

TOWN OF NEW WINDSOR

ZONING BOARD

August 13, 2012

MEMBERS PRESENT:      MICHAEL KANE, CHAIRMAN  
                             RICHARD HAMEL  
                             FRANCIS BEDETTI  
                             HENRY SCHEIBLE

ALSO PRESENT:      GEOFFREY CHANIN, ESQ.  
                             ZONING BOARD ATTORNEY

                             NICOLE PELESHUCK  
                             ZONING BOARD SECRETARY

ABSENT:      PATRICK TORPEY

MEETING AGENDA:

1. Trade Automotive - Art Glynn
2. Xcel Development
3. Stacklum
4. Damon Ruta
5. Lupinacci
6. Wicher

**REGULAR MEETING:**

MR. KANE: I'd like to call to order the August 13, 2012 meeting of the New Windsor Zoning Board of Appeals.

PRELIMINARY MEETINGS:

TRADE AUTOMOTIVE - ART GLYNN (12-28)

MR. KANE: Tonight's first preliminary meeting Trade Automotive Art Glynn. The maximum size for fence to project closer to the road than the existing building is four feet. A variance is needed for an existing six foot chain link fence. The variance will be two foot difference in height located at 212 Walsh Avenue in a P zone. So what we do in New Windsor is we hold two meetings. We hold a preliminary meeting so we can get a general idea of what you want to do, give you the opportunity to make sure that you can get us all the information we need to make a decision. Then by law all our decisions are made at a public hearing. In other towns, it's a one meeting shot, you go in, you don't have the right stuff, you lose. So we decided to go to two, it's just a better way to do it. What goes on here tonight will be very similar to the public hearing, except any neighbors or whoever's been informed want to speak, ask questions at that time they will. What you want to do is state your name, address, speak loud enough for this young lady over there to hear you and tell us exactly what you want to do.

MR. GLYNN: My name is Arthur Glynn, address 221 Walsh Avenue, New Windsor, New York. What I have is I'm in the process of refinancing the building. There's a chain link fence which has existed around the building because New Windsor required the original owner to put up the fence before he could build the structure 43 years ago. However, somewhere along the line it wasn't granted a C.O. so I'm looking to get a C.O. so I can finish my refinancing.

MR. KANE: Some questions are going to seem a little weird but they have to be asked. To your knowledge, cut down substantial trees or vegetation in the building of the fence?

MR. GLYNN: No.

MR. KANE: Forty years ago you don't think so. Create any water hazards or runoffs?

MR. GLYNN: Definitely not.

MR. KANE: This one's easier. Is there any easements running through the area where the fence is?

MR. GLYNN: No, definitely not.

MR. KANE: Okay, has there been any complaints to your knowledge formally or informally about the fence over the years you've been involved?

MR. GLYNN: Definitely not.

MR. KANE: For the public hearing, I would like you just to grab a couple pictures further down the street showing the view from the street so make sure that there's no traffic impingement or anything like that.

MR. GLYNN: Good, definitely.

MR. BEDETTI: This is the original fence?

MR. GLYNN: Yes, a couple parts of the chain link have been replaced but it's primarily all the same original poles.

MR. BEDETTI: And it was six foot way back then?

MR. GLYNN: Since the town made him do it.

MR. KANE: Any further questions?

MR. HAMEL: It runs around the whole property line?

MR. GLYNN: Pretty much, it's not in the back but goes on both sides in the back, it kind of drops off anyway.

MR. CHANIN: Can I ask a question? Is what we're trying to clarify here the height of the fence or the distance to the road?

MR. KANE: The height.

MR. CHANIN: Not the distance to the road?

MR. KANE: No.

MR. CHANIN: Okay.

MR. KANE: Just want to make sure with the six foot that's out on the road, there's no sight--

MRS. PELESHUCK: Cause six foot is not allowed in the front, only four foot is.

MR. CHANIN: Just wanted to know what the extent of the variance was.

MR. KANE: Further questions? I'll accept a motion.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Trade Automotive in the name of Arthur Glynn for a two foot variance for an existing six foot high chain link fence at 221 Walsh Avenue in a PI zone.

