

**New Milford Zoning Board of Adjustment
Work Session
November 13, 2012**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:30 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Appice	Present
Mr. Binetti	Present
Ms. DeBari	Present
Mr. Denis	Present
Father Hadodo	Absent
Mr. Loonam	Absent
Mr. Rebsch	Present
Mr. Stokes Vice Chairman	Present
Mr. Schaffenberger-Chairman	Present
Ms. Batistic- Engineer	Present
Mr. Sproviero - Attorney	Present

REVIEW OF MINUTES – Special Meetings for September 19 and September 27, 2012

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

REVIEW OF MINUTES - October 9, 2012

The Chairman had an issue with a paragraph on page 9 that he felt was hard to understand. He read it into the record. The Board Attorney said there was significant confusion as to what was on the plans, what was there now and what was being asked for. The Board conducted a duly noticed closed session special meeting to discuss this topic. The Board Attorney stated the evidence of record reflected that the applicant said there were currently 130 seats and the zoning table on the plans reflected the applicant was requesting 260 seats. Mr. Sproviero stated the Board had determined in lieu of memorializing its approval of the application, the Board would entertain a resolution at a special meeting on November 19 to consider the conduct of a rehearing of the application to straighten out that issue. The Board Attorney stated the minutes accurately reflect what was spread upon the record and the issue would be taken up when the Board considers whether or not to invoke a rehearing.

RESOLUTION

12-04 – Gospel Fellowship Church – Block 913 Lot 1 – 111 Henley Avenue –Use of Property as a House of Worship, side and rear yard buffer, parking

The Board Attorney stated the resolution would be moved to November 19, 2012. The Chairman asked if the Board Engineer received the amended plan. Ms. Batistic had received an amended site plan without the details and Michael Hubschman would revise all the sheets. The Chairman asked if the Board could memorialize the resolution without seeing the final plan. Mr. Sproviero stated the Board could approve it subject to the Board Engineer's approval of the revised plans.

Ms. Batistic explained they did obtain a DEP permit for the disturbance of the wetlands but with the new layout they would not be disturbing the wetlands.

12-01 New Milford Redevelopment Associates Block 1309 Lot 1.02 –Mixed Use Development – Supermarket, Bank and Residential Multifamily Housing

The Chairman understood Mr. Dipple would be at this meeting. The Board Attorney agreed and the Board had received plan revisions.

12-03 – 105 New Bridge Properties, LLC – Block 113 Lots 4, 5, 6 –Parking Lot/Restaurant Expansion –Use, Impervious lot coverage, front and side yard setback, off street parking, signs and seating

The Chairman stated there were discussions in closed session regarding discrepancies on the plans and testimony which the board would be dealing with on November 19th.

NEW BUSINESS

12 05 - 1109 Alessandrini Avenue – Block 205 Lot 20 New House – variances for building coverage, height, stories, projections into required yards, driveway curb

The Board Engineer issued a letter for the application stating they would need to submit seepage pit calculations. The Chairman stated the applicant was seeking five variances. He stated they were requesting lot coverage allowed 20% requesting 25.1%, height allowed 30' requesting 31.89', stories allowed 2 ½ requesting 3, front steps allowed 4' into required yard setback requesting 16', driveway allowed 20' requesting 28.3'.

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

**New Milford Zoning Board of Adjustment
Public Session
November 13, 2012**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 8:00 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Appice		Present
Mr. Binetti		Present
Ms. DeBari		Present
Mr. Denis		Present
Father Hadodo		Absent
Mr. Loonam		Absent
Mr. Rebsch		Present
Mr. Stokes	Vice Chairman	Present
Mr. Schaffenberger	Chairman	Present
Ms. Batistic-	Engineer	Present
Mr. Grygiel	Planner	Present
Mr. Sproviero -	Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE SPECIAL MEETING – September 19, 2012

Motion to accept the minutes were made by Mr. Binetti, seconded by Ms. Debari and carried by all.

OFFICIAL MINUTES OF THE SPECIAL MEETING – September 27, 2012

Motion to accept the minutes were made by Mr. Appice, seconded by Mr. Stokes and carried by all.

