

**New Milford Zoning Board of Adjustment
Work Session
March 29, 2017**

Chairman Schaffenberger called the Work Meeting Session of the New Milford Zoning Board of Adjustment to order at 7:34 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	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. Griegel	Present
Mr. Sproviero - Attorney	Present

REVIEW MINUTES OF THE WORK SESSION – February 14, 2017

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

REVIEW MINUTES OF THE PUBLIC SESSION – February 14, 2017

The Board Members reviewed the minutes and there were no changes

REVIEW MINUTES OF THE SPECIAL SESSION – February 23, 2017

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

RESOLUTIONS

**16-08 Layne – 222 Main Street – Block 1311 Lot 1- Mixed Use Building
Use and parking variances**

The board members reviewed the resolution and had no comments or corrections.

17-02 JOSEPH – 1117 Alessandrini –Block 205 Lot 16

Addition, add a level – building coverage, side yard

The board members reviewed the resolution and had no comments or corrections

NEW BUSINESS

17 02 Boulevard 66 Realty, LLC -66 Boulevard – Block 1508 Lot 3

Subdivision, One family home, two family home

Use variance, maximum building coverage, maximum # of families

The Board Members reviewed the application. The Chairman questioned if this would be a D variance. The Board Attorney said yes.

17-03 417 Lee Place – Block 205 Lot 2- New Single Family Home

Variance for Number of stories

The Board Members reviewed the application. The Chairman noted that this homeowner was returning to the board with a new application with one variance. The Board Attorney believed it was for two variances- one was for stories and one for a soil movement issue. Ms. Batistic stated there was a soil movement application that was part of this application. The Chairman asked if there was a variance for the soil. The Board Attorney stated not for the soil movement permit but there was one for the grading.

The Board Attorney said there was an issue regarding the April meeting. The Chairman noted that the regularly scheduled meeting was April 11 which was Passover. The Board Attorney said it might affect the applicants. The Chairman asked Mr. Alampi if the April date would affect his application. Mr. Alampi said he would carry the application to the May meeting.

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
March 29, 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.

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 – February 14, 2017

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

OFFICIAL MINUTES OF THE PUBLIC SESSION – February 14, 2017

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

OFFICIAL MINUTES OF THE SPECIAL SESSION – February 23, 2017

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

RESOLUTIONS TO BE MEMORIALIZED

**16-08 Layne – 222 Main Street – Block 1311 Lot 1- Mixed Use Building
Use and parking variances**

The board members reviewed the resolution and had no comments or corrections.

17-02 JOSEPH – 1117 Alessandrini –Block 205 Lot 16

Addition, add a level – building coverage, side yard

The board members reviewed the resolution and had no comments or corrections.

NEW BUSINESS

17 02 Boulevard 66 Realty, LLC -66 Boulevard – Block 1508 Lot 3

Subdivision, One family home, two family home

Use variance, maximum building coverage, maximum # of families

Mr. Alampi stated he was the attorney for the limited liability company called 66 Realty LLC and the principle owner of the entity. Mr. Alampi said this was an application to subdivide a property that presently hosts an older two family home located on the Boulevard and backs up to Eagle Avenue. He stated it was a thru lot.

Mr. Alampi advised the Board that they provided notice to the public by way of certified mail to the property owners within 200' and to the residents in Oradell. He stated they published in the newspaper for the March meeting but due to the storm the meeting was cancelled and rescheduled. Mr. Alampi said he send a second battery of notices to comply with the Municipal Land Use statute and open public record for public meetings law. Mr. Alampi noted that in his notice he indicated the use variance for the two family home and also noticed there might be a variance for the lot depth.

Mr. Alampi said these lots will be fully conforming and it was permitted to be subdivided. What is not permitted, said Mr. Alampi, was constructing a two family in a one family zone.

Mr. Alampi noted they received reports from the board's engineer and planner. There were also reports from the DPW, Fire Advisory and Chief of Police. Mr. Alampi said the police report noted they did not see any traffic issues, the fire advisory indicated they wanted fire suppression requirements to be handled by the fire subcode official and the DPW brought to their attention it was a use variance. Mr. Alampi did not disagree with any of the findings regarding the use variance.

