

**New Milford Zoning Board of Adjustment  
Work Session  
November 14, 2017**

Chairman Schaffenberger called the Work Meeting Session of the New Milford Zoning Board of Adjustment to order at 7:35 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Adelong	Present
Mr. Denis	Present
Mr. Joseph	Present
Ms. Hittel	Present
Mr. Loonam	Absent
Mr. Rebsch	Present
Mr. Stokes	Absent
Mr. Weisbrot	Present
Mr. Schaffenberger- Chairman	Present
Ms. Batistic - Engineer	Present
Mr. Sproviero - Attorney	Present

**REVIEW MINUTES OF THE WORK SESSION – October 10, 2017**

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

**REVIEW MINUTES OF THE PUBLIC SESSION – October 10, 2017**

The Board Members reviewed the minutes and there were no changes

**RESOLUTION**

**17-12- 294 Ridge Street – Block 405 Lot 28.02-Pruzansky**

**Addition -Front yard setback**

The members reviewed the resolution and there were no changes.

**NEW BUSINESS**

**17-11 – 259 Voorhis Avenue – Block 1001 Lot 7 – Lomolino**

**Addition -Building coverage**

The Board Attorney asked the Board Engineer if she had any concerns with the building coverage calculations. Ms. Batistic answered yes. Her calculations were that the total new building coverage was 2,700 sf because they did not take into account the slight reduction of the deck. Ms. Batistic said the plans indicate that the existing deck is 578 sf under proposed conditions. She thought it would be covered with some of the new construction. The Board Attorney clarified that it still implicates variance relief. Ms. Batistic said yes because the existing house is non-conforming. The house is already 2,579 sf which is over the requirement. The net increase is 168 sf and the proposed building coverage is 25.4%, said the board engineer. Mr. Weisbrot asked was the existing and what was the proposed. Ms. Batistic stated that the existing was 2,579 sf and the proposed was 2,700 sf and the building is 1,948 sf. Ms. Batistic said 18% was required proposing 25.4% and it is currently 23.8%. Mr. Weisbrot asked if this was the only variance requested. Ms. Batistic said they were not asking for a front yard setback

variance but she thought there needs to be a variance for the front yard setback. Ms. Batistic said they have an existing driveway 19x24 proposing 24x24 and the ordinance allowed 20'. The existing curb cut is 23.4 and proposing 24. They would need a variance for the width of the driveway, said Ms. Batistic. The Board Attorney clarified there was building coverage, front yard setback and driveway width. The Board Attorney asked if any of the side yards were implicated. Ms. Batistic said no.

**17-13 – 1124 Sheridan Street – Mirkhani – Block 202 Lot 35 –  
Addition – building coverage**

The Chairman thought the plans had the garage underground. Ms. Batistic thought they were bumping out a little in the front which was not encroaching into the front yard. The Board Attorney said they were currently non-conforming as to building coverage. They were currently at 26.5 and proposing 26.8.

Mr. Weisbrot recused himself from this application because he is the attorney for the applicant but not in connection to the application.

The Chairman told the board members to review the 2018 schedule of meeting and it would be voted on in December. There was a holiday in September but the Board Members agreed to leave it and address it at that time.

The Board Attorney said there was discussion last year to solicit RFQs for the borough engineer. He explained the borough engineer is still under contract until the end of 2018 so it would not take place this year.

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

**New Milford Zoning Board of Adjustment  
Public Session  
November 14, 2017**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 7:54 pm and read the Open Public Meeting Act.

The Chairman paused the meeting to acknowledge the passing of Joe Loonam's son, A.J. He followed his remarks and remembrances by asking the Board Members and all in attendance to join him in a moment of silence.

**ROLL CALL**

Mr. Adelung	Present
Mr. Denis	Present
Mr. Joseph	Present
Ms. Hittel	Present
Mr. Loonam	Absent
Mr. Rebsch	Present
Mr. Stokes- Vice Chairman	Absent
Mr. Weisbrot	Present
Mr. Schaffenberger-Chairman	Present
Ms. Batistic – Engineer	Present
Mr. Sproviero - Attorney	Present

**PLEDGE OF ALLEGIANCE**

**OFFICIAL MINUTES OF THE WORK SESSION – October 10, 2017**

Motion to accept the minutes was made by Ms. Hittel, seconded by Mr. Rebsch and carried by all.

**OFFICIAL MINUTES OF THE PUBLIC SESSION – October 10, 2017**

Motion to accept the minutes was made by Ms. Hittel, seconded by Mr. Rebsch and carried by all.