OFFICIAL MINUTES OF THE WORK SESSION – October 9, 2012

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

Motion to accept the public session was made by Mr. Stokes, seconded by Mr. Binetti and carried by all.

RESOLUTIONS TO BE MEMORIALIZED

12-04 – Gospel Fellowship Church – Block 913 Lot 1 – 111 Henley Avenue –Use of Property as a House of Worship, side and rear yard buffer, parking

The Chairman stated the resolution would be memorialized on Monday November 19, 2012.

12-03 – 105 New Bridge Properties, LLC – Block 113 Lots 4, 5, 6 –Parking Lot/Restaurant Expansion –Use, Impervious lot coverage, front and side yard setback, off street parking, signs and seating

The Board Attorney stated the Board would take formal action to determine whether a rehearing of the application was necessary as a result of discrepancies. Formal action with regard to that determination would take place on November 19, 2012.

12-01 New Milford Redevelopment Associates Block 1309 Lot 1.02 – Mixed Use Development – Supermarket, Bank and Residential Multifamily Housing

The Board Attorney explained the Board became aware of a campaign ad on November 12 and read the ad into record. Mr. Sproviero spoke with Mr. Rebsch and discussed his concerns with respect to the existence or appearance of a conflict with regard to a position or opinion that may have been developed with regard to this application prior to hearing all the testimony and taking a vote on it. The Board Attorney's concern was it puts any challenge to a negative determination that might result from this Board's action in jeopardy in event litigation follows. Mr. Sproviero asked Mr. Rebsch if he was aware of the advertisement. Mr. Rebsch was aware. The Board Attorney asked if he had formed an opinion with regard to this issue on the application or redevelopment and if he could fairly and without any prejudice continue to sit on the Board and hear this application. Mr. Rebsch answered it would not help the Board if he sat on this application and he would recuse himself. The Board Attorney had concerns with the integrity of the process. Mr. Rebsch agreed. The Board Attorney knew they both shared the same concerns with respect to the integrity of the process and respected Mr. Rebsch's determination with regard to recusing himself and he thought it was regrettably the right course of action to follow. The Board Attorney stated the Board was out of alternates and the Land Use Law stated that replacement would be designated from the planning board. Mr. Del Vecchio stated the Board had a quorum and there was no reason not to continue with the hearing.

The Board Attorney said in his notes there was information to be supplied from Mr. Pagano to the Board. Mr. Sproviero asked Mr. Del Vecchio if he could identify the question would he be open to supplying the information to the Board. Mr. Del Vecchio responded if it were relevant to the proofs that need to be produced to the Board he would get the answer.

Mr. Del Vecchio stated their special meeting was cancelled because of the storm and requested a replacement special meeting. The Board Members discussed the matter and postponed any special meeting until January. Mr. Del Vecchio requested all regular meetings be solely for this application until special meetings were available. Mr. Sproviero answered they could not be devoted exclusively to this application but was comfortable giving him two hours at a regular meeting. Mr. Del Vecchio was not extending the time within which the Board act beyond those extensions that were granted to this point and would address the extensions at the conclusion of this meeting. The Board Attorney stated the Board would bring this to a vote whenever they were ready.

Mr. Del Vecchio marked the updated documents into evidence;
A-33 stormwater management report last revised 10/26/12
A-34 updated architectural plans last revised 10/26/12
A-35 updated site plan drawing 10/26/12

Mr. Del Vecchio recalled Mr. Dipple who remained under oath to summarize all the changes made to the drawings.

