



**BOROUGH OF NEW MILFORD  
PLANNING BOARD  
COMBINED SESSION MINUTES**

**November 27, 2012**

Chairman DeCarlo called the public session of the New Milford Planning Board to order at 7:35 pm. The Chairman read the Open Public Meetings Act. All recited the Pledge of Allegiance.

**ROLL CALL**

Chairman DeCarlo	Present
Mayor Subrizi	Present
Council Liaison Berner	Present
Secretary Scavetta	Present
Vice Chairwoman Hudak	Present
Ms. Sirocchi	Present
Mr. Santino	Absent
Mr. Pecci	Present
Mrs. Prisendorf	Absent
Mr. Newman, Alt. 1	Absent
Mr. DaCosta, Alt. 2	Present
Mr. Abrahamsen - Attorney	Present
Mrs. Batistic – Engineer	Excused

**APPROVAL OF OFFICIAL MINUTES – October 16, 2012**

**Motion** by Mayor Subrizi, seconded by Secretary Scavetta and carried by all to approve the October 16, 2012 minutes as submitted.

**NEW MILFORD REDEVELOPMENT QUORUM**

Chairman DeCarlo advised the members that Mr. Rebsch recused himself from the Zoning Board of Adjustment’s application for New Milford Redevelopment Association. He said he was advised by the Zoning Board Attorney that they have six sitting members and a Planning Board member appointment to the Zoning Board would not be needed as they still have a quorum. The Chairman advised for the time being the matter is tabled unless another member recuses themselves from that application.

At this time the members went into the work session portion of the meeting.

**WORK SESSION – NEW BUSINESS**

**Minor Subdivision Application –307 Milford Avenue/ 326 Kastler Court**

Chairman DeCarlo advised typically at a work session meeting they ask the applicant to advise the members of an overview of the application submitted. He said it is not a public hearing so testimony cannot be given, only a synopsis of the application to be presented at the public session.

Joseph Vigilotti, 21 Main Street, Hackensack, NJ 07601, attorney representing the applicants, Mr. and Mrs. Park and Mr. Chung. In answer to Chairman DeCarlo, Mr. Vigilotti said that he represented Mr. and Mrs. Park in June 2011 for the purchase of 307 Milford Avenue. He said during the process they discovered an encroachment which included a block wall, fence and garage. In answer to the Zoning Officer Mr. Vigilotti said the impervious coverage figure in the zoning calculations represented the total impervious coverage and not just impervious coverage. He said the engineer would clarify and give testimony at the public meeting.

In answer to Chairman DeCarlo, Mr. Vigilotti said he represented Mr. and Mrs. Park in June of 2011 with purchasing 307 Milford Avenue. He said during the process, they discovered there was an encroachment fence, block wall, pavers and the detached garage as depicted on the survey. He said they contacted the current owner Helen O'Brien, 326 Kastler Court for an easement of encroachment. He said on June 27, 2012, they were unaware that Mrs. O'Brien had sold the property to Michael Kane and Lela Malloy. Mr. Vigilotti said Richard Brady of Waldwick, NJ is the attorney representing Mr. Kane and Ms. Malloy. The easement of agreement was executed on September, 2011. Mr. Vigilotti said they are seeking to transfer 660 square feet from the 326 Kastler Court to 307 Milford Avenue. He said they are requesting four (4) variances. He said all variances associated with the proposed subdivision are a result of existing non-conformities of 307 Milford Avenue. Board Attorney clarified that the lot is a conforming use that does not meet the bulk requirements. Mr. Vigilotti said the existing lot is 5,625 S.F. they are proposing 6,288 S.F. where 7,500 S.F. is required. He said they are seeking a variance for building coverage, where the existing is 26.3% or 1,479 S.F., the proposed being 24% or 1,510 S.F. where 20% is required or 1,257 S.F. He said they are seeking a front yard setback as the existing and proposed is 51.1' feet where 55 feet is required. He said they are seeking a rear yard setback where 9.5' is existing and where 18.6' is being proposed where 23.81' is required.

