

Approved  
11/13/18

**New Milford Zoning Board of Adjustment  
Work Session  
October 9, 2018**

Chairman Schaffenberger called the Work 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	Absent
Ms. Hittel	Present
Mr. Joseph	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Seymour	Present
Mr. Stokes - Vice Chairman	Present
Mr. Weisbrot	Present
Mr. Schaffenberger- Chairman	Present
Ms. Batistic	Present
Mr. Sproviero - Attorney	Present

**REVIEW MINUTES OF THE WORK SESSION – September 11, 2018**

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

**REVIEW MINUTES OF THE PUBLIC SESSION – September 11, 2018**

The Board Members reviewed the minutes and there were no changes

**OLD BUSINESS**

**18-07 Kirsch– 1086 Arlington Road – Block 104 lot 17 – Vestibule**

**Front yard setback variance**

The Chairman stated that the applicant has returned from last month. The Board Attorney thought there was a need for the Board Engineer to give her guidance and opinion with regard to how the proposed front yard setback at this premises effect the other front yard setbacks on Arlington Road. The Board Engineer read the ordinance for the front yard setbacks. She noted that the intent of the ordinance is to keep a uniformity of the front yards. Ms. Batistic felt if the street curves it would still apply. She noted that the applicant has now submitted a sketch that showed the setbacks and they were all 41’ from the curb. Ms. Batistic explained that the curb is usually 10’ from the property line.

**NEW BUSINESS**

**18-08 Meneses-216 Linden Place-Block 612 Lot 8**

**Rear addition-building coverage variance**

The Chairman noted that this house is under construction.

The Board Members reviewed the application and had no comments.

**18-09 –Bromberg-1122 Alessandrini Avenue-Block 204 Lot 13**

**New House – building coverage variance**

The Chairman stated that this house will be demolished. The Board Engineer noted that she submitted a letter dated 10/5/18 regarding this application.

The Board Members reviewed the application and had no comments.

**18-10-Coolserv, LLC-230 River Road-Block 1309 Lot 5**

**New Business – use variance**

The Chairman noted that this application would need a super majority vote since it is a use variance.

The Board Members reviewed the application and had no comments.

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

**New Milford Zoning Board of Adjustment  
Public Session  
October 9, 2018**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 7:44 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Adelung	Absent
Ms. Hittel	Present
Mr. Joseph	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Seymour	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 11, 2018**

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

**OFFICIAL MINUTES OF THE PUBLIC SESSION – September 11, 2018**

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

**OLD BUSINESS**

**18-07 KIRSCH – 1086 Arlington Road – Block 104 lot 17 – Vestibule  
Front yard setback**

Mr. Albert Zaccone, and Mr. Jacob Kirsch, homeowner were sworn in last month. The Chairman stated that they still remain under oath.

The architect stated that they prepared a drawing that showed the average setbacks of the homes. He noted that they were in line along the curb of the road. Mr. Zaccone stated they were proposing a vestibule and covered platform entrance which would encroach on the average setback of the adjacent homes.

Mr. Zaccone believed this was a unique condition. They were the last house located on a dead end street. He noted that the existing house did not have a front entry and they step directly into

the living room. The Chairman asked the architect to review the distance from the house to the end of the vestibule. The architect said from the property line to the edge of the platform was 22.5'. The Board Attorney asked if that included the steps. Mr. Zaccone said it was without the steps. The Chairman asked what the distance was to the existing house. Mr. Zaccone said the closest distance was 29.3' from the property line to the corner of the garage.

The Board Attorney stated there was a third variance for the landing width. The architect stated that 20% was permitted and the overall house was 41'. The Board Attorney noted that 8.2' was permitted and the applicant was proposing 11.67'.

Mr. Loonam said his problem was that they would be changing the symmetrical line of the homes. Mr. Zaccone said it was a unique condition because it was on an odd shaped lot and on a curve and he did not think it would impact the neighborhood.

Mr. Loonam asked the board attorney if the unique situation was that the house was on a curb or that it was on a dead end street. The Board Attorney answered that the unique situation was that it was on a dead end portion of the street and it was an irregularly shaped lot.