Mr. Dipple stated the changes were generally responses to the various comment letters received from the municipal professionals. The Engineer discussed the revisions made in response to Ms. Batistic's comment letter. Mr. Dipple clarified the discrepancy in the size of the lot and the plans and zoning sheet were revised on CO-3 to show the proper lot size with an increase by 5' along Cecchino Drive. Mr. Dipple stated the proposed lot was 596,459 sq ft which was consistent with the approved subdivision plan. There were details added to the plan with regard to the proposed retaining walls, addition of a decorative fence around the above ground detention basins and minor revisions to the driveways in accordance with one of the comments regarding the slope close to River Road. Mr. Dipple stated one of the major revisions was the addition of a left turn lane on River Road that was proposed between Cecchino Drive and tapered down at the northern most proposed driveway along River Road. He stated it provided left turn lanes for vehicles traveling north on River Road to enter the site and vehicles traveling left on River to make a left onto Demarest. Mr. Dipple added there was a left turn lane added at Main Street that permitted left turn vehicles into the site traveling westbound and left turn maneuvers traveling eastbound onto Washington. The Engineer noted there were some landscape revisions and very few noticeable revisions to the plan with regard to storm water management. The next comment letter was from the Fire Department with a concern regarding the above ground detention basin and how would they put a ladder in the basin if it was wet to access the windows for an emergency on the south side of the property. Mr. Dipple explained they were incorporating a product that would be used where support of soil was paramount for emergency type uses. Mr. Dipple also mentioned the fire department commented on the access to the center core and the architectural plan reflected a corridor from the outside into the interior. It was a straight hallway to provide ladder access.

The Engineer stated with regard to Department of Public Works there were questions on how things would be handled with garbage, leaf pick up, tree trimming and pavement repair and it would be the applicant that would be responsible for all those items. Mr. Del Vecchio clarified the maintenance issues of the site and the upkeep and maintenance of the storm water detention facility would all be handled privately. Mr. Dipple agreed. Mr. Dipple stated they increased some turning radii with regard to the next generation emergency vehicle entering into the site. He said in the plan they increased some of the radii coming in at some of the driveways and one of the radii near the supermarket because it was mentioned the access for fire to the back of the supermarket could be from River Road should Madison be under flooding conditions .

Mr. Del Vecchio stated there were comments from the ambulance squad providing stretcher service to and from the residential building. Mr. Dipple answered they designated one of the parking spaces as emergency only directly in front of one of the main doors to the residential building. He stated they have a 10' sidewalk along that parking lot and full access right into the main corridor of the building. Mr. Dipple said there was a request for a sidewalk directly from the pool to the sidewalk proposed along Cecchino for emergency access and a gate at the pool.

The Engineer stated one of the comments were regarding pedestrian access from the intersection at Cecchino Drive /Madison and accessing the facility. He said they continued a proposed

sidewalk along Madison entering the site which linked up with the proposed sidewalk along the main access drive. Mr. Del Vecchio clarified they had a sidewalk looping the entire residential building. Mr. Dipple agreed and stated they also added crosswalks along Cecchino Drive and showed on the plans four existing crosswalks. The engineer stated they improved the right in right out access point, widened the access driveway to 15' and provided a left turn driveway out of the facility at the traffic engineer's recommendation. Mr. Dipple stated that driveway was improved upon so there was a designated left turn at the light, straight and right turn exiting the site and one lane coming into the site. Mr. Dipple reviewed the improvements to the driveways to accommodate truck deliveries including the driveway between the supermarket and the residential building. He added they also improved radii on the southwest corner of the supermarket should vehicles come in from River Road.

Ms. Batistic asked if the number of parking spaces changed. Mr. Dipple answered they did not eliminate a parking space but added the emergency space as a striped space. Ms. Batistic stated a car could not park there if it was for emergency access. The Board Engineer asked if they did any additional soil permeability testing. Mr. Dipple had not but would provide it.

Mr. Grygiel questioned that the plan showed four of the units were now one bedroom units. Mr. Dipple would have to check with Mr. Lessard.

