

Approved
5/9/17

**New Milford Zoning Board of Adjustment
Work Session
May 9, 2017**

Chairman Schaffenberger called the Work Meeting 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. Adelong	Present
Mr. Denis	Absent
Mr. Joseph	Present
Ms. Hittel	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes	Present
Mr. Weisbrot	Present
Mr. Schaffenberger- Chairman	Present
Ms. Batistic - Engineer	Present
Mr. Paul Grygiel	Present
Mr. Sproviero - Attorney	Present

REVIEW MINUTES OF THE WORK SESSION – April 26, 2017

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

REVIEW MINUTES OF THE PUBLIC SESSION – April 26, 2017

The Board Members reviewed the minutes and there were no changes

RESOLUTION

17-04 – 347 Vomel Drive – Mandelbaum – Block 202 Lot 39

Single Family home – side yard, front yard and lot coverage.

The board members reviewed the resolution and there were no changes.

OLD BUSINESS

17 01 Boulevard 66 Realty, LLC- 66 Boulevard – Block 1508 Lot 3

Subdivision, One family home, two family home

Use variances, maximum building coverage, maximum # of families

The Board Attorney stated that the board members have received revised site plans and landscape plan. The Chairman added there was a referral letter from the Shade tree commission and revised architectural plans.

In February, the Board attorney said that the board adopted a resolution for the annual report. He explained the report memorialized all the applications heard during the preceding year and the nature and disposition of the applications. Mr. Sproviero explained the statute provides that the

board could make recommendations based on the nature of the applications to the planning board regarding any issues that the board felt they should be examining, considering and perhaps modifying. In the February resolution, the zoning board pointed out that the majority of the applications heard during 2016 related to building coverage issues. The Board members discussed the ordinances on building and impervious coverage.

The Chairman informed the board that the applicant's planner needed to leave to attend another meeting. The Chairman stated they would continue the work session after they heard the application. The Board Attorney stated they would suspend the work session.

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**New Milford Zoning Board of Adjustment
Public Session
May 9, 2017**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 8:12 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	Present
Mr. Denis	Absent
Mr. Joseph	Present
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. Grygiel - Planner	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION – April 26, 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 – April 26, 2017

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

RESOLUTIONS TO BE MEMORIALIZED

17-04 – 347 Vomel Drive – Mandelbaum – Block 202 Lot 39

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

The motion passed on a roll call vote as follows:

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

OLD BUSINESS

17 01 Boulevard 66 Realty, LLC- 66 Boulevard – Block 1508 Lot 3

Subdivision, One family home, two family home

Use variances, maximum building coverage, maximum # of families

Mr. Carmine Alampi, attorney representing 66 Boulevard Realty, said the applicant has taken under consideration the discussion of the board and the planner's recommendation. Mr. Alampi reviewed the application and stated most of the issues with the two family dwelling is with the

coverage. Mr. Alampi said by making some adjustments to the footprint, they were able to reduce the building coverage by 2%. Mr. Alampi said they eliminated the decks and have surface patios. They updated the one family home with a two car garage. Mr. Alampi noted that the one family home was calculated at 20.2% but they have eliminated 18 sf to stay with the 20% coverage. Mr. Alampi noted that they were using pavers and patios for the walkways. The attorney stated they would not be able to maintain the pine tree but could replace it. Mr. Alampi noted that the Shade Tree Commission stated they had no problems with the plan.

Mr. Alampi marked as **Exhibit A-9- email from Shade Tree Commission.**

Mr. David Spatz, the planning consultant, remains under oath. Mr. Spatz said the primary change was reducing the two family home by eliminating the decks to eliminate the rear yard setback variance. Mr. Spatz verified that the single family home has no variances. Mr. Spatz said the Master Plan dated 4/29/14 discusses two family homes. The planner quoted "*the R-B zone, which is primarily intended to permit two-family homes, is mapped in only one location: the north side of Madison Avenue between Charles and Grove Streets. Yet two family homes exist in many other locations scattered throughout the borough, primarily in the R-A zone*". The planner said the master plan recommends to eliminate the RB zone. Mr. Spatz said by eliminating the small zone that permitted them which has the effect of not allowing new two family homes to be constructed anywhere in the borough and all existing two family homes become non conforming uses. The planner explained what they were proposing maintains an existing two family home fronting on boulevard with only one C variance for lot coverage. They were less than 500 sf over the coverage required. Mr. Spatz said in the Master Plan it speaks of any potential deviations from these regulations shall be permitted when they were due to site specific circumstances and be demonstrated that there will not be substantial detriment to the master plan and zoning ordinance. Mr. Spatz said some site specific characteristics was the subdivision of a large lot, maintaining a two family home on boulevard and constructing a single family home fronting Eagle. The site was large enough to subdivide into two conforming lots, a two family home already exists on the property and the frontage of the lot is on two streets which was unique. Boulevard is a larger roadway that links communities. The planner said with the existing development of the property, the single family homes on Eagle Avenue face the back of this existing two family home which was not attractive. Mr. Spatz said the proposed two family home and single family home was an improvement and enhancement to the properties on Eagle Avenue. The planner thought because the master plan acknowledges two family homes throughout the borough and eliminated the zone that permitted them, was an indication that there was an acceptance of two family homes where they currently exist.

