

**New Milford Zoning Board of Adjustment
Work Session
October 10, 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. Adelung	Present
Mr. Denis	Absent
Mr. Joseph	Absent
Ms. Hittel	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes	Present
Mr. Weisbrot	Present
Mr. Schaffenberger- Chairman	Present
Ms. Batistic - Engineer	Present
Mr. Sproviero - Attorney	Present

REVIEW MINUTES OF THE WORK SESSION – September 12, 2017

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

REVIEW MINUTES OF THE PUBLIC SESSION – September 12, 2017

The Board Members reviewed the minutes and there were no changes

RESOLUTION

17-10-313 Lacey – Block 1609 Lot 13 – Bergmann

Addition -Building coverage

The members reviewed the resolution and there were no changes.

NEW BUSINESS

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

Addition -Front yard setback

The members reviewed the applications. The Chairman noted they received a letter from Boswell Engineering dated 10/10/17.

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 applicant from 259 Voorhis, stated there was an issue with the notice and they would need to renotice for the next meeting. The Chairman said the next meeting would be November 14th at 7:30 pm.

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
October 10 2017**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 7:45 pm and read the Open Public Meeting Act.

ROLL CALL

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

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION – September 12, 2017

Motion to accept the minutes was made by Mr. Stokes, seconded by Mr. Loonam and carried by all.

OFFICIAL MINUTES OF THE PUBLIC SESSION – September 12, 2017

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

RESOLUTION TO BE MEMORIALIZED

17-10-313 Lacey – Block 1609 Lot 13 – Bergmann

Addition -Building coverage

Motion passed by Mr. Loonam, seconded by Mr. Rebsch to memorialize the resolution.

The motion passed on a roll call vote as follows:

For the Motion: Members Loonam, Rebsch, Stokes, Hittel, 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 there was an issue with the notice and they were requesting to renote for the next meeting on November 14th. The Chairman and Board Attorney agreed to the request. Mr. Sproviero stated they would have to renote. The Chairman stated they would carry the application to November 14th.

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

Addition -Front yard setback

Mr. Andrew Kohut, Wells, Jaworski & Liebman, Paramus, NJ, on behalf of Michelle and Jason Pruzansky at 294 Ridge Street stated this application was to construct a new single family house. The application was fully compliant with the exception of a front yard setback of 13. 5' from Ridge Court to the bay window. The building will be 16' from the property line which will be designated the front yard because it is a corner lot. The exterior side yard would be the portion of the building that faces Ridge Street. The attorney noted that no other variances were required. They were fully conforming to lot size. The applicant has 61,165 sf were 7,500 sf was required, building coverage is 5.38% were 18% was permitted, impervious coverage is 7.09% where 58% was permitted.

Mr. Kohut explained the proposed front yard setback was the same setback of the current single family home. He stated there will be testimony about how the property is uniquely shaped and it has significant environmental constraints.

The attorney explained Mr. and Mrs. Pruzansky have three children and were hopefully expanding their family. At some time, the homeowners would like to have the parents live with them. He added the proposed home would fit in the community and would also accommodate their needs.

The Chairman asked if they were turning the house. Mr. Kohut believed the front yard would be were the current side yard was. The Board Attorney said there were additional forms of relief required. Mr. Sproviero clarified that they were asking for a soil movement permit. Mr. Kohut agreed. Mr. Sproviero stated when the Zoning Board has jurisdiction over the variance relief element of the application, the board also has jurisdiction with respect to the issuance of the soil movement permit. The Chairman noted that the application was seeking NJDEP flood hazard area permits and questioned if a variance could be granted before receiving approval for that permit. Mr. Kohut said in the Boswell Engineering letter, it listed the permits that shall be obtained for the project. The attorney said if the board approved the application, they would stipulate that the applicant would meet those conditions.

Mr. John Musinski, 215 Mahwah Road, Mahwah NJ was sworn in the by the Board Attorney.

The Board Members accepted the qualifications of Mr. Musinski as an expert in architecture.

