

Approved
12/10/19

New Milford Zoning Board of Adjustment Work Session November 12, 2019

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. Adelong	Absent
Ms. DeBari	Present
Ms. Hittel	Present
Mr. Levine	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes	Present
Mr. Weisbrot	Present
Mr. Schaffenberger- Chairman	Present
Mr. Ascolese -Engineer	Present
Mr. Sproviero - Attorney	Present

REVIEW MINUTES OF THE WORK SESSION – October 08, 2019

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

REVIEW MINUTES OF THE PUBLIC SESSION – October 08, 2019

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

SCHEDULE OF MEETINGS 2020

The Board Attorney told the board that he appeared before the October Mayor and Council meeting with Chairman Schaffenberger advising them of the Zoning Board's intent to independently solicit and engage a board engineer. He explained the Board has been discussing this for many years. The Mayor and Council greeted their request favorably. Mr. Sproviero prepared the RFQ and the public notices required to make the procurement. The Board Attorney explained it was their expectations to award this contract at the January Reorganization meeting. He noted that the Chairman would not be available for the scheduled January 14, 2020 meeting.

The Board Attorney said there would be a review team to review the RFQs and make a recommendation and award the contract at the reorganization meeting. The Board Attorney asked the Chairman to pick the review team. The Chairman, Vice Chairman and attorney will be the review team, said Mr. Schaffenberger. The team will have a meeting in January before the January reorganization meeting to review the RFQs.

The Chairman discussed available dates with the Board Members and it was decided the January Reorganization meeting would be on Wednesday January 22, 2020.

RESOLUTION

**19 05 – 341 Webster Drive – Block 1603 Lot 4 – Julio Bermeo Settlement Trust
Appeal of the Zoning Officer’s denial / Use for seasonal wash room**

The members reviewed the resolution and there was a change.

OLD BUSINESS

**19 06 - 317 East Woodland – Block 714 Lot 3 – Lazarus
Building Coverage – New Single-Family House**

The members had no comments or questions.

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

**New Milford Zoning Board of Adjustment
Public Session
November 12, 2019**

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. Adelong	Absent
Ms. DeBari	Present
Ms. Hittel	Present
Mr. Levine	Present
Mr. Loonam – Vice Chairman	Present
Mr. Rebsch	Present
Mr. Stokes	Present
Mr. Weisbrot	Present
Mr. Schaffenberger-Chairman	Present
Mr. Ascolese-Engineer	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION – October 08, 2019

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

OFFICIAL MINUTES OF THE PUBLIC SESSION – October 08, 2019

Motion to accept the minutes with change was made by Mr. Loonam seconded by Ms. DeBari and carried by all.

RESOLUTION TO BE MEMORIALIZED

**19 05 – 341 Webster Drive – Block 1603 Lot 4 – Julio Bermeo Settlement Trust
Appeal of the Zoning Officer’s denial / Use for seasonal wash room.**

Motion made by Mr. Loonam to memorialize the resolution with change, seconded by Mr. Rebsch..

The motion passed on a roll call as follows:

For the motion: Members Loonam, Rebsch, DeBari, Hittel, Levine, Schaffenberger.

Approved 6-0

SCHEDULE OF MEETINGS 2020

The Chairman stated the schedule of meetings with the new change would be voted on in December.

OLD BUSINESS

19 06 317 East Woodland – Block 714 Lot 3 – Lazarus Building Coverage – New Single-Family House

Mr. Andrew Kohut, Wells, Jaworski & Liebman, 12 Route 17 North, Paramus NJ, on behalf of his client stated that last month they were before the board requesting variance relief for building coverage of 24.9%. He stated that hearing the boards comments and concerns they submitted a revised plan. Mr. Kohut said that they have lowered the building coverage to 21.6% which was a reduction of approximated 291 sf. The applicant was now over 146 sf over the permitted 20 percent. Mr. Kohut pointed out with the new changes, they reduced their impervious coverage from 39.9% to 35.7%. They also increased their setbacks from 14.9 /10.7 to 16.1 ft/15.1 ft. They reduced the variance requested and improved certain bulk requirements that reduced the impact on neighboring properties.

The Chairman stated that the members not present at the last meeting listened to the recordings and signed an affidavit that they did so.

Mr. Rosenberg was recalled back to speak and the board attorney stated the architect has been previously sworn in. The architect agreed.

Mr. Rosenberg said the revised plans submitted were 11/1/19. The architect stated that the new proposed home is more compact, rooms were more modest in scale, the first-floor guest room no longer exists. This house is predominately a rectangle as viewed from the street. There was an addition that projects out in the rear of the house for the dinette, said Mr. Rosenberg. He stated that they are now over 146 sf in building coverage and the dinette is 174 sf which is off the back and would not be visible from the street.