Mr. Jacob Solomon 14-25 Plaza Road, Fair Lawn, NJ 07410 was sworn in by the Board Attorney.

The Board Members accepted the qualifications of Mr. Solomon as a licensed architect.

Mr. Alampi marked as **Exhibit A-1 – four photographs showing the subject property.**

Mr. Alampi asked if the photographs accurately depict the existing conditions as they were today on the subject property. Mr. Solomon said yes and reviewed the photographs. He pointed out the curb cuts on the property.

Mr. Alampi asked if there was any controlled drainage, curbing, black top or landscaping. Mr. Solomon said there was none.

Mr. Alampi marked as **Exhibit A-2 – the architectural plans (3 sheets) single family home.**

Mr. Solomon stated that this home conforms to the setbacks and coverage and no bulk variances were required for the subdivision for the single family dwelling that fronts on Eagle Avenue. He noted that the neighbors on Eagle would be looking at a single family home with a single driveway which was appropriate for the neighborhood. The architect discussed the proposed separation of the two parcels. Mr. Solomon said both lots were conforming in area. The single family home lot was 8,938 sf where 7,500 sf was permitted. He stated the home would have a full basement. Mr. Alampi added that the basement showed an open area with a mechanical room and asked Mr. Solomon what the height of the basement would be. Mr. Solomon said typically 8' finish. The architect discussed the plans for the first floor and second floor plan. The first floor had a family room, living room, dining room, kitchen and bathroom. The second floor would have four bedrooms with three bathrooms and laundry room.

Mr. Alampi asked for the dimensions of the footprint. Mr. Solomon said approximately 51' x 35'. Mr. Alampi clarified that it is approximately 1,500 sf each level. It was a four bedroom home with about 3,000 sf on the living and upper floor.

Mr. Alampi asked if there were any variances implicated due to the height of the structure or the setback from the proposed subdivision line or side yards. Mr. Solomon answered no. There was discussion on the elevations. He noted there was a single car garage with a cultured stone and vinyl siding with an asphalt roof. They created a turret for visual appeal to break up the facade. Mr. Solomon added there was a small covered entry porch. Mr. Alampi said French doors were shown on the plans but he did not see a deck indicated. Mr. Solomon said that would be leading to a patio.

Mr. Alampi marked as **Exhibit A-3 – color rendering of the single family home.**

Mr. Solomon explained the materials used on the home. Mr. Alampi asked if the proposed home would like this rendering. Mr. Solomon answered yes. The architect said there was a hip roof, which would be under the requirement of 30°. Mr. Alampi asked about the pitch of the driveway. Mr. Solomon said the engineer would answer that question but said it would pitch the water away from the garage.

The Chairman asked if the entire roof was the same height or was the turret a little higher. Mr. Solomon said the turret was a little lower than the ridge.

Mr. Weisbrot said his testimony was that the driveway would pitch the water away. He asked where it would be pitched to. Mr. Solomon said the engineer would testify to that but typically driveways were sloped away from the garage door. Mr. Alampi said there was a drainage report.

Mr. Alampi marked as **Exhibit A-4- architectural plans (3 pages) two family home.**

The Architect stated that the two driveways for the two family dwellings would face Boulevard. The proposed lot was 9,700 sf where 7,500 sf is required. Mr. Alampi asked if there were any other variances implicated other than the fact it was a two family home. Mr. Solomon said New Milford has an 18 or 20 percent building coverage requirement. He stated the lot proposed is

under 10,000 sf and the building coverage required is 20% proposing almost 28 percent. The average setback is 30.35' and they would conform to that setback. Mr. Alampi clarified that even with the 8 percent excess coverage they still maintain the proper side yard setback, front and rear. Mr. Solomon agreed. Mr. Alampi questioned the total impervious coverage. Mr. Solomon said 58 percent was permitted in the RA zone and they were at 38.2 percent.