Mr. Kohut marked as exhibit A-1 collectively– Plans of first floor, second floor, basement and second sheet elevations dated 7/14/17.

Mr. Musinski stated that the proposed structure was approximately 4,000 sf. It was a two story home with an unfinished full basement. He discussed the layout of the rooms for the first and second floor. The attic would be used for mechanicals. Mr. Musinski stated the exterior of the house had a hip roof, cedar shakes, asphalt shingles and stone accents. The architect stated the house faces Ridge Court. Mr. Kohut added that Ridge Street is where the garages would face. Mr. Kohut asked what his opinion was on the size of the house compared to the homes in the area. Mr. Musinski said some of the newer homes were larger and there were also smaller homes. Mr. Kohut asked if this was out of character for the neighborhood. Mr. Musinski said no and they don't usually build less than 4,000 sf homes in new construction.

The Chairman asked what the square footage of the lot was. Mr. Kohut answered 61,165 sf. The Chairman asked what the square footage of the existing house was. Mr. Kohut answered that the footprint was approximately 1,300 sf. The Chairman asked for the footprint of the proposed house. Mr. Musinski answered the footprint of the proposed home was 2,702 sf. The Chairman asked why the house was turned 45 degrees. Mr. Musinski said architecturally, it would have a better floor plan and stated there were wetlands. The Chairman asked if the dotted area on the plans was the wetlands. Mr. Musinski believed it was the buildable line.

Motion to open to the public to question the witness was made by Mr. Loonam, seconded by Mr. Stokes and carried by all.

No one wished to speak from the audience.

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

Mr. Adelung asked what the lot of this property on the map was. Mr. Musinski said there were three lots consolidated into lot 29.01.

Mr. Michael Hubschman, 263 S. Washington Avenue, Bergenfield, NJ was sworn in by the Board Attorney.

The Board accepted the qualifications of Mr. Hubschman as a licensed engineer.

Mr. Hubschman discussed the site plan dated 7/20/17. The engineer stated this was an irregular shaped lot with three different parcels and that these three lots were annexed together about six months ago. The existing dwelling is in the same northwesterly corner of the proposed dwelling. The site was encumbered by the French brook and wetland area. Mr. Hubschman said they have submitted to the NJDEP for a letter of interpretation and flood hazard area permits. He said they established the wetland and the transition area and made a permit to the state. He discussed the area on the property that could be developed.

Mr. Hubschman stated a structure must be 20' from the wetlands in the back (flagged A-7). It has forced the house in that buildable area which created that front yard variance, said the engineer. Those were the hardships on the property.

Mr. Adelung asked how deep the house was. Mr. Hubschman said approximately 62x48 fronting on Ridge Court with the garage coming off of Ridge Street. The engineer said they would send the drainage calculations to Ms. Batistic. He said the chamber would mitigate any run off and everything runs to the brook.

The Chairman asked if the existing foundation would be completely removed. Mr. Hubschman said yes. The Chairman asked how much closer is the building to Ridge Court than what is existing now. Mr. Hubschman said the line of the building is the same distance of 16'. Mr. Kohut said there two bay windows and a porch that extends beyond the 16'. The Chairman asked how much closer is the proposed building to Ridge Street than what exists now. Mr. Hubschman said they were proposing 30' existing 34'.

Mr. Hubschman said it was an oversized lot of 61,165 sf and 7,500 sf was required, building coverage required 18% proposed 5.38%, impervious coverage permitted 58% proposed 7.1%. Mr. Kohut said they were complying with the ordinance and not building out this lot to the extremes. Mr. Hubschman agreed. Mr. Kohut clarified that the location proposed is dictated by the shape of the property and existing environmental constraints. Mr. Hubschman agreed and said it was a classic hardship case and a C(1) variance speaks of the unique nature of the property and the physical features on the property. He added it was a unique shaped property and there were wetlands that dictated where the house was. Mr. Kohut asked if the proposed front yard setback of 13.5' from the bay window and 16' from the house was a substantial detriment to the neighboring properties. Mr. Hubschman said there were no neighbors side to side.