The Chairman did not think that the irregular shaped lot would matter with this application because it does not impact the front of the house. Ms. Batistic said it matters if they wanted to push the house back where it gets narrower in the back. The Chairman felt if this vestibule was allowed, the homeowner on lot 15 would be effected if they want to expand the front of their house. The Board Attorney and Board Engineer agreed the averages will change.

Mr. Loonam said by creating this variance, the front yard setback requirements for lots 15 and 16 are lowered. Ms. Batistic said the open porch is allowed to encroach into the setback line so it was to the enclosed portion. The engineer said the ordinance allows 4' to encroach into the required setback. Mr. Loonam said that made him feel better since he was not contemplating the open porch not counting toward the calculation. Ms. Batistic said 26.5 would be the new setback to the building and clarified that only the open porch had to be 20% of the width.

The Board Attorney said a condition would be that effort by this homeowner or any future property owner to enclose the non-enclosed portion of the porch would require variance relief.

The Board Attorney stated that the three members that did not attend the meeting last month signed certifications that they had listened to the recording of the meeting.

Motion to open to the public on questions or comments on the testimony was made by Mr. Weisbrot, seconded by Mr. Stokes.

No one wished to speak in the audience.

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

Mr. Stokes was not opposed to the front steps but was concerned on the front yard setback.

Ms. Hittel was in favor of vestibules and if the average setback for the other homes was only one foot she was not opposed to it. Ms. Hittel felt the curb breaks up the linear appearance.

Mr. Seymour's concern was that it was creating a new precedent in the future that will affect future homeowners. The setbacks were important, said Mr. Seymour to the aesthetics and functionality. Mr. Seymour did feel better learning that the open portion did not count towards the calculation but still had reservations. The Board Attorney stated that variance relief is not precedential in nature but it will impact calculations of the front yard setbacks of the adjacent properties. He noted there was an important legal distinction between the precedential effect and the calculation of the setbacks. Mr. Seymour agreed.

Ms. Batistic clarified that open porches do need variances but were allowed to encroach into a front yard setback requirement 4'. She noted this portion encroached approximately 8' but the building setback which is the vestibule becomes part of the building and will become the main setback that the average will be measured from. The Board Attorney said there were two variances that result from the open porch – depth and width.

Mr. Weisbrot listened to the recording and said the zoning board members were here to consider and either maintain the status quo or vary from the ordinance. Mr. Weisbrot said if there was an impact on the community or neighbors he would be against it but they were talking about a foot on a dead end street where our engineer said the odd shape did have a negative impact.

Mr. Loonam asked the applicant to sum up the case and give him a reason why he should approve this application. Mr. Kirsch said he moved into the house in December and every time they opened the front door there was a burst of cold air. He said the house does not function well without some kind of vestibule. Mr. Loonam clarified that the reason the applicant feels the board should consider this application was for a functional standpoint for your house to maintain heat. Mr. Kirsch agreed and said the house was not designed properly.

Mr. Zaccone said the interior layout does not warrant any place for closets. Mr. Zaccone said that listening to the board with their comments and concerns, he felt the concerns have been the width of the vestibule. Mr. Zaccone felt they could reduce the width to eliminate a variance. The Chairman asked if that would eliminate the closet. Mr. Zaccone said it would eliminate both closets.

Mr. Loonam asked the applicant if he wanted the closets. He told the applicant it was his decision on the relief he was requesting. Mr. Kirsch said his main concern was that the cold air did not come in but would love the closets. Mr. Loonam said if this was lot 16 there would be no way he could approve this. Since the house was at the end of the street and the challenges discussed with the property, the cold air going into the house, Mr. Loonam said he had enough satisfactory reasons to vote in favor of the variances with the closets.

The Chairman asked if it was possible to make the concessions on depth and not width. Mr. Zaccone said they could instead of 4.5' make it 4' deep and instead of the platform being 4' make it 3.8'. The Chairman agreed with Mr. Loonam that he would not consider this application if it was the house next door to this one but this is home is on the dead end. The Chairman said his concern was the encroachment towards the curb than across the side of the house. The Board

Attorney clarified that they were amending the depth of the enclosed vestibule area is 4' in lieu of 4.6' and the depth of the platform is 3.8' in lieu of 4'.