Mr. Solomon said each unit would have a one car garage. There was a minimum parking of two parking spaces on the site but there was a one car interior garage. The architect said they were proposing two side by side duplexes. Mr. Alampi stated they were proposing 1,350 sf for each side. Mr. Solomon agreed and said the total footprint was 2,700 sf. Mr. Alampi discussed the basement and noted there was no means of egress or ingress directly to exit the structure from that level. Mr. Solomon agreed. Mr. Alampi said there were no side doors that it could be converted to an apartment. Mr. Solomon said no.

Mr. Solomon discussed the floor plan and said there was a one car garage measuring 12x20. He added there was a living room, kitchen, bedroom/office on the first floor with a bathroom. Mr. Alampi noted that they indicated a bedroom on the first floor but it could be a den. Mr. Solomon agreed but said it most likely would be used as an office. Mr. Alampi said on the upper floor there was a master suite and 2 bedrooms. Mr. Solomon agreed and said also two bathrooms. Mr. Alampi said each unit would be about 2,700 sf. Mr. Solomon said yes with the basement.

Mr. Solomon discussed the façade of the dwellings. He noted there would be a portico with a balcony. Mr. Alampi asked how far the balcony protruded. The architect said it was approximately 36-42". He added there was no access to it but it was to dress up the roof of the entry.

Mr. Solomon said there was 3-4' deck off the master suite on the second floor and on the first floor there was a patio at grade. Mr. Alampi how far back was the structure positioned from the front property line. Mr. Solomon said the front property line would conform to 30'.

Mr. Alampi marked as **Exhibit A-5 – color rendering of two family dwelling.**

The architect said there would be stone up to the first floor line and stucco above. Mr. Alampi asked if there was a sidewalk. Mr. Solomon said yes. Mr. Alampi said all sidewalks would be repaired if they need to be replaced. Mr. Solomon agreed.

The Chairman asked what the depth was for the rear yard to the proposed subdivision line. Mr. Solomon answered 22.5'. The Chairman asked if it basement was below grade. Mr. Solomon answered yes. The Chairman asked if a variance was required for two driveways. Mr. Solomon said the lot currently has three curb cuts. Ms. Batistic said there was a restriction on the width. Mr. Alampi did not see a restriction against more than one curb cut.

Ms. Hittel questions how someone would exit the basement in case of a fire. The architect said there would be windows.

Ms. Batistic said the testimony was that the deck off the master bedroom was 3-4' but the plans indicated 5'. Ms. Batistic also said they would need a rear yard variance because it was measured to the deck which would make the setback 17.5'. Mr. Grygiel stated that ordinance on decks was 30-28.15 (c). Mr. Alampi said they would concede it was a variance.

Motion to open to the public was made by Ms. Hittel, seconded by Mr. Denis and carried by all. There was no one in the audience wished to speak.

Motion to close was made by Mr. Rebsch, seconded by Ms. Hittel and carried by all.

Mr. Perry Frenzel, 30 Madison Avenue, Paramus, NJ was sworn in by the Board Attorney.

The Board Members accepted the qualifications of Mr. Frenzel as an expert in engineering.

Mr. Alampi marked as **Exhibit A-6 -Engineering plans**

Mr. Alampi marked as **Exhibit A-7-drainage calculations -two family dwelling**

Mr. Alampi marked as **Exhibit A-8-drainage calculations –single family home**

Mr. Frenzel reviewed the plans showing existing conditions. Mr. Alampi asked if there were two curb cuts existing on Eagle Avenue. Mr. Frenzel answered yes. Mr. Alampi asked if the site had any man made drainage infrastructure. Mr. Frenzel did not see one. Mr. Alampi asked how large the property was. The engineer answered 5,638 sf. Mr. Alampi asked if this was one of the largest parcel of land in the immediate area. Mr. Frenzel answered yes. The engineer reviewed the subdivision map and said both of the lots had a depth from either Eagle to the subdivision line or Boulevard to the subdivision line of 89.37'. He stated that would give both lots 22.34' setback to the building envelope from the subdivision line.

Mr. Adelung asked if the 30.35' front property line for the 2 family dwelling was the same all the way down. Mr. Frenzel answered yes. He stated the proposed lot that fronts on Eagle was 8,938 sf and the other proposed lot 9,700 sf.