Ms. DeBari asked about the left turn lanes and if they were widening the road. Mr. Dipple answered they were widening on the development side only and the physical cart way width between the curbs would change. He stated it would not impact any properties. Ms. DeBari asked how wide the lanes would be. Mr. Dipple answered the proposed left lane was 11', the thru lane was 12' and coming from the opposite direction was a 13' lane. Mr. Appice asked if it was the same for Main Street. Mr. Dipple answered it was the same width but the queuing changed a little. Mr. Appice asked if traffic went straight thru into Demarest Avenue. Mr. Dipple agreed that was always the case when leaving the site. He said there was just a straight in and out and they proposed a left turn lane. Mr. Binetti stated they were still sending traffic thru Demarest Avenue as an exit to the Boulevard. Mr. Dipple said nothing changed to that driveway except the designated left. Mr. Binetti stated they told the traffic engineer that needed to be adjusted because Demarest Avenue was a residential street and they could not have traffic from the site going directly down a residential street. Mr. Binetti asked what had been done to rectify that situation. Mr. Dipple would talk to Ms. Dolan and Mr. Del Vecchio believed Ms. Dolan would be back. Mr. Stokes questioned the left hand lanes and thought it was testified that the existing roads were 30' wide. He asked what the proposed width of the roadway was. Mr. Dipple answered 36'. Mr. Stokes asked if it would affect the trees. Mr. Dipple answered yes along River Road there was a tree line and they would replace the trees. Mr. Stokes asked what kind of trees were at the tree line. Mr. Dipple stated they were a Sycamore variety. Mr. Stokes stated there was a comment from the Shade Tree Commission asking for a revised plan. Mr. Del Vecchio stated the revised landscaping plans were in the set and they would forward a set of plans to the Shade Tree Commission and the Environment and Energy Commission. Mr. Stokes asked if he was aware that there was no left off of Main Street onto Washington Avenue allowed. Mr. Dipple said it could be striped to eliminate the proposed left onto Washington.

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

Al Alonso 45 Clover Court asked if he incorporated a left turn lane on River Road to accommodate the additional volume. Mr. Dipple stated it was in Ms. Dolan's original analysis and Ms. Batistic mentioned in her report that the left turn was not on the plans. Mr. Alonso stated Ms. Dolan did confirm that it was warranted based on the volumes. Mr. Dipple answered Ms. Dolan initially said it was warranted. Mr. Alonso stated the Mayor and Council had jurisdiction in terms of approving left turn lanes on River Road at that location. Mr. Dipple assumed any changes to the right of way would need Mayor and Council approval. Mr. Alonso questioned that the turning lane would be a condition upon the applicant applying to the Mayor and Council for that relief. Mr. Dipple would have to consult with Mr. Del Vecchio.

Marc Leibman said he would like to reserve a time and opportunity to see the plans.

Gail Ablamsky 557 Mabie Street questioned the width of the roadway for the right hand lane. Mr. Dipple answered the curb line would only be effected on the property side. The site had frontage along River Road so that curb line would be adjusted to accommodate the additional 6' at its widest point and it was on the west side on the proposed property. Mr. Dipple stated there was 30' curb to curb with 15' in each direction. They were proposing 12' to go straight thru, 11' to turn left into the development, and the opposite way was 13'. The resident was concerned about the tapering of the road. Mr. Dipple stated it tapered over a distance of 175'.

John DeSantis 190 Powell Drive asked what was the proposed total length on River Road to be widened. Mr. Dipple answered 470'. The resident asked how many Sycamore trees would be removed. Mr. Dipple thought there were 6 site trees. Mr. DeSantis asked if they were considered heritage trees. Mr. Dipple did not believe they were and they did a search for heritage trees and found seven in the vicinity of the site.

Peter Rebsch 147 N. Terrace Place questioned the corner entering the driveway by the bank on River Road and thought trucks would only enter from Main Street going down Madison Avenue and making a left. Mr. Dipple stated that was a comment from the Board's professional to provide the ability for a truck to do that but the plan was still to have loading come in from Madison and load to the back of the supermarket. Mr. Dipple stated in the review letters it was recommended that they improve those radii so if trucks had to get in there in case of flooding on Madison Avenue they would be allowed to do so.

Miriam Pickett 222 Baldwin Avenue asked what kind of trees would replace the Sycamores. Mr. Dipple answered Sycamores. Ms. Pickett asked how old the trees would be. Mr. Dipple said they were proposed 3 ½" caliber trees. The resident asked what the size of the existing Sycamore trees were. Mr. Dipple did not know. Ms. Pickett asked how long it would take to provide a beautiful canopy. Mr. Dipple did not know.

Lori Barton 399 Roslyn Avenue questioned if there was a reduction to one bedroom units or to a one bedroom plus den. Mr. Dipple said there was a change on the architectural plan on the west side of the residential building. He stated it said two one bedrooms plus den. Ms. Barton asked

how many parking spaces would be lost from shopping cart return areas. Mr. Dipple stated they were incorporated into the plans.