MR. HAMEL: I'll second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. KANE	AYE

MR. KANE: Here's your next steps.

XCEL DEVELOPMENT - CHRIS KIRWAN (12-29)

MR. KANE: Excel Development, Chris Kirwan. An existing house will need a variance for a front yard depth. The subdivision approval has a front yard depth of 35 feet. The existing department is 25.9 feet. A variance of 9.1 feet is required, located at 43 Briarwood Lane in an R-3 zone. Good evening.

MR. KIRWAN: Good evening, sir.

MR. KANE: State your name and address please.

MR. KIRWAN: Chris Kirwan, Post Office Box 295, Cornwall, New York 12518.

MR. KANE: Tell us what you want to do.

MR. KIRWAN: Basically looking to get a C.O. The house is nine feet off on the setback requirement. The house was put in that location in an attempt to preserve the existing trees on the property trying to maintain a buffer with the trailer park in back. And there was also a pretty severe rock ledge directly behind the foundation, one foot rock ledge that would have resulted in the destruction of a lot of trees which I was trying to avoid.

MR. SCHEIBLE: I'm a little confused here, Chris, when was this house built?

MR. KIRWAN: This year, I mean, basically, I don't know what happened, they pulled off the curb line, that's probably what happened here.

MR. KANE: So they pulled off?

MR. KIRWAN: They went off the existing curb line instead of, you know, the setback line that you have in the ordinance so it meets the curb line but doesn't meet the setback line.

MR. HAMEL: What about the other houses, were they set back properly?

MR. KIRWAN: Yeah, everything else is fine, yes, that particular house though if you came out and you saw the piece of property, there's really not a lot of places to put it, that house. If I had to move the house back even 10 feet I would have had to place all of that

which would have resulted in me removing probably 30 feet of trees and I would have had a beautiful view of the trailer park behind me. So right now, if you're looking at pictures, I have a buffer zone of trees that I maintained but that's pretty much the trailer park that I'd be looking at which I was trying to avoid.

MR. KANE: Cut down substantial trees and vegetation in the building of the house?

MR. KIRWAN: No, I tried to preserve them, actually.

MR. KANE: Looking to preserve the trees in the back yard?

MR. KIRWAN: Right. I gave you a shot of the trees in the back yard that I tried to preserve. So by moving the house back, I would have had to eliminate them.

MR. KANE: Create water hazards or runoffs?

MR. KIRWAN: None whatsoever. This is the highest and driest part of the property. But there's a pretty severe ravine right there so the people would have no back yard whatsoever.

MR. KANE: Any easements running through the area?

MR. KIRWAN: No, sir.

MR. KANE: And it's an obvious financial hardship to--

MR. KIRWAN: Impossible.

MR. KANE: Have to mention it.

MR. KIRWAN: Impossible. And it's the garage, it's not the house but I guess it makes a difference.

MR. HAMEL: When were the other houses built?

MR. KIRWAN: The projects been going on for about four years now and we're fighting the fight like everybody else.

MR. KANE: The house to the right of this is still being built?

MR. KIRWAN: House to the right is under construction. House to the left the people are in. But that shelf

for those houses is pretty narrow, I mean, it's one thing on a map, it's another thing when you have to build it, you know.

MR. SCHEIBLE: When was the building permit issued for the development?

MR. KIRWAN: In December.

MR. SCHEIBLE: Is that correct, Nicole?

MRS. PELESHUCK: I would have to look at the house building permit. I don't think I even have that. Oh, actually I do, he applied for it September 16, 2011.

MR. KIRWAN: Oh, okay.

MRS. PELESHUCK: For the single family house.

MR. SCHEIBLE: And were all the, was the location noted in the building permit?

MRS. PELESHUCK: We always ask for a final survey after the house is built so this is how this all came about was the final survey.

MR. KANE: On their survey it notes under notes that the field survey was completed on December 13, 2011 and final survey was completed July 6, 2012.

MR. SCHEIBLE: Were there inspections being done during this time period, Nicole?

MRS. PELESHUCK: Yes.

MR. BEDETTI: Does that house, is it closer to the road now than the two adjacent houses?