Mr. Frenzel discussed the site plans. There was discussion on seepage pits. Mr. Alampi asked if he was able to calculate the volume of runoff and the capacity of each of the pits. Mr. Frenzel said with the new scenario both dwellings would have seepage pits. The engineer said driveways were graded to be pitched slightly towards the street. The house was set slightly higher at its first floor finished elevation. He added the existing lot was flat from Eagle to Boulevard. They try to get a 2 or 3 percent slope away from a dwelling to keep the water from draining towards the foundation. Mr. Alampi asked if the garages were the same level or were the garages slightly lower. Mr. Frenzel said the garages were one foot lower than the finished floor. Mr. Alampi clarified that the water from the driveway was going to the street. Mr. Frenzel said at a gentle slope of maximum 3 percent. Mr. Frenzel said there was a sanitary connection that went out to the Boulevard and would be a new lateral. Mr. Alampi asked if there was enough impervious area to absorb water. The Engineer said the dwellings would be raised slightly and there would be a slight filling of the site. They created a minor swell along the northerly and southerly

property lines to collect any water running to the property line and direct it into two yard inlets. Mr. Alampi asked Mr. Frenzel if he had confidence that there would be no cascading water to any of the neighbors. Mr. Frenzel said yes and added to confirm the accuracy of the soil to absorb the water from the seepage pits, there would be a test pit dug to make sure the soil was of a nature to absorb the water.

Mr. Alampi asked if they would be repairing any of the sidewalks. Mr. Frenzel answered that there were sidewalks along the Boulevard and anything damaged they would replace. He noted there were no sidewalks along Eagle. **Mr. Alampi asked if they were proposing sidewalks at that location. Mr. Frenzel said that would be subject to the desire of the town.**

Mr. Alampi asked if they were filing with the Bergen County Soil Conservation District. Mr. Frenzel answered they would.

The Board Attorney asked Ms. Batistic if a soil movement permit implicated. Ms. Batistic said yes it was shown on the plan. The Board Attorney said that part of the relief that the board would grant, in addition to variance relief being sought for the subdivision, was also a soil movement permit. Ms. Batistic said yes.

The Chairman said regarding the sewer, were they replacing the lateral from the house to the main. Mr. Frenzel said when the property was surveyed they did locate a sewer lateral coming into the house. They would want the developer to replace and/or install new laterals. The chairman asked if they would need a lateral for both dwellings. Mr. Frenzel said yes. The chairman asked if there was a lateral at Eagle. Mr. Frenzel said there is no lateral existing but they would install one.

Ms. Hittel asked if there was any history of flooding on either Boulevard or Eagle. Ms. Hittel was concerned that there was more impervious area being proposed. She asked what percentage of the ground would be impervious vs what percentage of that water was accounted for. Mr. Frenzel said right now there was no evidence of any attempt to collect any of the water that runs off the property in its current condition. He said in total there was less water that would want to find a way off of the site or into the ground than there was now.

Mr. Frenzel indicated the seepage pit, connections, proposed area drains locations on page 5. He stated this was designed to be an overflow in an event that there was a storm more intense than a standard design storm.

Ms. Batistic explained they designed the system for a two year storm. She added a two year storm could happen approximately 5 times in a year. It was a typical design for a seepage pit for a single family/duplex home. Ms. Batistic said if the soil permeability does not support the proposed design, they would have come up with a different system. Ms. Batistic explained that for a single family home/duplexes they do not have to meet the reduction requirements that the state imposes on major projects. Mr. Frenzel stated the seepage pits show that they have been designed with excess capacity beyond what is required for a two year storm. The engineer stated there was a conscious effort made to direct water away from the adjoining properties and capture it on site. Ms. Batistic added that the amount of impervious area that exists today is more than

the amount of impervious area that will not be captured in the seepage pits under the proposed conditions.

Mr. Adelung asked if they had the dimensions of the two homes. Mr. Frenzel did not have them on his plans. Mr. Alampi said a 2 family footprint creates a larger impervious percentage than a one family home. **Mr. Alampi said the board could ask the applicant if they would use pavers.** Mr. Adelung asked what percentage they were over on the building coverage. Mr. Alampi said 8 percent and they were proposing 28%. Mr. Adelung questioned if the 18% applied to the 29.9%. Mr. Alampi said it was 20%.