Mr. Alampi asked the planner if it was his opinion that the improvement to the property by constructing new homes and having the single family home face Eagle Avenue becomes an aesthetic improvement. Mr. Spatz agreed that it was a positive benefit to the neighborhood and improving the two family home was also an improvement to the neighborhood.

The Chairman asked Mr. Spatz if he thought there was any significance in the Master Plan suggesting the town eliminate the two family zone. Mr. Spatz said it wasn't that two family homes were undesirable but he thought it did not make sense to have one zone that encompassed five lots.

The Chairman felt, by the borough eliminating the R-B zone, the borough was making an effort to get rid of it. He added by eliminating that zone, any house demolished could no longer build another 2 family homes. Mr. Spatz agreed that a two family could not be built without going to the zoning board for a variance. The Chairman asked what the planner's interpretation was for removing the R-B zone. Mr. Spatz said this was a recommendation to eliminate the R-B zone. He felt by acknowledging that two family homes exist throughout the borough, they did not feel that a small concentrated area made sense when they were throughout the borough anyway.

The Chairman questioned his comment on site specific characteristics that favor the two family homes. The Chairman asked, other than there was room for it and it was on a busy road, why did he think the lot was suitable for a two family home instead of a single family home without a variance. Mr. Spatz said because they were proposing a two family, it was an oversized lot that fronts on two streets and could be subdivided. He added this was the only lot in the area that had that characteristic. The Chairman said once the lot was subdivided, it was suitable for two single family homes because it was in a single family zone. Mr. Spatz said that would be true if no two family already existed. They were not introducing a new two family home into the neighborhood. Mr. Spatz said they were maintaining a two family home but in a better circumstance that benefited the neighborhood. The Chairman said once the house was knocked down they had a clean slate with an empty lot in a single family zone. Mr. Spatz said the two family would only be removed if the board approved the application otherwise it would be maintained.

Mr. Adelung questioned if an average two family home with 1,350 sf was average, high or low in the borough. Mr. Spatz felt it seemed reasonable. Mr. Alampi said 1,350 sf was the footprint of each level so they were 2,600 sf each. Mr. Adelung was hoping they would have the average size of a two family home. Mr. Alampi said the architect would give that testimony.

Mr. Loonam questioned the testimony was that most people would expect a two car garage. Mr. Alampi clarified it was with a single family home. Mr. Loonam said the proposed two family homes were a duplex. He felt it was two individual homes. Mr. Alampi said it could be said they were two single family homes attached. Mr. Loonam noted they had one car garages. Mr. Alampi said people who buy a one family home on a parcel expect a two car garage. He added in a duplex style, many times they have a one car garage and a one car garage driveway. Mr. Loonam asked what the size of the single family home was. The architect said 3,500 sf. Mr. Loonam asked why did the applicant not propose 2 two duplexes. Mr. Alampi advised the applicant that it was not good planning to have a second duplex facing Eagle Avenue because it was an artillery road with less traffic than Boulevard.

Ms. Hittel questioned the decision to have a second driveway to the south of the property. Ms. Hittel felt the visibility was already impaired by a telephone pole and there were also trees to the south of the property. Ms. Hittel said if they were proposing a double driveway, she felt because of safety reasons it should be on Eagle Avenue. Mr. Spatz said there was a possibility to create a turnaround area for both homes. Mr. Alampi said they could look into it.