Ms. Hittel thought because of the shape of this lot there was not a lot of space for the applicant to do anything else to this house.

The Board Attorney said if there is a motion to favorably consider this application, he recommended the following **condition**:

**Any effort by this or any future owner of the premises to enclose the open porch would require additional and separate variance relief.**

Mr. Loonam wanted the applicant to state what they were seeking because he doesn't want them to be talked into something they don't get. Mr. Weisbrot agreed and said he was making a motion so not to box them into anything.

Motion made by Mr. Weisbrot to approve the variances as written **without any modifications** subject to the condition, seconded by Mr. Stokes.

The motion passed on a roll call vote as follows:

For the Motion: Members Weisbrot, Stokes, Loonam, Seymour, Joseph

Against the Motion: Members Rebsch, Schaffenberger

Approved 5-2

Mr. Stokes felt cutting the 6" on the vestibule and 4" on the platform would not make that much of a difference.

The Chairman was in favor of cutting the additional depth so he would vote no.

### **18-08-Meneses-216 Linden Place – Block 612 Lot 8 Rear one story addition**

Mr. Phillip Meneses, homeowner, and Mr. Antonio Aiello, architect, was sworn in by the Board Attorney.

The Board Members accepted the qualifications of Mr. Antonio Aiello, 1A Henderson St. Hoboken, NJ as a licensed architect.

The Board Attorney marked as exhibit A-1 – Architectural plans

Mr. Aiello said they were requesting a variance on building coverage for the project. The architect said it was currently over the permitted amount of building coverage. He stated the existing building was 1,140 sf which already exceeds the 20% lot coverage. Mr. Aiello said it is already at 20.72% and the applicant is proposing to build a small room in the back which exceeds the building coverage by an additional 2.03%. The addition is a small transition space between the kitchen / dining room and exterior yard. They were not encroaching any side or rear

yard setbacks. The architect said they were lining up with the rear façade and setting back so they would not be encroaching on the side and no side yard variance would be needed.

The Chairman asked if there was construction under way at the site now. Mr. Aiello said yes it was for a different section of the house that did not need a variance. The Chairman asked if the proposed addition was one or two stories. Mr. Aiello said it was a one story mud room at the rear of the house was 20.72% existing and 22.75% proposed.

The Board Attorney asked for the size of the addition. Mr. Aiello said it was 15'x 7.4'. The Chairman asked what the lot size was. Mr. Aiello said 55x100 sf. The Board Attorney added it was a non-conforming lot. The Chairman asked what was behind his lot. Mr. Aiello said a school. The Chairman asked if the patio was existing. Mr. Aiello said yes.

The Board Attorney clarified that the right side yard was currently non-conforming and the existing house was 7.1' from that side. The Chairman asked how far the mudroom was from the side yard. Mr. Aiello said 10.9'. The Chairman asked if the left side of the property was conforming. Mr. Aiello said it was at 8.3' and 7.5' was permitted.

Ms. Hittel questioned if the new mudroom was further from the property line than the existing house. Mr. Aiello said yes.

Mr. Loonam said the Mayor and Council has put much thought into the building coverage ordinance. He did not think it was an incredible expansion and noted it was 1,140 sf existing proposing 1,251 sf. Mr. Loonam said that even with the addition, the impervious stays under the 40% and is proposing 38.5%. It is a narrow lot, the home is 80 years old and thought they were just trying to get the house a little more functional. Mr. Loonam thought there was a big difference going from 20.72 to 22.75 when the lot was 15,000 sf than when the lot was 5500 sf. Mr. Loonam did not have an issue with this application.

Motion to open to the public for questions or comments on this testimony and was made by Mr. Weisbrot, 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 Mr. Loonam, seconded by Mr. Weisbrot and carried by all.

Motion made by Mr. Loonam, seconded by Mr. Rebsch to approve the variance with a condition that if a homeowner proposed a second level to this mudroom they would need variance relief from the Board.

