

New Milford Zoning Board of Adjustment
Work Session
July 14, 2020
Zoom meeting

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. Adelung	Absent
Jared Birnbaum	Present
Ms. DeBari	Present
Ms. Hittel	Present
Mr. Levine	Absent
Mr. LoPorto	Present
Mr. Rebsch	Present
Mr. Weisbrot	Present
Mr. Schaffenberger- Chairman	Present
Mr. Sproviero - Attorney	Present
Ms. Batistic-Engineer	Present

The Chairman reviewed with Board Members and applicants how the board would proceed on zoom. He asked the applicants to mute themselves until the board was ready to hear their application.

REVIEW MINUTES OF THE WORK SESSION – February 11, 2020

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

REVIEW MINUTES OF THE PUBLIC SESSION – February 11, 2020

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

NEW BUSINESS-

20- 03 - 234-236 Boulevard – Graf – Block 1313 Lot 4

Driveway expansion – front yard impervious

The Chairman asked the board if they reviewed the application and if there were any questions. Scott Sproviero asked Ms. Batistic if she confirmed the calculations submitted and if they were correct. Ms. Batistic answered yes.

20- 04 – 779 Mabie St – Schlaier – Block 817 Lot 13

Fence – fence height

The Chairman asked the board if they reviewed the application and if there were any questions. The Board Attorney and Chairman said they had questions for this application which they would ask in the public session.

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

**New Milford Zoning Board of Adjustment
Public Session
July 14, 2020**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 7:37 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	Absent
Mr. Birnbaum	Present
Mr. DeBari	Present
Ms. Hittel	Present
Mr. Levine	Absent
Mr. LoPorto	Present
Mr. Rebsch	Present
Mr. Weisbrot -Vice Chairman	Present
Mr. Schaffenberger-Chairman	Present
Ms. Batistic -Engineer	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION – February 11, 2020

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

OFFICIAL MINUTES OF THE PUBLIC SESSION – February 11, 2020

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

NEW BUSINESS

**20- 03 -234-236 Boulevard – Graf – Block 1313 Lot 4
Driveway expansion – front yard impervious**

The Board Attorney Swore in the applicants, Jeffrey and Kathleen Graf.

Mr. Graf said they wanted to expand the front driveway by 212 ft as shown on the survey. The reason for the expansion is this is a two-family house. He stated right now there are five cars utilizing that area and to avoid a lot of juggling of cars, they would like to widen the space. Mr. Graf said if they could widen the front part, the tenants could park on a diagonal.

The Chairman asked if they lived at the house. Mr. Graf said there were two side by side units and they lived in one. The Chairman clarified that the existing impervious is 1,313 sf, requesting

1,525 sf and permitted 930 sf. The Chairman said there seems to be room for 7 cars now with the garage. Mr. Graf said yes but the tenants do not get access to the garage and right now they have a lot of stuff in the garage. Mr. Graf said they had the tenants parking on a diagonal but some of the wheels were on the grass and they received a notice from the town that there was no parking on the grass.

The Board Attorney asked the applicant how many bedrooms were in their unit. Mr. Graf said three and the tenant had three. Mr. Sproviero asked how many people reside in their unit. Mr. Graf said two and the tenants have three people. Mr. Sproviero said that both Mr. and Mrs. Graf were drivers and asked if all three tenants were drivers. Mr. Graf answered yes. The Board Attorney said that was five vehicles and asked if anyone had multiple vehicles. Mr. Graf answered no.

Ms. DeBari asked if they use their garage or is it for storage. Mr. Graf said it was used mostly for storage but they would still have the problem with coming in and out. Ms. DeBari said in the photos there looks like there was a piece added on. Mr. Graf said they moved in the house in 2018 and didn't do anything. Ms. DeBari asked if the piece of driveway on the side of the house was also existing. Mr. Graf answered yes.

Mr. Weisbrot asked how long has this condition been going on and what have they been doing up to this point. Mr. Graf said this is their second tenant and now they have a restriction of three cars.

Ms. Hittel believed there is no possibility of having on street parking. Mr. Graf said nobody can park on Boulevard but said Kastler Court ½ block down people park. Ms. Hittel noted that there is no overnight parking there.