Mr. Grygiel said it was accurate with regard to Mr. Spatz's statements what he read from the Master Plan on the R-B zone. But as to the intent, Mr. Grygiel said it was more a statement of fact and the intent was neutral. The Board Planner said they were not promoting additional two family homes nor were they saying they should go away. Mr. Grygiel said the intention of the planning board regarding Mr. Spatz's other statement regarding potential deviations was to have one residential single family zone throughout the borough. He said there was language there about that policy statement that it should be for single family only within the parameters set forth in the zoning ordinance. He added it was not a statement to say you could always build larger or different uses if it was appropriate. But you need to demonstrate, Mr. Grygiel said the reasons that board thinks warrants that consideration. Mr. Grygiel did not think it should be construed that if two family exists elsewhere in the borough, it was appropriate to add them or replace them in kind.

The Chairman asked if the master plan was encouraging single family homes. Mr. Grygiel agreed it was in broad terms. He said that the idea was to have a single residential zone as opposed to a two family zone that made no sense because it was not the only place where it existed. Over time, Mr. Grygiel said it would make sense to phase out or allow reasonable existing two family homes to continue but not necessarily to encourage additional ones or replace with new ones.

The Board Attorney clarified that the intention of the Master Plan notation is to prevent the proliferation of two family homes in the town. Mr. Grygiel said that was one of them but in the RA section, it is also for larger homes or homes that do not comply with zoning. The planner clarified that it was not just for two families but overall the idea was density was set and unless there were some compelling reasons, the planning board's intention was to maintain the character of the borough as is. It was not to encourage more intense development in the RA zone.

The Chairman clarified if the application was approved, the variance would go with the property. Mr. Grygiel agreed. The Chairman stated they would have then created a mini two-story zone. Mr. Grygiel said not necessarily a zone but the board would have created a property that would have the ability to remain a two family in terms of its use.

Mr. Loonam asked if this application was granted, was it the plan that was granted or did they just create a two family lot. The Chairman said they could knock down the new two family and build a larger two family home. Mr. Grygiel said they could not exceed the coverage or setbacks granted. Mr. Grygiel suggested reasonable conditions could be visual landscaping and limits on the property it could be built. It would be a two family approval. Mr. Alampi said with this application there was a coverage issue and it would have to be adhered to. Mr. Alampi believed there was a little room with the side yards so the two family could be shifted a little but not built larger. Mr. Alampi said they would also agree to the number of bedrooms.

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

No one in the audience wished to speak.

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

Mr. Jacob Solomon, architect, remains under oath.

Mr. Alampi marked into **exhibit A-10 revised architectural plans for the single family home.**

Mr. Alampi clarified that the single family home measures 20.2 % coverage but asked the architect if he certified under oath that an adjustment could be made to keep it at 20%. Mr. Solomon agreed.

Mr. Solomon stated the original plan had a one-car garage for the single family home and now there was a two-car garage 20' wide driveway. Mr. Alampi asked if they stayed below the coverage even with the expanded driveway. The architect agreed. Mr. Alampi asked what the square footage was for the lot. The architect stated 8,938 sf where 7,500 sf was permitted in a RA zone.

The architect said there were no changes to the floor plan on the second floor. Mr. Alampi asked for the overall square footage of the home. Mr. Solomon said it was under 1,770 sf per floor so 3,540 sf total which was a typical size.

Mr. Alampi marked into **exhibit A-11 – revised architectural plans for the two family duplex home.**

Mr. Alampi clarified that the footprint of each of the units were approximately 1,200 sf. Mr. Solomon said there was 2,400 sf livable space. Mr. Alampi asked if the size of the duplex homes were atypical or typical. The architect answered it was typical in this area. Mr. Alampi asked if the full basement in the homes had any access from the basement level to the yard. Mr. Solomon said no.

The architect said the major change was the 70' wide house was reduced to 64' and the depth of the unit was reduced from 38.10' to 37.10'.

Mr. Solomon reviewed the floor plan of the house. Mr. Alampi asked if he relabeled the room on the first floor to den/office. The architect said he did and the room size was 11 x 11.5'. Mr. Solomon stated that the single family home that fronts Eagle has a frontage of 51' and they reduced the two family duplex to 64'. Mr. Alampi asked if it was practical to make the home tighter and reduce it to 60'. Mr. Solomon said the room sizes would be less than 10' wide.

Mr. Alampi clarified that they were not implicating any deviation from the height or side yard setbacks. Mr. Solomon agreed. Mr. Alampi asked if there was room to create a turn about for each of the driveways. The architect said yes.

