prohibit renting of rooms in a house, which seems to be a current problem in New Milford. Board Attorney said this is a troublesome area as some children contribute towards living with their parents when they reach a certain age. However, he felt having a more updated definition, because some crafty attorney is going to go through our ordinances and say to a Judge that New Milford still has antiquated notions of a definition with regard to family among other ordinances.

Ms. Hudak said she read how towns like Leonia and Palisades Park are performing raid type situations finding numerous non related people living together in a stable and domestic character living together in a dwelling; she wondered if we could recommend how many people could safely live in a home. Board Attorney said this definition of family is more for zoning issues and what Ms. Hudak is talking about is more of a police type of ordinance to prohibit how many people can live under one roof. He said it was beyond our jurisdiction to legislate or recommend to the Mayor and Council. The Zoning Officer said she believed the current Boarding House ordinance which is listed under the jurisdiction of the Board of Health would cover Ms. Hudak's concerns. Vice Chairwoman Grant thanked everyone for their input and asked that the definitions be put on next month's agenda.

### **DEFINITION OF HOME/ PROFESSIONAL OFFICE**

Vice Chairwoman Grant said she also worked on updating the definition of home or professional office ordinance. She said our current ordinance only lists a very short definition which states only a few professions. She felt it was very limited and out of date. She said she drafted something new, she said not only does it talk about what types of professions, but also how many people can come, how much of the house should be used, among other issues such as people and animals being kept overnight.

Vice Chairwoman Grant said she suggested any comments because this definition was a rough draft and this was the first time the members were reading it. Mr. Pecci had a questioned if a chiropractor would be in conformance because sometimes they sell on-site things from their office, and selling items seemed to be prohibited. Mr. Castronova said chiropractors are an approved profession. Ms. Grant said she was thinking along the terms of not allowing selling goods such as a store, dress shop or selling auto parts.

Councilman Berner questioned if a piano teacher would be allowed, Ms. Grant felt the sentence stating others may be permitted to have a home or professional office so long as the requirements stated below are met. She assumed they would also have to comply with the noise ordinance and not teach after 10pm or before 7am.

Board Attorney had a question with regard if a person wanted to add a door or larger window and he was concerned they would not be allowed to. Ms. Sirrochi-Hurly said current ordinance allows a garage to be converted into a home office. Vice Chairwoman Grant said this ordinance would allow that to happen as long as they are in conformance with keeping the profession within the principal building.

Mrs. Prisendorf questioned the repetitious nature of the no overnight animals being used twice. Ms. Grant agreed and said she would correct that. Mr. Castronova did not like the limit of 25%. She asked if he wanted to allow more than 25% of the house being dedicated to a home profession. Mr. Pecci said there is a veterinarian on New Bridge Road in Bergenfield that utilizes his whole house as his profession. He said according to this ordinance could they argue they were a doctor and is it prohibited because of the animal issues? Ms. Grant said she felt they could argue but it would not be allowed because of the animal issues. Mr. Castronova said he wouldn't want a whole house dedicated to a professional use. Mr. Santino was concerned that if that huge house on Ridge Street would utilize 25% for a profession it would be a lot of space. Ms. Grant said they would not be allowed to have workers and parking would be restricted. Vice Chairwoman Grant said this was just a draft proposal and she would like to discuss it more at length the next meeting.

As there was no further business, a **Motion** to adjourn was offered by Secretary Castronova, seconded by Ms. Hudak Berner and carried by all. Vice Chairwoman Grant said the next Planning Board meeting would be a public session on May 17, 2011.

Respectfully submitted,



Maria Sapuppo  
Planning Board Recording Secretary