Ulises Cabrera 659 Columbia Street had a question on the exit for the delivery trucks onto Main Street and if they would be using the bridge. Mr. Dipple answered yes. Mr. Cabrera asked again if the bridge could sustain the capacity of the delivery trucks. Mr. Dipple stated they contacted the County and they were told there were no restrictions on that bridge.

Michael Gadaleta 270 Demarest Avenue asked if there was any consideration to leave the 5' for future widening for Cecchino and not take the property back. Ms. Batistic explained the 5' was when United Water did the subdivision and typically when there were improvements on a County Road 5' was given to the County for future widening. The Board Engineer stated that it was not a County Road so there was no 5' given to anyone. Ms. Batistic clarified when the Borough took over Cecchino Drive it was a 50' right away. She stated the 5' was introduced incorrectly.

Mr. Gadaleta asked for clarification on whose responsibility was the residential garbage pickup. Mr. Dipple answered it was the developers responsibility. The resident clarified the Fire Departments concern was regarding the westerly side of the property and their design solution was to place a plastic liner in the bottom of the retention pond. Mr. Gadaleta asked if there was any consideration to reduce the overall size of the residential building so the pond would not have to be so close to the building. Mr. Dipple answered no. The resident asked if they proposed to continue the sidewalk and curb along Madison beyond the truck driveway access. Mr. Dipple answered no. Mr. Gadaleta asked how students would cross the street. Mr. Dipple stated there was an access point from the crosswalk at Cecchino along the sidewalk, in front of the residential building and at the face of the supermarket building. Mr. Dipple stated along Madison immediately to the north of the driveway was no longer their property.

Mr. Gadaleta asked if there would be a signal at Demarest. Mr. Dipple answered no. The resident asked if someone could exit the proposed development and go down Demarest Avenue. Mr. Dipple stated Ms. Dolan gave testimony regarding traffic maneuvers and they proposed a straight, right with a designated left. The designated left was warranted and requested. Mr. Gadaleta asked if there was a proposed crosswalk to Demarest Avenue. Mr. Dipple answered no. The resident asked if their coverage increased. Mr. Dipple answered the current plan was 70.44% and the increase of sidewalk and turning radii increased it tenths of a percent. Mr. Gadaleta questioned if they would be required to renotece. Mr. Gadaleta asked if he reviewed any detailed plans outside of a schematic layout to guarantee 400 parking spaces would fit in the parking lot. Mr. Dipple answered no. Mr. Gadaleta asked if there were plans for Mr. Lessard to return to the Board. Mr. Stokes stated since there were adjustments to the plans, he thought Mr. Del Vecchio would make Mr. Lessard available to the Board.

RECESS

Todd Ghiosay 334 Morris Lane had concerns with leaves and snow at the curb in the area of the three lanes. He asked why not make three 15' lanes which would be safer for the motorists. Mr. Dipple answered these were standard widths proposed and wider was not always safer because it

tends to increase speed. Mr. Dipple answered the snow needed to be managed from the roads and it was a temporary condition and he did not agree with three 15' lanes. The resident asked if it was the applicant's responsibility for alterations to the storm drains in the right of way. Mr. Dipple said it was the applicant responsibility to make and construct the improvements. Mr. Ghiosay asked if the pavement would be from curb to curb. Mr. Dipple thought it would be from width to width and would be the applicant's burden to design and construct it.

Kathy Podesta 263 River Road asked how she would get out of her driveway because she lived by Demarest Avenue and was there a proposed plan for those houses across the street from the site. Mr. Del Vecchio stated it was outside of his area of expertise and Ms. Dolan would be able to testify to it.

The resident at 275 Fulton Street had questions on the sidewalks and how they would accommodate ambulance access. Mr. Dipple answered they provided at the main entrance to the residential building one designated space for emergency vehicles and the sidewalk was reengineered to make sure a stretcher could get out and down a ramp. The resident had questions regarding additional flooding with the increase of pavement and removal of trees and asked if there would be more testing. Mr. Dipple answered it was not testing but design and the calculations were prepared in accordance to the storm water management rule.