The motion passed on a roll call vote as follows:

For the Motion: Members Loonam, Rebsch, Seymour, Stokes, Weisbrot, Joseph, Schaffenberger  
Approved 7-0

18-09-Bromberg-1122 Allessandrini Avenue-Block 204 Lot 13  
New home

Mr. Andrew Kohut, Wells, Jaworski & Liebman ,12N Rt 17, Paramus, NJ on behalf of Michal Porath and Howard Bromberg, 1122 Allessandrini Avenue stated that he handed out a revised site plan. Mr. Kohut noted that the proposed maximum impervious reads 38.08% but it actually is 41.17%. Mr. Kohut said the denial letter stated 60%. Mr. Sproviero explained there has been a revised ordinance on impervious coverage. The Board Attorney said they received their affidavit of publication and service from the applicant and they were able to proceed. The Board Attorney suggested that the applicant seeks the additional variance and everyone would be best protected. Mr. Kohut agreed and requested the additional variance.

Mr. Kohut stated that the applicant was proposing to knock down the existing house and redevelop a new 2 ½ dwelling. They were requesting two variances. One was for the maximum building coverage for 25.71% where 20% was permitted. The other is for impervious coverage for 41.17% where 40% was permitted.

Mr. Kohut noted that they received a DPW report regarding the sanitary sewer must be clean and televised and stated if the Board approves the application they will comply with the request. The attorney also stated that they would comply with the requests in the Boswell Engineering letter.

Mr. Mark Montalbano, Coppa Montalbano Architect, 97 Lackawanna Avenue, Totowa, NJ was sworn in by the Board Attorney.

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

The Board Attorney marked as exhibit A-1 architectural plans dated 7/20/18  
A-2 revised site plan  
A-3 aerial photo

Mr. Montalbano stated this proposed project includes demolishing the existing 1 ½ story residential dwelling and replacement with new 2 ½ story home. The first level structure will include a single car garage, large open living area including living room/dining room/kitchen and study. The second floor will have five bedrooms and basement will be finished with a family room with two bedrooms with windows. It will include a covered front porch and a rear stone patio. The architect stated that the home design will meet the homeowner's needs for modern open living requirements. The scale was keeping with proportion and size of the other homes on the street.

The architect discussed the photo in the aerial view of the block. He noted that the majority of the homes on the street have been approved. Mr. Kohut asked the architect where the current home fell with the scale of the other homes in the area. Mr. Montalbano said it was undersized. Mr. Kohut asked where the size of this house would fall in the spectrum of the other houses. The proposed design would put the house more in keeping with the adjacent homes. Mr. Kohut asked if the house would stick out as a house larger than the other homes in the area. Mr. Montalbano said no.



Mr. Montalbano said part of this variance relief regarding the maximum design resulted from exterior design components to improve the look of the home. He explained some items that are elements that would enhance the design was the front covered porch as well as the building overhang. Mr. Kohut added that the open porch was approximately 2% of the 25.71%. Mr. Montalbano said with that and the overhangs and there was also a bump out on the side of the house for the fireplace. The Board Attorney clarified that these were all contributing to the total of the building coverage. Mr. Montalbano answered yes.

The Chairman noted there were dormers and asked if that was livable space. Mr. Montalbano said it was being used for attic space.

Mr. Loonam said on the zoning table it showed the current building coverage was 27.38%. Mr. Kohut said that was not right and they do not have an exact number. Mr. Loonam was questioning if the house was being reduced from the current building coverage. Mr. Loonam asked what the existing and proposed impervious coverage was for the lot. Mr. Kohut answered existing was 25.37% and did not have a number for proposed. Mr. Kohut said they were improving the side yard setback since the existing side yard setback was 6.52 and the proposed was 9.75.

The Chairman asked what the frontage of the property was. Mr. Kohut answered 65'. The Board Attorney asked what the depth of the property was. Mr. Kohut answered 86'. Mr. Sproviero asked what the total lot area was. Mr. Montalbano answered 8,616 sf.