Ms. Hittel asked what the proposed material was for the patios. Mr. Alampi said it was typically concrete but the Board could request pavers. Mr. Alampi said that the driveways were macadam.

Mr. Grygiel stated that his letter should be corrected to reflect the footnote regarding the coverage. He stated it is 20% for a lot under 10,000 sf. There is a variance for a two family house but none for coverage for the single family home. Mr. Grygiel said Mr. Alampi was incorrect stating that the proposed building coverage was 28%. He stated 29.9% is shown on the plans for building coverage.

The Board Attorney asked what the building coverage was for the single family home. Mr. Grygiel said they proposed 19.9% where 20% was permitted for that size lot.

The Chairman asked if they anticipated the large tree in front of the house to be removed and if there was proposed landscaping for the site. Mr. Frenzel said a plan has not been developed with showing those details yet. The Chairman asked Mr. Alampi to reach out to the Shade Tree Commission. Mr. Alampi said they would prepare a separate landscape plan and see if they could keep the large tree in its existing location and submit it to the Shade Tree commission.

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

No one wished in the audience wished to question this witness.

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

Mr. David Spatz, 66 Friend Terrace, Harrington Park, NJ was sworn in by the Board Attorney.

The Board Members accepted the qualification of Mr. Spatz as an expert in the field of planning.

Mr. Spatz stated that the one family home did not require any variances and it meets all the setbacks, height and coverage limitations. Mr. Alampi clarified that the two family home implicates a coverage of 9.9% over the allowed amount and the decks off of the master bedroom implicates a rear yard setback. Mr. Spatz agreed that the decks protrude into the rear yard setback and the building itself was conforming.

Mr. Spatz discussed the photographs from Exhibit A-1. The planner said the applicant needs a D1 use variance. He added that was the primary one and the bulk variances would be subsumed within that according to case law.

As to the special reasons for the use variance, Mr. Spatz said the subject property was uniquely suited for the proposed subdivision and the development. The lot itself is more than twice that is required in the zone. Mr. Spatz said it is 18,638 sf and the zone requires 7,500 sf for a lot so the property could be subdivided and create two lots. He added the single family lot was a little less than 9,000 sf and the two family lot was 9,700 sf. He said what is also unique about the property was it was a thru lot with frontage on two streets.

The planner said there was an existing two family home on the property that fronts Boulevard which is a larger roadway that connects several municipalities. He thought that could support and maintain the two family dwelling. Mr. Spatz said Eagle Avenue is a much smaller residential block with single family home which was appropriate for the proposed single family home. Mr. Spatz said they need a number of the case laws with granting the use variance. The Burbridge case discusses enhancement of the neighborhood and removal of unaesthetic conditions.

He pointed out on the photographs on the Eagle Avenue side conditions that exist. He stated there was a large parking lot and two driveways. One driveway connects Eagle Avenue to Boulevard which is a troublesome situation. The planner has seen 5 cars including commercial vehicles parked on the lot. Mr. Spatz felt by eliminating that situation, it would be an improvement to the property and the neighbors on Eagle Avenue. The planner said they were replacing an older structure that was incompatible with the surrounding area with two new structures. There would be a two family home maintained and improved as it fronts on Boulevard and a one family home. Mr. Spatz said they met several of the purposes of zoning in the zoning ordinances as well as the MLUL. They meet Special Reasons purpose (g) - for the provision of sufficient space and the appropriate locations for a variety of residential uses. He stated what they were proposing was consistent with the existing development on the property as well as the surrounding neighborhood. He said with Special Reasons purpose (i) - improving the frontage along Eagle was an improvement for the surrounding properties. It reduces the amount of vehicles getting onto the property. The planner said the purposes of zoning were met by what they were proposing.

Mr. Spatz said regarding the special reasons the dwellings meet, with the exception of the decks into the rear yard, all the setback limitations of the zone. The single family home fully conforms to the zoning ordinance and the two family home requires the variance for building coverage as well as the setbacks. Mr. Alampi said each of the dwelling units or one family home would have a garage and presently no garages exist. Mr. Spatz agreed and said it would be an improvement that there was at least one car for each unit within the garage.