**RESOLUTION TO BE MEMORIALIZED**

**17-12- 294 Ridge Street – Block 405 Lot 28.02-Pruzansky**

**Addition -Front yard setback**

**Motion** passed by Ms. Hittel, seconded by Mr. Rebsch to memorialize the resolution.

The motion passed on a roll call vote as follows:

For the Motion: Members Hittel, Rebsch, Adelung, Weisbrot, Schaffenberger

## NEW BUSINESS

### **17-11 – 259 Voorhis Avenue – Block 1001 Lot 7 – Lomolino**

#### **Addition -Building coverage**

Mr. Jason Ryglicki, 9060 Palisade Ave, North Bergen, NJ, attorney on behalf of the Mr. and Mrs. Lomolino at 259 Voorhis, stated they were before the board for the construction of a two story addition to an existing one family house. Mr. Ryglicki said on the zoning sheet they originally calculated the proposed addition to be almost 1,000 sf . He noted after recalculation, they came to the same conclusion as the board engineer that the increase of the existing footprint was 168 sf as opposed to the nearly 1,000 sf previously calculated. Mr. Ryglicki said the proposal has not changed just the calculation. The attorney said they were requesting relief from section 70 C(1)c and C(2) of the MLUL. He stated the property was approximately 10,820 sf. The house currently has two bedrooms and they are planning on adding another bedroom and enlarge the family room.

Mr. Miquel Armijos, Moore Associates, 42 W 65<sup>th</sup> St, NY gave his qualifications. Mr. Ryglicki asked to move Mr. Armijos as an expert in Engineering. The Chairman asked Mr. Armijos if he was licensed in both New York and New Jersey. Mr. Armijos was only licensed in New York but there were people in his office licensed in NJ. The Chairman questioned if he could testify without a NJ license. The Board Attorney said the design plans were drawn by a licensed engineer in the state of NJ and he was familiar with the design plans and relief sought by the application. Ms. Batistic noted that the proposed design plans had no engineering but they are architectural plans. Mr. Ryglicki said the plans were prepared by his consulting firm and his testimony would be towards the dimensions of the property and proposed changes. It would include some engineering questions related to why they were doing certain things. The Board Attorney said they would reserve decision on the expert's credentials and they would hear the testimony and make sure that everything the board is hearing does not impact on engineering services but rather the architectural layout and the calculations and the depth of the variance application necessary. If the board is satisfied that there isn't any encroachment into the specialty of engineering as it relates to NJ law, we could retroactively confirm his expert status.

Mr. Armijos said the lot size was 100' wide x 108.2' deep. The existing house was 2,579 sf. Mr. Ryglicki confirmed that was inclusive of the deck. Mr. Armijos agreed. He noted that all towns have different forms so it is confusing and that was why there were errors in the calculations submitted. Mr. Armijos stated the applicant wants to expand on their two bedroom house. He said the original intent was to add a level on the home but the foundation would not allow for it. They are proposing to knock down the existing one story addition and built upon that and go up. He noted that the square footage goes up by 168 sf.

Mr. Ryglicki submitted exhibit A-1 revised worksheet  
A-2 plans

Mr. Ryglicki asked if the proposed addition would change the character of the home. Mr. Armijos said it would remain the same and would have the same style. The attorney asked where

the cars park on the property. Mr. Armijos said there is an existing two car garage which will be demolished.

Mr. Armijos said the covered porch is at 18.6' and the new addition would align with the main part of the house which is setback at 24.8'. Mr. Ryglicki asked if there were currently any parts that protrude further than 24.8'. Mr. Armijos said there was one little piece in the addition that is at 21.9'. Mr. Ryglicki stated that would be moved back and would be increasing the front yard setback.

Mr. Armijos said on the second floor there would be two bedrooms and two bathrooms with a total of four bedrooms and two bathrooms. Mr. Armijos said the footprint would expand by 168 sf. The Chairman asked if there was a side yard variance implicated with the addition. Mr. Ryglicki said no.

The Board Attorney asked if there was any testimony regarding the front yard setback and the need for variance relief and the driveway width. Mr. Ryglicki said they did not need a front yard setback variance because they were pushing back the existing building. The board attorney said even if you are pushing it back it remains a non-conforming front yard setback. Mr. Ryglicki said the current average was less than 18.6 and the required front yard setback was 18.6'. Ms. Batistic asked if the average was within 200'. Mr. Ryglicki said yes. Ms. Batistic asked where the calculations states the average. The attorney said it was shown on the survey. Ms. Batistic said the survey only shows your property and the ordinance says the required setback is the average with 200' of each survey. Mr. Armijos said they could provide it. The attorney said this is a preexisting non-conforming condition. Mr. Armijos agreed.