Mr. Kohut asked the architect what type of drainage they were proposing. Mr. Montalbano answered a 1,000 gallon seepage pit with roof leaders connected to it. Mr. Kohut asked the architect if what they were proposing would be a substantial detriment to the neighborhood. Mr. Montalbano answered no the design improved it from an aesthetic standpoint. He said it was one of the older homes on the street and it would now blend in better with the adjacent homes. Mr. Montalbano said the proposed size of the house was comparable to the other homes.

The Chairman clarified that there were two bedrooms in the basement. Mr. Montalbano answered yes. The Chairman said the ordinance is 20% building coverage and asked since this is a knockdown why would they design a house that is 25.71%. Mr. Montalbano said that today's homes need to be larger for families and working with the client they needed larger spaces for entertaining their families. Mr. Kohut added that they do have three children and other family members may soon be moving in. Mr. Kohut asked the architect if there were lots in the immediate area that were larger than their lot. Mr. Montalbano answered yes. Mr. Kohut asked Mr. Montalbano if some of the homes in the area were larger than this house. Mr. Montalbano answered yes. The Chairman said they did not come to the Board for a variance. Mr. Weisbrot said some some did. The Board Attorney said he could not give an accurate number but we know we have had other applications on Alessandrini Avenue.

Mr. Loonam commented that Alessandrini Avenue is one of the nicest areas with all their improvements made to the homes. Mr. Loonam stated that this house has a 65' frontage whereas the other homes had 75' frontages. He felt that should come into play with what is being

proposed. Mr. Kohut said their lot is smaller and in order to be consistent with the other homes, even though they might have a little more building coverage, would not impact the other properties. Allowing the aesthetic improvements and improving the functionality of the house would outweigh any detriments because the houses in the immediate area would be the same size or bigger, said Mr. Kohut. Mr. Loonam understood his point of view but didn't necessarily agree with it. Mr. Loonam said the applicant was asking for 25.71 % building coverage and permitted is 20%. He noted that this was really 25% above what was allowed. Mr. Kohut said of that 5% only 2% of that 5% was for dormer overhangs etc. He stated although this was not a C1 hardship criteria but under the C2 based on what was discussed the variances were justified.

Ms. Hittel asked if there was any attempt to build this seven bedroom house within the 20% permitted coverage. Mr. Kohut pointed out that they met all setback requirements. Mr. Montalbano stated that the guest bedrooms were in the basement for privacy.

The Board Attorney asked how much square footage it would take to downside this house to about 22%. He was taking into account the 2% that was attributed to the non-livable components. Mr. Montalbano said they would have to bring it down approximately 317 sf. Mr. Kohut stated the applicant said it would impact the foot traffic.

Mr. Loonam said the Mayor and Council spend a lot of time on the ordinances and decided on 20% building coverage/40% impervious coverage. He felt when asking for two variances it meant the house was too big for the lot. Mr. Kohut said they would remove the impervious coverage variance and go down to 40%. Mr. Kohut said in certain situations there are justifications to go beyond what the Mayor and Council decided. Mr. Loonam said it was not the size of the house but it was because the frontage is so narrow.

Mr. Weisbrot agreed with Mr. Loonam that the Mayor and Council has spent a lot of time on the building and impervious coverage ordinances but said previously the board members almost unanimously recommended to tell the Mayor and Council to go to 25% because they considering and approving applications with 25%. Some board members disagreed with that comment. Mr. Loonam thought they were going to suggest it remain at 20%. Mr. Weisbrot appreciated that Counsel was willing to remove the impervious variance. He felt the discussion on the size of the house was inappropriate and felt this house would fit on this block and fit within the setbacks. Mr. Weisbrot said the size of the house fits in perfectly. He felt either the board votes against the size of every house in the neighborhood or the board says the size is not a variance issue. The variance issue is the applicant wants 25% (really 23%) on 20% building coverage, said Mr. Weisbrot. Mr. Loonam did not have a problem with the size of the house but had a problem with this house on the size of this lot with a 65' frontage.

Ms. Hittel agreed with Mr. Loonam and felt that there was a responsibility to keep this proportionality to the size of the lot.

Mr. Weisbrot said his opinion was that they should look at the request comparing it to the neighborhood and the character of the street and make a decision on the one variance. He agreed with Counsel to knock off 2% of the aesthetic elements. Mr. Loonam said if they were looking

for 23% then it was a different application. He was not recommending the applicant do this because it was up to them.