Mr. Alampi asked if he thought having a two family would set a precedent in the area or if this site, because it was a thru lot and the generously proportioned, would not set a precedent. Mr. Spatz did not think this would set a precedent and all cases have to stand on its own.

Mr. Spatz said regarding the negative criteria, he did not think anything rises to the level of being substantially negative. He added although the two family structure was bigger than what is required in terms of coverage, it meets the impervious coverage standard as well as the setback

limitations and height limitation. All drainage is being controlled on property, light, air and open space was being maintained, driveway improvements so there was nothing substantially negative, said the planner.

The Chairman said the testimony was that a two family was replacing a two family. Mr. Spatz agreed. The Chairman said they were proposing two lots with two homes but it could be done without a two family home. He added once the two family was removed it was an empty lot. The Chairman stated they were proposing a two family home on an empty lot in a residential A zone where there are no two family homes.

The planner said they could take down a single family home and build two single family homes which would increase the number of units on the lot by one and that would be permitted. Mr. Spatz added there was one additional unit being put on the property by making one unit two family. Because the lot is much larger, the planner said the single family home that could be built on the property could be much larger than the homes in the area. The planner thought it was a positive impact that they were maintaining the two family on the property that contains the two family, creating structures that are similar in size to the surrounding properties. The Chairman disagreed that they were *maintaining* a two family because once the house is demolished, they were not maintaining anything. Mr. Alampi said three dwelling units would exist where there were only two units. Mr. Alampi said there has to be an incentive, not economic hardship, to take this condition that exists with a home that has an exposed rear yard being used as a parking lot. He added that this two family home generates a substantial rental income and his client owns the property.

Mr. Alampi thought Mr. Spatz's argument was that given existing conditions of the two family and the improvements that would be made there was a tradeoff. Mr. Alampi said a single family home could be built with 6 bedrooms.

Mr. Denis questioned how many bedrooms were in a unit. Mr. Alampi said 3 bedrooms with an additional room labelled bedroom/office.

Mr. Adelung would like to have information and testimony on the size of the house and being a two family in this area. He would like to have the square footage of the existing two family home and was it in line with the area from a planning perspective.

Mr. Weisbrot said the current client is a LLC and asked if these would be rental units. Mr. Alampi said they would be for sale. Mr. Weisbrot questioned if that would be all three of them. Mr. Alampi said typically what they do for their clients is make them into a condo so there could be separate ownership and sale. The duplex would be sold in individual units and the one family room would be sold. Mr. Weisbrot clarified buy it, build it and sell it. Mr. Alampi agreed.

Mr. Grygiel said he did not hear testimony on the negative criteria as to the impact on the master plan and zoning ordinance. He said that would be a substantial hurdle to be overcome and felt the planner would have to address that before any more questions. The master plan talks about land use issues and the zoning has locations for two family homes in the municipality. Mr. Grygiel said for a use variance there was a heavy burden of proof.

Mr. Alampi said they would not be able to appear in April but they come back in May. He said they needed a landscape plan, more information on the size of the structure and more testimony at the request of Mr. Grygiel.

Mr. Adelung said also he questioned the layout of the house regarding the bedroom that was labeled bedroom/den. Mr. Alampi said maybe they could restrict it to three bedrooms. Mr. Adelung said he was concerned more about square footage because if it was not there they could reduce it down.

The Board Attorney clarified that the application would be continued to the May 9th hearing. Mr. Alampi said they would be relieved from the obligation to renotice. The Chairman agreed.

Recess (932)

17-03 – 417 Lee Place – Block 205 Lot 2
New Single Family Home
Variance for number of stories

The Chairman noted that Mr. Weisbrot recused himself from the application because he lived within the 200’.

Mr. York, attorney from Novins, York & Jacobus, representing Jay & Simi Schwartz, 417 Lee Place, stated the prior application in September was denied. Mr. York believed this application was significantly scaled down from the prior application.