Mr. Adelung asked what the size of the master bedroom was. Mr. Solomon said 16x19. Mr. Adelung thought it might be possible to eliminate the den and refigure the kitchen area.

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

No one wished to speak.

Motion to close to the public was made by Mr. Weisbrot, seconded by Mr. Adelung and carried by all.

Mr. Perry Frenzel, engineer, remained under oath.

Mr. Alampi marked as **exhibit A-12 – revised site plan revisions and landscape plan.**

The Engineer said nothing changed with regard to the subdivision. He stated that sheet 4 was modified to reflect the revised footprints. The footprint creates no new variance with regard to side yard, impervious coverage or height but a variance is still required for building coverage. Mr. Alampi asked what the building coverage for the two family duplex was. Mr. Frenzel explained they originally proposed 29.9% and went down to 25.5%. The engineer said the overall drainage scheme was the same. They were using a seepage pit and there was a slight change to the calculations because of the reduced impervious roof. Mr. Alampi asked if they made the change on the plan to make the patios and walkways pavers. The engineer said they did not make that change but they could.

Mr. Alampi asked the engineer to review the landscape plan. He stated the landscape scheme provides four season color on the lots. The engineer discussed the varieties of trees proposed. Mr. Alampi asked if four trees would be removed from the site on Eagle Avenue. Mr. Frenzel said yes. Mr. Alampi clarified that they would be adding four new trees along the front property line. Mr. Frenzel agreed. Mr. Alampi asked how many trees would be removed from the two family site. Mr. Frenzel answered 4 trees on the lot plus one larger tree in the front by Boulevard. Three red maples would be replaced along the property line and two trees along the street line. Mr. Alampi said the shade tree commission had no objections.

In order to create a hammer head configuration discussed for the driveway, the engineer said the house would have to be centered on the lot. Mr. Alampi said this would allow a car to be parked there to allow a car from the garage to exit or it could be used to have a car turn around to exit.

Ms. Hittel felt the hammer head configuration might become an additional parking spot for a car. She felt the proposed pear trees in the front would also cause a visual impairment. Ms. Hittel felt the configuration would make no sense if the owner decided to use it for parking. Mr. Alampi stated it would create the opportunity for safer maneuverability. Ms. Hittel did not think the proposal of the hammer head removed her concern about the driveways. Mr. Alampi understood her concerns and they were trying to make adjustments. Mr. Alampi asked the engineer if they could join the driveways and have one single curb cut. Mr. Frenzel would have to look into the matter. Mr. Alampi said he did not have to conclude the application tonight and would like the opportunity to explore the situation. Ms. Hittel thought they should explore the situation. Mr. Alampi understood that would not mean Ms. Hittel supports the duplex one way or the other. Ms. Hittel did not love the idea to have one curb cut for two families but was still concerned about the obstruction on the south side and an obstruction on the north side.

Mr. Sproviero questioned if the applicant was asking to carry the application in order to assess that which he wishes the board to consider with formality or determination. The Chairman asked if that is what the applicant would like. Mr. Alampi said it is obviously the applicant's choice and he was requesting an extension because there seems to be a concern. He also noted that nobody asked for a site triangle view. Mr. Alampi said there was a concern but they were required to recognize there were other officials from the town that did not raise the concern.

Mr. Weisbrot said there other houses in the area coming in and out facing the same traffic conditions. Ms. Hittel said they were further exacerbating that by adding a driveway where there was not one before. Mr. Loonam said that Ms. Hittel's concern was well made but said even if it was a single family home they could have two driveways. Mr. Alampi agreed and said the one or two family home does not control the positioning driveway.

Mr. Loonam asked if he could find out how far the southern driveway was from the intersection. Mr. Frenzel said they would depict the roadways.

Mr. Alampi asked to carry the meeting to July 11, 2017.

Mr. Sproviero announced that this application shall be carried to the Zoning Board of Adjustment meeting on July 11, 2017 and the applicant has agreed to extend any time for the board to render a determination.

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

The Chairman said they were reopening the work session.

There was discussion on the end of the year annual report and the request for factual information from the planning board. Mr. Grygiel stated the board was required statutorily to make an annual report which the zoning board has done. Mr. Grygiel and Ms. Batistic told the board they were part of a subcommittee to advise the planning board to discuss issues previously raised by the zoning board.

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

Respectfully submitted,
Maureen Oppelaar