The Chairman marked exhibit A-1 -the compilation of photos.

Mr. Rebsch asked if this was an approved two-family house. Mrs. Graf said it was and this house was built in 1975.

Ms. DeBari asked if they were proposing to go to the property line. Mrs. Graf said yes. Ms. DeBari questioned that the drivers would have to turn quite a bit because of the curb cut. Mr. Graf said they cannot change the curb cut so parking diagonally would make it easier to get out.

Mr. Birnbaum asked what was the width of the grass area between the driveway and neighbor. Mr. Graf said 4'.

Ms. Hittel asked about two curb cuts. Mr. Graf said the zoning officer said only one curb cut was allowed. The Board Attorney said they would need a variance for an additional curb cut. Mr. Graf said they were leaving the curb cut where it is. Ms. Hittel asked Ms. Batistic if there were any issues with the impervious coverage. Ms. Batistic said it was below the 300 sf of additional impervious coverage so they would not have to provide any seepage pits.

The Chairman asked for a motion to open to the public.

Motion made by Mr. Rebsch seconded by Ms. DeBari and carried by all.

There was no one who wished to speak.

Motion to close to the public was made by Ms. DeBari seconded by Mr. Rebsch.

The Chairman said some issues with him were there was already a substantial preexisting non-conformity and the applicant was already substantially over the allowable square footage and if they enlarge the driveway there would be room for eight cars and they have five. The Chairman noted that he was not totally opposed to this.

Ms. Hittel empathized with the applicant regarding juggling cars on a busy street but did not see the need to expand on the driveway.

Mr. Birnbaum said he was concerned about how much grass area would be between the red vehicle and the container shown on the photo. The Chairman felt there would be almost none. Mr. Birnbaum was concerned that it would look like one big parking lot. Mr. Graf said there would be 1'.

Ms. DeBari asked if that would be 1' would be grass. Mr. Graf said they would have to tell the contractor what to leave when putting in the driveway.

Mr. Graf said this was a two-family house and these were their tenants not their family so it was more complicated with parking cars.

The Chairman said it can be done because they are doing it now.

Ms. DeBari asked if this was approved would the tenants have a designated parking spot. Mr. Graf said that would be the plan. Mrs. Graf said they would park diagonally. Ms. DeBari asked if that would give her the room to get out of her spot. Mrs. Graf said yes.

Mr. Rebsch had a problem with this request because it seems like it is just for convenience.

Ms. Hittel said she has a problem with expanding the pavement when there is a two-car garage. Mr. Graf felt even if the garage was cleaned out, there would be cars behind them.

The Chairman said if this was approved there should be a condition that there would be a foot of something between the new driveway and the neighbor's driveway. Also, there was a spot after the driveway along the garage that he would want to condition that they could not make this also parking. Ms. Batistic said that area would not need a variance because it is not front yard.

Ms. DeBari asked if he had plans to fill that in. Mr. Graf said not yet and would prefer to have the front but would be fine if the requirement was not to use that area.

Mr. Weisbrot said he was sympathetic to this application not only because of the circumstances the applicant has but also because in light of everything happening today it would be helpful for people to find some help. Having said that, Mr. Weisbrot said that he was against the application because it was not an undue hardship or a significant need but it was more a matter of

convenience. Mr. Weisbrot was nervous to set a precedence approving applications that were not necessary but rather a matter of convenience.

Motion made by Mr. Weisbrot to DENY the application, seconded by Mr. Rebsch.
For the motion to deny the application: Members Weisbrot, Rebsch, DeBari, Hittel, Birnbaum, LoPorto
Against the motion: Chairman Schaffenberger
Denied variance 6-1

The Chairman told the applicants that their request for a variance was denied and part of seeking a variance is showing a hardship and there was no hardship but rather a matter of convenience.

The Board Attorney informed the applicant of their appeal rights. He said they can appeal the board's determination to either the Superior Court of New Jersey or the Mayor and Council so they have continuing rights pass this meeting. The Board Attorney said he would strongly recommend that they consult legal counsel and understand that these variance proceedings are semi judicial proceedings and have certain burdens of proof that need to demonstrated.