Mr. York stated the application submitted was for a single variance (number of stories) but now there is an additional variance needed for the change in grade. Mr. York said both of these variances were necessitated because of the topography of the land. The land slopes significantly from the left to the right. Mr. York said the prior application was significantly larger in scope and they were seeking a variance for building lot coverage which was denied. The new plans of the house were consistent with the neighborhood and does not have any adverse impact on the zoning ordinance. They were not looking to go beyond the maximum building lot coverage and the height of the house was within the zoning ordinance.

Mr. Angelo Onello, 151 Greenwood Avenue, Midland Park, NJ was sworn in by the board attorney.

The Board Members accepted the qualifications for Mr. Onello as a licensed engineer.

The Board Attorney marked as Exhibit A-1- residential plot plan application #17-03

Mr. York asked if the unique topography of the applicant’s property itself create the need of the variances. Mr. Onello answered yes. The engineer stated the topographical elevation difference along the front of the property sloped east to west and had a 5’ elevation difference. Mr. Onello

said in the rear of the property there was a deeper depression at the southeast side with an 8' elevation difference.

Mr. York asked if the definition of a story in the ordinance consist of a level that is more than 3' above the curb level. Mr. Onello said yes. Mr. York asked based on the topography of the land was the applicant's basement considered a story based on the code. Mr. Onello said yes.

The Board Attorney marked as **Exhibit A-2 – a single photograph of existing home.**

Mr. York described the existing elevation of the home. He asked if the applicant was proposing to just add a level to the existing home, would the applicant be before the board requesting a third story variance. Mr. Onello said yes.

Mr. York said the applicant was proposing the 29.9' for the height where 30' was permitted. Mr. Onello agreed. Mr. York asked if the design of the house had any adverse impacts to the zoning ordinance. Mr. Onello said no. Mr. York asked if the additional second floor had a negative impact to the neighborhood. Mr. Onello said no. Mr. York asked if the applicant would be building on the existing foundation. Mr. Onello answered yes but there would be a slight expansion.

Mr. York asked if the topography of the property created the variance for the grade change. Mr. Onello said yes. Mr. Onello discussed the grade change and the proposed retaining wall. Mr. Adelung asked if the retaining wall was on the west and south side. Mr. Onello said yes. Mr. Adelung asked how high the wall would be. Mr. Onello said 4'. Mr. York asked if it was necessary to change the grade in that area of the property to have a level yard. Mr. Onello said yes. Mr. York asked if he thought the change of the grade had any adverse impact on the zoning ordinance. Mr. Onello said no. Mr. York asked if the change of the grade to level the backyard have any adverse impact on drainage to the neighbors. Mr. Onello said no and it might help with the drainage runoff. He said they were proposing a shallow drainage swale in the backyard.

The Chairman asked if it gets higher in the back going front to back. Mr. Onello said the left side was slightly higher. The Chairman clarified that it raises slightly going to the back and asked if it did the same on the west side. Mr. Onello said it was level.

Mr. York asked if the applicant was asking for any other variance other than the stories and change of grade. Mr. Onello said no. Mr. York asked if this application was significantly less in size and scope than the application submitted last September. Mr. Onello said yes.

The Chairman understood there was no variance for building coverage but asked what the percentage of coverage is for this proposed home. Mr. York said 20%.

The Board Attorney asked if the applicant would be demolishing the existing structure and utilizing the existing foundation. Mr. York answered they were removing the existing structure and using the existing foundation.

Ms. Hittel noted that the wall indicated on the plans was 2' in front the property line and was it the intention of the homeowner to maintain both sides of the wall. Mr. Onello said technically a homeowner cannot trespass on the neighbor's property to maintain their wall. This would give room for a landscaper to clean up.

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

No one wished to speak from the audience.

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

The Chairman reviewed the Board Engineer's letter dated 3/27/17. He questioned if the proposed seepage pit would be in the southwest corner of the rear of the property. Ms. Batistic agreed and said they were also putting in a drainage inlet catch basin to the drywell.

Motion made by Mr. Rebsch to grant both variances as proposed in the plans, soil movement permit and conditions upon the Boswell review letter, seconded by Mr. Denis.

The Motion passed on a roll call vote as follows:

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

Approved 6-0

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

Respectfully submitted,

Maureen Oppelaar