The Board Attorney said his concern was what the baseline is. Mr. Sproviero asked how he would express the nature of the relief granted if the board was so inclined to grant it. Ms. Batistic said they do not have the calculation. The board attorney said his surveyor or engineer must determine the setbacks.

Mr. Adelung had no problem hearing the application but the applicant would have to come back with the calculations.

Ms. Batistic said 18.6 is at the portion of the building that is not being changed. The other section of the building that currently has 29.9' is being pushed back to be in the same line of the existing 24.8'. Ms. Hittel asked why they need a variance on something that would not change. The Board Attorney said it was a preexisting non-conforming use and by changing it they open themselves to complying with the standards in the ordinance.

The Chairman asked if the existing house and garage were being knocked down. Mr. Ryglicki said the one story addition was being knocked down. He clarified that once it is knocked down it is no longer preexisting.

Mr. Denis asked if this was being demolished and two bedrooms would be over the garage. Mr. Ryglicki agreed. The Chairman asked if the place between the existing house and the garage was

being knocked down. Mr. Ryglicki said the whole one story addition is being knocked down. The Chairman noted that once it is knocked down, it is no longer preexisting.

Mr. Adelung asked if the 18.6 setback of the addition portion did not effect this if they knock it down because the addition was behind the 18.6'. The Board Attorney said if the application was approved what is being proposed presents a less intense deviation from the standard if the deviation from the standard currently exists. The Chairman said which they do not know.

Ms. Batistic said the 18.6' was the setback to the front porch that was not being touched and the 24.9' could still be non-conforming but looking at the survey the neighbor appears to also be 24.9'.

Mr. Adelung thought the Board should hear the application but not vote on it until the Board has the correct information and the worksheet for the front yard setback.

Mr. Weisbrot asked for the existing and proposed square footage. Mr. Ryglicki said the total existing including the deck is 2,579 sf and proposed 2,700 sf. Mr. Weisbrot said it does appear that the applicant needs a variance but his concern was that he was not impressed with the information presented. He has never seen before that the Board Engineer had to point out multiple issues in terms of measurements and calculations. Mr. Weisbrot agreed with Mr. Adelung that there should be a worksheet that is accurate and the information should be accurate. Mr. Weisbrot said he was willing to vote now but had a problem with the manner this has been presented to the board. He felt the Board should ask applicants to adhere to accuracy and full disclosure so the board could make an accurate decision. Mr. Weisbrot also felt the applicant should come back with accurate information.

The Board Attorney agreed and said the relief being sought was not complicated or drastic but for the board to make the determination they need the facts and circumstances that predicate the relief requested.

The Chairman asked Mr. Ryglicki if he would agree to that request. Mr. Ryglicki has no problem with coming back.

The Board Attorney asked if he would like to address the driveway now. Mr. Armijos indicated where the driveway was located on the plan. The driveway would start 10.75' from the side setback. The current driveway is a mix of concrete and grass and the proposed driveway would be pavers that would be the width of the driveway door. The Board Attorney asked what was his testimony for why they need 24+' as opposed to the 20' that was imposed by the ordinance. Mr. Armijos said they could reduce it. Mr. Ryglicki had no objection to reducing the driveway width to 20'.

The Chairman clarified that the applicant was agreeable to coming back in December with the correct information. Mr. Ryglicki agreed and added the worksheet was a bit confusing. Mr. Ryglicki said he would not be obligated to renotice. Mr. Sproviero agreed and announced this application would be carried to December 12, 2017 immediately following the conclusion of the 7:30 work session. Mr. Sproviero said the board needs their consent to permit this board to

decide the application beyond the 150 day period. Mr. Ryglicki has no problem to consent to waive it.

**17-13- 1124 Sheridan Street – Block 202 Lot 35 - Mirkhani  
Addition –Building Coverage**

Mr. Weisbrot recused himself from the application because he has a professional relationship with the applicant.

Mr. Andrew Kohut, Wells, Jaworski & Liebman, Paramus, NJ, on behalf of Ms. Cindie Mirkhani, stated the applicant was proposing a minor addition.