Mr. Sproviero stated there was another application to be heard. Mr. Del Vecchio questioned when the meeting would be carried. Mr. Sproviero answered November 19, 2012. Mr. Del Vecchio stated no further notice was required and asked if they could revisit having a special meeting in December.

12 05 - 1109 Alessandrini Avenue – Bromberg - Block 205 Lot 20 – New House- variances for building coverage, height, stories, projections into required yards, driveway curb

Mr. Ari Weisbrot from the law firm Philips Nizer representing the Bromberg's stated he lived on the applicant's block and was familiar with the property and felt the most important aspect of their situation was the slope of their property. He explained that slope and construction performed on a neighboring house prior to them moving in created a situation where their rear property and basement flooded whenever it rains. He believed this created a hardship. Mr. Weisbrot explained the character of the block had gone from split-levels to larger two to three story properties. The attorney explained the proposed home was more consistent to the homes on the block now. He stated a positive factor for a variance was the construction visually was far more consistent with the block than their current home. He added there were no negative impacts and the applicant was requesting five variances. Mr. Weisbrot stated there were no substantial deviations from the zoning plan with respect to the variance requests and the coverage variance they were seeking was 25.1% and allowed 20% . Mr. Weisbrot said the height, the stories, steps and driveway were because of the gradation and uniqueness of the property. The attorney stated Kevin Brodie, architect, would testify to the design and Richard Burns, engineer, would testify to the site engineering aspect of the application..

The Board Attorney swore in Mr. Kevin Brodie Mistry Design LLC 17 Main Street, Netcong, NJ.

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

Mr. Weisbrot marked as evidence exhibit A-1 photograph taken by property owner in 2011 showing water coming into garage.

Mr. Brodie described the first floor plan having 2,037 sq ft. consisting of a living room, dining room, family room, guest/ study and kitchen. The second floor had four bedrooms and a master suite. The architect stated there was a guest room on the first floor for their parents. Mr. Sproviero questioned that there was a bedroom and second kitchen in the basement that was an invitation for a second apartment. Mr. Brodie stated they were orthodox and had a pesach kitchen and they had no desire to rent this out. The Board Attorney had a concern if they sold it with this set up in the basement.

The architect stated their first floor was three feet above the curb level and the house was already technically a three-story house as it stood now with the bottom of the curb at 97 and their present first floor was 94. He stated there was no way to get this house to a two-story house with the slope of the property unless the first floor was dropped considerably. Mr. Brodie stated the proposed height was 1.89' above the allowed 30'. Mr. Sproviero questioned why he could not drop it 1.89'. Mr. Brodie answered there was a proposed 4 on 12 slope roof and he did not want to go less than that because of ice and water runoff. Mr. Sproviero questioned if the height was caused by the slope. The architect explained one of the causes for the height was the garage slab was a foot higher than the street. He explained his client was using all high quality materials. The Board Attorney asked why there was an encroachment on the stairs. Mr. Brodie said Azzolina & Feury proposed a 16' projection but in reviewing his drawings there was a 7' 6" projection on the stairs and another 5' at the bottom for the platform so it was really a 12'6" projection. The architect explained Azzolina & Feury used 12" steps and they showed 9" steps which was the minimum allowed. He added they would revise that to 12'6". The architect noted that the 7'6" encroachment on the steps was the only part of the steps above grade and the remainder of the steps were below grade and not visible from the street. Mr. Brodie stated the neighbor's house had the exact configuration for their steps that was built a few years ago. The Board Attorney had a problem with his referencing a neighbor's house being 34' high and another house with steps encroaching because all of that would had to come before the Board for variance relief. He stated there had not been any applications on this street for any relief as long as he had been Board Attorney so he did not know the factual basis for those statements were. He could not accept his testimony as accurate.

Mr. Weisbrot marked as evidence exhibit A-2 photograph of the applicant's house and the house to the right of the applicant. The applicant took the picture today. Mr. Weisbrot recognized this was a photograph and they were not marking it for height purposes but it would be helpful for a visual. Mr. Weisbrot said they did not know when the house was constructed.