Mr. Kohut said they would remove the patio or at least to remove approximately 100 sf to get to 40%. Mr. Loonam said he was not designing this application but asked if that is what they were proposing to knock the patio down so it becomes to 40%. Mr. Loonam felt better if they would remove the impervious variance and get the building coverage to 23% because of the 2% overhangs etc.

Mr. Kohut stated that they were at 25.71% building coverage and of that 2.04% of that was overhangs & exterior architecture which would bring them to 23.67%. Mr. Kohut said as a condition of approval he would agree to say the 2.04% has to be discussed and not be enclosed.

Mr. Stokes understood the concerns of the lot size but felt it was the smallest irregular lot on the block. He felt the 25% may be excessive but he looks at the depths and widths and felt that was a perfect example why they could grant the variance.

Motion to open to the public to comment or question the witness on his testimony was made by Mr. Rebsch, seconded by Mr. Stokes and carried by all.

No one wished to speak.

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

Mr. Kohut said because of the functionality, aesthetics and the existing size of the homes in the neighborhood, this will fit well within the surrounding community. He did not feel there was any substantial detriment as far as negative criteria. The applicant will agree to stay within the 40% impervious coverage. The resolution can specify what percentage of the building coverage is for the building and what is for architectural features. Mr. Kohut discussed a Supreme Court case that allowed for a smaller rear yard to enable the applicant to build a home more in keeping with the character of the area which is called neighborhood norm. Mr. Kohut felt this was the situation with this application. He felt there would be more of an issue if the applicant was requesting building coverage and side yard variances but they were fitting this house without side yard variances on the lot. Mr. Kohut asked the Board Members to approve the application as amended and conditioned.

Mr. Kohut said the front porch was 2.04% and he would stipulate on the record that they would get the calculations for the overhangs. Mr. Loonam asked if they were confident saying the building coverage would not be over 23.71% living area and no more than 23.67%. He clarified there will be no variance for impervious coverage.

Motion made by Mr. Weisbrot to grant the building coverage variance with the following conditions, seconded by Mr. Stokes.

Conditions: The request for a variance for impervious coverage be withdrawn.

25.71% is the max total -The maximum livable space will not exceed 23.67%  
(livable includes the garage)

The motion passed on a roll call vote as follows:

For the Motion: Members Weisbrot, Stokes, Loonam, Rebsch, Seymour, Joseph

Against the Motion: Member Schaffenberger

Approved 6-1

Mr. Loonam felt this was a big house and it was okay to have a large house. He thought with the applicant accepting certain conditions and working with the Board and being mindful of things such as the impervious coverage, this amended application was more appropriate than what was first requested and would approve the application.

The Chairman felt this was the wrong house for this lot. He felt many of the lots had 75' frontages and had at least 10' side yards. He felt the house was too large for the lot and said when demolishing a house and starting with nothing, 20% would still be a large house.

#### **18-10 Coolserv, LLC – 230 River Road – Block 1309 Lot 5 New Store – Use Variance**

Matthew Capizzi, 11 Hillside Avenue, Tenafly, NJ, on behalf of the applicant stated that this was an application for a change of use at 230 River Road. He stated the property now has a single story warehouse building that is occupied by its owner "Signs by Blohm". It has been used by their family since the early 1960's for their sign manufacturing business. The existing building is a one story building and the site has about 12-15 parking spaces.

Mr. Capizzi said that Mr. Skier operates a business called "Coolserv" which operates now out of Paterson. He sells and repairs restaurant related equipment and would like to move his business from Paterson to this property which he would own and operate for his own use.

There was no changes proposed to the exterior of the building with the exception of whatever signs would be permitted. The attorney noted that the interior of the building would remain in its present condition. This business was in the commercial B zone which provides permitted limited uses. He said the zoning officer felt their use did not fall within any of the allowable categories.

Mr. Skier, business address 286 Preakness Avenue, Paterson, NJ was sworn in by the Board Attorney.