Mr. Kohut marked as Exhibit A-1- plan

The attorney showed on the plans the renovations on the first floor and they were also proposing to make the garage below grade. The applicant was proposing a 24 sf addition at the front of the first floor to even put the facade of the building. Mr. Kohut said the applicant was proposing to replace the existing driveway, add retaining walls and steps to compensate for the below grade garage. The variance requested is for building coverage 26.5% existing 26.8% proposed. The attorney said this was a C2 variance for the purposes of zoning for a desirable visual environment. Mr. Kohut said being that the addition was only 24 sf, it would not be a substantial detriment to the public good nor a substantial impairment to the zoning ordinance. Mr. Kohut stated they were not creating a new setback. The setback already exists and they were just aligning it. They were not requesting a front yard setback. The impervious coverage is only 36.3% where 40 % is permitted.

The Chairman asked how the house got to 26.5%. Mr. Kohut did not know. He stated the applicant bought the property 10 years ago from the builder and she never did any work that required board approval.

Ms. Cindie Mirkhani, 1124 Sheridan Street, was sworn in by the board attorney.

Mr. Kohut asked the applicant is the lot was 8,826 sf. with an existing single family home. Ms. Mirkhani answered yes and she has lived at this address for a little over 10 years. Mr. Kohut asked what currently exists on their first floor. The applicant said a living room, family room, kitchen, dining room, bathroom and garage. To extend the dining room, Ms. Mirkhani explained they will need to put her existing garage under her house. The existing garage on the main floor level would be used to push out her dining room and have a study.

Mr. Kohut said the applicant was also proposing a 25 sf addition along the front of the home. Ms. Mirkhani said yes so it will align with the house. Mr. Kohut asked if she thought aesthetically it would look better aligned with the house. Ms. Mirkhani said yes. Mr. Kohut asked the applicant if she thought it would impact the neighbors. Ms. Mirkhani did not. Mr. Kohut said the driveway, steps and retaining walls did not trigger any variances. The homeowner agreed. Mr. Kohut clarified that the current building coverage was 26.5% permitted 20% proposed 26.8% with a .3% increase Ms. Mirkhani agreed. Mr. Kohut asked if she was proposing

to bring the house any closer to the front yard that currently exists. Ms. Mirkhani said no she was aligning the current structure.

Ms. Mirkhani told the board how much she loved the area and wanted to stay at this house forever and was looking to make it more livable for her future and for her family.

The Chairman and the Board Attorney had questions on the front extension and asked for the dimensions on how much the addition comes forward to align with the house. Ms. Batistic said one foot 4 inches.

Ms. Hittel had a question on the garage being lowered and what would happen to the water going down the driveway towards the garage door. Ms. Batistic said it is addressed on their plans. Mr. Kohut noted his architect said a major soil movement permit would not be required so there is no approval needed from this board.

The Board Attorney said on the applicant's zoning work sheet three variances were indicated: front yard setback, rear yard setback and height. Mr. Kohut said that was incorrect the only variance needed is for building coverage. The Board Attorney asked if the other three elements were preexisting non-conforming. Mr. Kohut said the front yard setback is 29.6' but the addition complies and is not part of that 29.6' number. He added that nothing that they are proposing impacts either of those setbacks.

Motion to open to the public to ask questions of the witness was made by Mr. Rebsch, seconded by Ms. Hittel and carried by all.

Ms. Debbie Siclari, 353 Vomel Drive, lived behind the applicant and was concerned about the water. Ms. Mirkhani said they were putting in drainage. Ms. Siclari said there were brooks running beneath in that area and was concerned about water. Ms. Batistic said this application did not require any additional seepage pit because they were not increasing impervious area that would trigger that requirement. Ms. Batistic said there was discussion previously regarding the driveway and water where she mentioned on the plans there is a provision that water would be connected to the existing seepage pit. The resident said her sole concern was water. The Board Attorney said the amount of run off is determined on the basis of the impervious area on the property not necessarily the slope of the driveway. Ms. Batistic agreed. The Chairman clarified by code that the water must be self-contained. Ms. Batistic agreed.

Motion to close to the public was made by Mr. Denis seconded by Ms. Hittel and carried by all.

Mr. Kohut stated that there were no further witnesses and he respectfully requested that the Board approve the application as submitted.

The Board Attorney clarified that there were no engineering conditions by way as a review letter to incorporate as conditions. Ms. Batistic agreed.

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



No one wished to speak from the audience.

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

Mr. Kohut appreciated the board's time and respectfully requested the board to approve the application as submitted.

Mr. Denis made a motion to approve the application as submitted, seconded by Mr. Adelung.

The motion passed on a roll call vote as follows:

For the Motion: Members Denis, Adelung, Rebsch, Joseph, Hittel, Schaffenberger

Approved 6-0

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

Respectfully submitted,  
Maureen Oppelaar