Mr. Stokes questioned that the plans for the steps read 14'6" and if the building was 1 1/2' more forward. Mr. Brodie agreed and said that would be corrected by Azzolina & Feury. He explained the building setback was at the portico with a 2' projection. Mr. Stokes clarified that the steps came down to grade and then there was a 5' turn and down to the driveway. Mr. Stokes

questioned if the step below grade would be considered part of the front steps or a gardening effect. Mr. Brodie said the stairs above grade protrude 7'6".

The Chairman said he visited the property and the topography went up at the street but then flattened out. The Chairman did not understand the need for three stories and the additional 2' for the height because the house was on relatively flat ground. Mr. Brodie stated they wanted to keep the garage slab above the street level. He said to get to the approved height the roof would be very flat. There was discussion on the three stories and Ms. Batistic clarified the definition of a story. Mr. Brodie said to make the basement ceiling at grade level the garage would have to be eliminated. The Board Attorney asked if there was room for a detached garage. Mr. Brodie answered no. Ms. Batistic said on sheet A2-01 it listed total habitable area of 3,954 sq ft. and if he considered the basement not habitable. Mr. Brodie answered they did not consider basement habitable space when it was 50% below grade. Mr. Binetti asked what the ceiling height was for the basement. Mr. Brodie answered it was 9 or 10'. The Board Attorney asked why there was a shower in the basement. Mr. Brodie answered for the guest room and for the children. The Board Attorney felt it looked like a separate apartment. Mr. Binetti had a problem with the kitchen because there was no religious reason to have two kitchens and would like the kitchen eliminated. Mr. Binetti questioned if there would be a separate entrance to the basement. Mr. Brodie said there was an entrance to the basement from the garage and the house. Mr. Weisbrot concurred it was not a religious obligation to have a second kitchen but it was not uncommon. The applicant's attorney said they would withdraw the kitchen in the basement if it was something the Board would require.

Mr. Appice asked if there was a sliding door on the side. Mr. Brodie answered it was a window.

Mr. Stokes asked if the basement and the first floor had 10' ceilings. Mr. Brodie stated the first floor was 9' ceilings and the basement had 10' ceilings to allow for ducts.

Mr. Brodie stated they were requesting a driveway width of 28'3" where 20' was allowed. He stated 28'3" was taken at the flare curb cut and the actual driveway width was 25'7". The Chairman asked how wide was the average car. Mr. Brodie answered 7' wide and the average parking space was 10' wide. Ms. DeBari said the average space was 9x18. Mr. Brodie agreed and said if it pleased the Board he did not see a problem going down to 23'. Mr. Binetti felt it was for the conformity for the block. Mr. Brodie stated they could eliminate the flares at the driveway width and go straight up.

The Board Attorney asked if there was any way to correct the basement being above grade. Mr. Brodie said the only way to correct it was to drop the garage down below street level. Mr. Binetti asked if there was a way to redesign the front to make it more conforming to a two story. Mr. Weisbrot asked for clarification if the Board was suggesting working on the actual three stories or the appearance of the three stories. He felt the testimony was clear that the only way would be to put the garage below grade. The Board Attorney stated there were other ways to get this done. Mr. Weisbrot said this was a unique property that already floods. Mr. Sproviero answered based on the topography it was not that unique. The applicant's attorney explained the uniqueness was not the house itself but the environment created for the house where it was located. He explained their house and property was located between two houses built higher in terms of grade that resulted in massive flooding on their property. The Board Attorney understood.

Ms. DeBari also suggested returning next month with some changes in the plans and she had concerns with the stories. Mr. Binetti commented on removing the two windows in the front. Mr. Brodie suggested lifting the soil up 2' and not giving the appearance of being as tall. The Chairman thought it was too much house and felt the garage was the issue. He suggested if the garage stayed where it was and the whole house came down it would solve the height and story problem. The Chairman thought it was a lot of house for the lot. Mr. Weisbrot agreed except a lot of this was driven by the grade and the garage. He stated the majority of houses on the block existing today were more house than the Bromberg's house. The Chairman and Mr. Binetti both commented that the height ordinance has changed from 35 to 32 and now 30 so a house might have been built when there was a different zoning requirement.

The Board Attorney stated the next meeting would be December 11 and they would be first.

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

Respectfully submitted,
Maureen Oppelaar