Mr. Skier, owner of Coolserv, stated he has been in business since 2009. They refurbish and rent soft serve ice cream machines primarily to food services. Mr. Capizzi asked him if he plans to keep the site and building as is. Mr. Skier agreed. Mr. Capizzi asked how many employees he will have in New Milford. Mr. Skier answered 2 full time, 2 part time and himself. Mr. Capizzi clarified that it would be no more than 5 employees. Mr. Skier agreed. Mr. Capizzi asked if there was sufficient parking. Mr. Skier said yes.. He stated his operation would be from 7am-5pm and ½ days on some Saturdays in the spring and summer. He commented that rarely does anyone

come to the property to see them. They pick up the equipment and the service of the majority of the equipment is done in the field. The work done is refurbishing. Mr. Capizzi asked what kind of vehicles accommodates delivery. Mr. Skier said they use his pickup truck or a straight truck with a lift gate. Mr. Capizzi asked if the straight truck would be parked overnight. Mr. Skier said no only his pickup truck would be there. Mr. Capizzi asked if refrigeration was regulated. Mr. Skier said the soft serve ice cream machines have a sealed refrigeration unit. He noted if they need to remove the refrigeration, than they are recapturing it according to EPA guidelines. Mr. Skier said licensed refrigeration people handle the refrigeration. He said the refrigeration cans do not have to be stored and there was nothing environmental dangerous about it. Mr. Capizzi asked how they handle refuse. Mr. Skier said if it a machine it was metal and it would be brought to a scrape yard or recycled and if it is cardboard, it would be recycled.

The Chairman asked if he could buy the refrigeration cans. Mr. Skier said yes some could be bought at an auto parts stores. He stated you need a refrigeration license to purchase it. The Chairman asked if he has the license. Mr. Skier answered he did not but some of his employees have refrigeration licenses. The Chairman said his main concern was the chemicals and said in the resolution it would be that it must comply with all Federal and State environmental regulations. Mr. Skier agreed and said he complies now with all regulations.

The Chairman asked what signage was he proposing. Mr. Skier said he needs a number on the building and maybe the hanging sign. The Chairman asked how large was the ice cream machines. Mr. Skier said the smallest could be 20 deep by 12 wide and the floor models could be 30" square. The Chairman asked how many machines were stored at the store to be refurbished. Mr. Skier said less than 50.

Mr. Loonam said because this is a use variance he wanted to make sure there are no other uses on the property. Mr. Skier agreed. Mr. Loonam asked if they would let any other commercial vehicles park in the lot overnight or anything of that nature like landscapers or anyone who would want to rent the property and park. Mr. Skier said he was requesting the building and business for his business. Mr. Loonam clarified that there would be no other type of use of that property other than what you are requesting.

The Chairman said there was a referral letter from the police regarding safe egress/ingress or impeding emergency service vehicles. Mr. Capizzi said they were not modifying the egress/ingress out of the site so there should not be any impact on emergency access.

The Chairman asked if he knows of any refrigerant cans under pressure ever exploding. Mr. Skier said no.

The Board Attorney asked if he received the comment letter from the Board's planner. Mr. Capizzi did and said the nature of this use was less intensive than the uses allowed in the zone. They did not believe there were any negative impacts because of the minimalistic nature of his business. The Board Attorney said for the record this was an accurate recitation of the opinion expressed by Mr. Grygiel upon the review of the application that what is proposed is less intensive than what is there now.

Motion to open to the public for comments or questions of the witness was made by Mr. Loonam, seconded by Mr. Rebsch.

No one wished to speak.

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

Motion made by Mr. Loonam to approve the request for the use variance with conditions, seconded by Mr. Seymour.

Conditions: Comply with Federal and State environmental regulations and requirements.

Sign must conform to municipal standards.

Variance granted would be expressly constrained to the use requested.

The only commercial vehicles or other vehicles parked overnight must be registered

. to the business or personal vehicles of the applicant.

The motion passed on a roll call vote as follows:

For the Motion: Members Loonam, Seymour, Rebsch, Stokes, Weisbrot, Joseph, Schaffenberger

Approved 7-0

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

Respectfully submitted,  
Maureen Oppelaar