**20- 04 – 779 Mabie St – Schlaier – Block 817 Lot 13
Fence – fence height**

The homeowners, Matthew and Lauren Schlaier from 779 Mabie Street, were sworn in by the Board Attorney.

Mr. Schlaier said they currently have a 6' fence on the sides and a 4' along the back. They moved into this house three years ago and have been trying to improve on their house. They have removed a lot of shrubbery and weeds along the sides and back and the existing fence is damaged and needs to be replaced. The goal is to have 6' along the sides for privacy and they want to replace what is there. Mr. Schlaier said the back of their house has a slight incline with a 3' incline on their property. He said with the incline and fence heights it would create a gap area on the sides in the back area. They are trying to have a family and want privacy for their children and with the incline people can look right in.

Mr. Schaffenberger asked the homeowner if they took the photos submitted. Mr. Schlaier said they took the pictures. The Board Attorney asked if the photos were altered in anyway. Mr. Schlaier said no. The Board Attorney asked if they were an accurate depiction of the current condition of the property. Mr. Schlaier agreed.

The Board Attorney marked as an exhibit A-1 compilation of photographs.

The Chairman asked if the 6' fence goes along the back of the property. Mr. Schlaier said the 6' fence goes along the sides of the property. There is a 4' fence along the back of the property which looks level because of the incline. The neighbors in the back because of the incline can see right into their yard. The Chairman asked if the 6' fence goes past the back building line. Mr. Schlaier said no and added there was a picket fence in the front. The Chairman asked what connects the picket fence to the 6' fence. The homeowner said there is a 6' fence along the side.

The homeowner said ending the 6' fence at the back of their house would cut off their property for a play area /swing set.

Mr. Weisbrot asked if this was a discussion on having a 6' in the rear. The Chairman said no they are requesting a 6' fence along the sides of their house and front.

Ms. DeBari did not have an issue replacing the 6' fence along the side that was existing but had an issue with the 6' in the front. Ms. DeBari said in the back of the house they had a 4' fence on the incline and asked if they were removing some of the incline because she thought the 6' fence would look like an 8' fence. The homeowner said it would be about the same height as the neighbors.

Ms. Hittel asked if there were any visibility issues for the neighbors with the 6' fence. Mr. Schlaier said none because they were about 30' back from the street.

Mr. Rebsch asked what was the reason for a 6' fence in the front. Mr. Schlaier said privacy because of the incline of their property. Mr. Rebsch thought the 6' fence might look high going down the street. Mr. Schlaier did not think so because they were 30' back from the street.

The Board Attorney stated for clarity the 6' component of the fences that the applicant was proposing does not extend beyond the front of the house. The applicant agreed.

Mr. Weisbrot asked how neighbors were given notice to appear at this meeting. The Board Attorney said the notice was in the newspaper that the meeting would be conducted by a zoom meeting and they were provided with the link. Mr. Weisbrot said if there was an objecting neighbor they would have had the opportunity to appear and we can assume if they did not appear, they did not object. The Board Attorney agreed.

The Chairman asked if there was any way that they would end the 6' along the back of the house as opposed to coming to the front. Mr. Schlaier said no.

The Chairman asked for a motion to open to the public.

Motion made by Ms. DeBari seconded by Mr. Rebsch and carried by all.

There was no one who wished to speak.

Motion to close to the public was made by Ms. Hittle seconded by Mr. Rebsch.

The Board Attorney asked if they anticipated any conditions for this application. The Chairman did not. Mr. Weisbrot assumed it would have to be constructed according to industry standards and would prefer it to be a neighborhood friendly color.

Ms. DeBari asked if they would consider 6' along the side and 4' in the front. The homeowner said no because of the lack of privacy. He felt there were other 6' fences in the front in town. Ms. DeBari and the Chairman have not seen 6' fences in the front.

Motion made by Mr. Weisbrot to grant the application without conditions, seconded by Mr. Rebsch.

The motion passed on a roll call as follows:

For the motion: Members Weisbrot, Rebsch, Hittel , Birnbaum, LoPorto,

Against the motion: Members DeBari, Schaffenberger

Approved 5-2

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

Respectfully submitted,
Maureen Oppelaar