Mr. Hubschman said they were excavating for the basement 400 cubic yards and he did not remember the cut off number. Ms. Batistic said 200 cubic yards but not the foundation for the basement. Mr. Hubschman said than they probably do not need a soil movement permit. Ms. Batistic said they might need a minor but asked him to submit the calculations. Mr. Kohut said a minor would not need to come back to the board. Ms. Batistic agreed.

Mr. Kohut asked Mr. Hubschman if they would have any problems complying with the items 3 – 6 in the Boswell Letter dated 10/10/17. Mr. Hubschman said they had no problem.

The Chairman asked if they filed for the DEP permits. Mr. Hubschman said they did three months ago.

Mr. Weisbrot asked if the basement was unfinished. Mr. Hubschman said it was a full unfinished basement. Mr. Kohut said the attic would be uninhabitable.

Mr. Adelung asked if the back of the house to the property line was 20'. Mr. Hubschman said no the wetland line was 20'.

Ms. Hittel asked if flooding could potentially go up to the flood hazard line. Mr. Hubschman said as part of the application the state would verify it. The Chairman asked if the property ever flooded. Mr. Kohut said the applicant said the sellers stated they never had flooding at the property.

The Board Attorney understood that the law stated that there could be no development outside the flood hazard line. Mr. Hubschman said not exactly. Within the flood hazard line, the engineer said certain permits could be obtained but the applicant was not proposing anything within the flood hazard line. The Board Attorney said without those additional state approvals, the applicant could not build a deck off the rear. Mr. Hubschman said their permit would allow them to build only a house and drainage. The Board Attorney questioned that they could not build a pool in the back. Mr. Hubschman said that would be a separate permit and there was a little room on the side. The Chairman clarified that they would not be able to build a second story deck that extended over that area. Mr. Hubschman said they could not.

Motion to open to the public to question the witness was made by Mr. Loonam, seconded by Mr. Rebsch and carried by all.

No one wished to speak from the audience.

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

Mr. Kohut said the variance requested was for front yard setback 13.5' from the bay windows 16' from the building. They were requesting a hardship C(1) variance based on the unique shape of the lot and the environmental constraints. The Board has also heard testimony with regard to the negative criteria that the size of the home and the setbacks will not be a substantial detriment to the public good or the borough's zoning ordinance. Mr. Kohut appreciated the Board's time and respectfully request the board to approve the application as submitted.

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

No one wished to speak from the audience.

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

Mr. Weisbrot commented that the Board Members work very hard on a lot of complicated applications and also less complicated applications. Mr. Weisbrot thought this to be a small house on a huge property that was clearly impacted by the topography. He noted they were not having a finished basement and had an uninhabitable attic. Mr. Weisbrot stated they were seeking one variance which he felt amounted to a de minimus departure from the ordinance. Mr. Weisbrot would like to encourage more applications like this one.

Mr. Loonam agreed with Mr. Weisbrot and felt it was on the smartest and best application that he has seen in a while. Mr. Loonam felt to have a functional, modern decent size house there was no other possible way to design it. He felt the house was designed perfectly and said they clearly have a hardship. They have a huge lot and a very large portion of it was unusable. Mr. Loonam did not have a problem with any part of this application.

Motion made by Mr. Weisbrot to accept the application and grant the variance requested subject to the conditions delineated in paragraph 3-6 in the Boswell letter dated 10/10/17, seconded by Mr. Adelong.

The motion passed on a roll call vote as follows:

For the Motion: Members Weisbrot, Adelong, Loonam, Rebsch, Stokes, Hittel, Schaffenberger

Approved 7-0

The Board Attorney stated there was an additional condition that relates to compliance with any COAH fee obligation that might be triggered by this development.

Mr. Weisbrot amended his motion to include that condition.

The Chairman asked the members to please try to be punctual to the meetings.

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

Respectfully submitted,
Maureen Oppelaar