In answer to Chairman DeCarlo, Mr. Vigilotti said the title search did not yield anything with regard to the block wall. He said the house was built in the 1920's and the block wall has been erected since then. In answer to Mayor Subrizi, Mr. Vigilotti said the block wall could have been erected to show the property line of the Kastler Court development at the time of construction. In answer to Board Attorney, Mr. Vigilotti said he has been advised that the detached garage has been there ever since they purchased the house. He said the neighbors said the garage has been there since the house has been erected. Mr. Abrahamson said the garage could have been erected before side yard setbacks were required. Mr. Vigilotti agreed.

Board Attorney asked if the fence was existing. Mr. Vigilotti said yes. In answer to Chairman DeCarlo, Mr. Vigilotti said if the proposed subdivision were to be approved the fence would still be in compliance with the zoning requirement for the in ground pool located at 326 Kastler Court. Mr. Vigilotti said the engineer would testify at the public session with regard to the fence, due to the slope of the property. He said the fence is on the upper portion of the slope. In answer to Secretary Scavetta, Mr. Vigilotti said the fence would be more than six feet to the pool which was in compliance with the zoning requirement. Chairman DeCarlo advised Mr. Vigilotti that pictures would not be required however if they could supply some pictorials at the public session it would be helpful to the members to visualize the fence.

Board Engineer clarified for the members that the impervious figure is larger on the zoning chart due to the detached garage on the 307 Milford Avenue would be additional coverage if the subdivision were to be approved. Chairman DeCarlo thanked the Board Engineer for that

clarification. In answer to Board Attorney the additional coverage does not need any variances. In answer to Mayor Subrizi, Mr. Vigilotti said the applicants for 307 Milford Avenue are not proposing any additions or construction projects. Chairman DeCarlo asked if testimony would be given at the public session. Mr. Vigilotti said yes.

Mr. Vigilotti said they were having difficulty scheduling the engineer's appearance for the December public session, he asked if they could be put on the January 15, 2013 public session meeting. Mr. Vigilotti said there would be a chance that the engineer could appear however they were unsure at this date. Chairman DeCarlo said the January 15<sup>th</sup> meeting was the reorganization meeting he asked the Board Attorney if the case would be heard prior to the reorganization or after. Board Attorney said to contact the Board Secretary if they would convene in December and to submit the proper notices prior the public hearing. He said the Board Secretary would advise the members if there would be a meeting in December or if the matter would be carried to January.

Chairman DeCarlo asked the Borough Engineer if the application was deemed complete. She said she would have a report sent to the members prior to the public session and she deemed the application complete.

### **OTHER MATTERS**

Board Secretary said the sign ordinance was passed at the last Mayor and Council meeting with no changes from the planning board's recommendations.

Board Engineer updated the members with regard to the Sanzari's application which was currently given an approval for an addition and additional parking was proposed where two dwellings were former. Board Engineer said there was an issue with regard to seating and the applicants were advised to reappear before the Zoning Board to address that issue prior to a resolution being memorialized for the approval.

In answer to Chairman DeCarlo, Board Attorney said he said that this board approved a resolution stating a developer's agreement is required. He was aware that the applicant's attorney spoke to the Borough Attorney who stated a developer's agreement was not needed. He said the applicant should have requested relief at the time prior to the resolution being memorialized. He said he feels the Borough would be better protected with a Developer's agreement and he would reach out to the Borough Attorney.

Chairman DeCarlo hoped everyone had a nice Thanksgiving. Chairman DeCarlo thanked Council Liaison Berner for his dedicated service to the board. Councilman Berner thanked the Chairman and the Board.

As there was no further business to be conducted by the Board, a **motion** to adjourn was offered by Celeste Scavetta seconded by Mayor Subrizi, and carried by all. Chairman DeCarlo said the next meeting will be a combined meeting held on December 18, 2012 at 7:30 pm.

Respectfully submitted,



Maria Sapuppo

Recording Secretary