They have incorporated a walk-up attic where there is a small playroom, guest room and bathroom. The Chairman questioned if there was anything prohibiting a bedroom in the attic. The architect said there was nothing in the code that prohibits it and it meets egress compliance for the windows. Mr. Rosenberg said as long as the habitable area of the attic is less than 1/3 the square footage of the floor below it meets the definition of habitable attic and does not constitute third floor level. The Board Attorney asked if it implicated stories or height. Mr. Rosenberg said it did not in anyway.

The Chairman asked for him to explain why it did not. Mr. Rosenberg said this house needs a pitched roof and they have a reasonable modest pitched roof so the volume under the rafters exist. He explained the only difference was they were putting a fixed staircase up to the attic. More than 60% of the attic space was not usable but the center area under the roof line had some area. The Chairman asked if that complies with all the fire codes and requirements. Mr. Rosenberg said yes and in the IRC 2018 NJ edition it defines a habitable attic as an attic that has a staircase as a mean of access and the ceiling area at a height of 7' above the attic floor is not more than 1/3 the area of the floor below. He added that in this case, the area of the floor below is 1,869 sf and 1/3 of that was 623 sf allowed but the actual habitable space proposed is 394 sf.

Mr. Kohut said that the portion of the dinette area in the rear of the property faces an apartment complex. Mr. Kohut said it was their client's main concern to still have functionality of the house with the understanding of the board's concerns regarding the mass and the overall building coverage as compared to what was in the neighborhood. Mr. Rosenberg answered 100%.

The Chairman asked if the Board Members had any questions.

Ms. Hittel asked how much coverage is the applicant requesting in building coverage. Mr. Rosenberg answered 1.6 % or 146 sf. Ms. Hittel clarified that was mostly for the dinette in the rear of the house and the rest of the house would conform. Mr. Kohut said if they cut the portion of the dinette off, they would be under compliance.

Mr. Loonam said at the October meeting he was very concerned with what was being proposed because even though it was not intentional to be imposing on the neighbors, he also did not feel it was a house that necessarily fit in with the neighborhood. He felt the house was designed to meet the applicant's needs which was great as long as it somewhat fits into the parameters. Mr. Loonam said he did not think it fit and it was way too much.

Mr. Loonam said he spent a lot of time reviewing the revised plans and felt there was a lot of effort, time and consideration put into this to try to give the applicant the functionality that they needed for their family and space for the family to grow. Mr. Loonam said the dinette area was in the rear and not imposing on anyone and felt this was a fantastic design and it would be a beautiful house if it gets approved. Mr. Loonam asked the Board attorney if he was okay with the attic space. Mr. Sproviero did not believe it would implicate any further variance relief. Mr. Loonam asked if it was a problem with the 2 ½ stories. Mr. Sproviero said no but would refer to the board engineer.

Mr. Ascolese said after reviewing the revised plans, everything complies except for the building coverage. He stated they have added a seepage pit in the front for the sump pumps. He stated that there was a net removal of 7 cubic feet of material being removed from the property so a Major Soil Movement would not be required. There was a 14' tree and a couple of shrubs being removed.

Mr. Ascolese said this revised plan was closer to compliance with the code than the previous plans. He did not have any concerns with this plan other than with the seepage pits. Based on what the ground water elevation is, there might have to be an adjustment made.

Mr. Kohut said regarding the November 5, 2019 review letter from Boswell Engineering, there were a few conditions and requirements that his client would comply with should the board approve the application.

The Chairman asked Mr. Ascolese if he saw any problems with the attic. Mr. Ascolese did not see an interpretation to say that would not be permitted unless the building department had some

other code as far as bedrooms in an attic but it is still within the 2 ½ story component and the building height is less than 30' above the finished grade and he saw no issues.

Motion to open to the public to comment on the application or ask questions of the witness was made by Ms. DeBari, seconded by Mr. Levine and carried by all.

No one wished to speak.

Motion to close to the public Mr. Levine, seconded by Ms. De Bari and carried by all.

Mr. Weisbrot said he was not present last month for the initial part of the application, but listened to the recording. He was 100% in agreement with Mr. Loonam's comments from the last meeting and felt this to be a bit big of a house appropriate for this spot. He liked when applicant's take the comments and concerns of the board and go back and try to comply with the directives and feelings of the board members to the same degree that he does not like when applicant's come back and don't know what they are talking about. Mr. Weisbrot said as a result of that, he felt the application should get a gold star.

Motion made by Mr. Weisbrot to grant the variance subject to the conditions provided in the Boswell letter dated 11/5/19, seconded by Mr. Rebsch..

The motion passed on a roll call as follows:

For the motion: Members Weisbrot, Rebsch, DeBari, Loonam, Stokes, Hittel, Schaffenberger.

Approved 7-0

Mr. Kohut thanked the board for their time and was happy that they were able to present an application that the members sought to approve.

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

Respectfully submitted,
Maureen Oppelaar