MR. KIRWAN: Yeah, but you have to realize that this is on a turn, you know what I'm saying? So I agree with, you know, your setback laws but really when you put them on a radius lot it changes the ballgame. You know, you should really go in the future you should take two corners and take the center line and do a radius when you build a house on a turn. Because if you look at another house that I did on the turn because you wind up with two front yards it's ridiculous how far back the house has to go, it just doesn't go when you go to build it.

MR. BEDETTI: That doesn't answer my question. Yes or no, is that house sitting closer to the curb line than the two adjacent?

MR. KIRWAN: Yes, sir.

MR. BEDETTI: That was the only question.

MR. KIRWAN: I'm sorry. But it's actually in the turn is what I'm trying to explain.

MR. BEDETTI: I understand.

MR. KANE: For the public hearing, can you take some pictures of the street, being out in the street to show from both directions so we can get a sight line? I'm sure the members are going to take a look but this way we have it.

MR. KIRWAN: A little further back?

MR. KANE: Yeah, out in the street looking at the building so we can see that that faces with the other buildings.

MR. KIRWAN: Okay.

MR. KANE: Any further questions at this time?

MR. BEDETTI: I'm good.

MR. HAMEL: I'm good.

MR. KANE: I'll accept a motion.

MR. HAMEL: I'll make a motion that we schedule a public hearing for Excel Development LLC for the variance as requested.

MR. BEDETTI: I'll second it.

ROLL CALL

MR. SCHEIBLE                    AYE

MR. BEDETTI                    AYE

MR. HAMEL                        AYE

MR. KANE                         AYE

MRS. PELESHUCK: Here's your next steps.

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MR. KIRWAN: Thank you.

THOMAS & ZILLAH STACKLUM (12-30)

MR. KANE: Tonight's next preliminary hearing is Thomas & Zillah Stacklum request for a variance for proposed rear yard screened-in porch as required. The required rear yard setback is 50 feet. With the screened-in porch there's only 45 feet to the rear property line. A variance of five feet is requested at 21 Birchwood Drive in an R-4 zone.

MRS. PELESHUCK: I do not see them.

MR. KANE: No show.

DAMON RUTA (12-31)

MR. KANE: Next preliminary meeting Damon Ruta. Am I saying that correctly?

MS. RUTA: That's my husband. So will you be nice to me?

MR. KANE: Such accessory building shall be set back 10 feet for any property line. The existing eight foot by eight foot shed is 7.5 feet from the side property line. A variance of 2.5 feet is required at 103 Glendale Drive.

MS. RUTA: It's 108, sorry.

MR. KANE: Okay, so your name and address?

MS. RUTA: My name is Fila Ruta, 108 Glendale Drive, New Windsor, New York 12518.

MR. KANE: And you need a variance for your shed?

MS. RUTA: Yes.

MR. KANE: How long has the shed been in existence?

MS. RUTA: Less than five years, I believe.

MR. KANE: Cut down substantial trees or vegetation in the building of the shed?

MS. RUTA: No.

MR. KANE: Any water hazards or runoffs?

MS. RUTA: No.

MR. KANE: Any easements in the area where the shed is?

MS. RUTA: No.

MR. KANE: Has there been any complaints about your shed formally or informally to you?

MS. RUTA: Nothing, no.

MR. KANE: Is the shed similar in size and nature to other sheds that are in your neighborhood?

MS. RUTA: Yes.

MR. KANE: Further questions from the board? What do you use the shed for?

MS. RUTA: Lawn mower, bicycles.

MR. KANE: Okay, further questions, gentlemen? I'll accept a motion then.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Damon Ruta for an existing eight by eight shed that requires a variance of two and a half feet at 108 Glendale Drive in an R-4 zone.

MR. HAMEL: I'll second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. KANE	AYE

MRS. PELESHUCK: I gave your husband the paper for tomorrow.

MS. RUTA: So he has to come back here tomorrow?

MRS. PELESHUCK: Not here, in my office.

MS. RUTA: Thank you.

MR. KANE: Have a good evening.

DORETTA LUPINACCI (12-32)

MR. KANE: Tonight's last preliminary meeting Doretta Lupinacci, hopefully, I said that correctly. An existing vacant lot does not meet the minimum lot width of 175 feet. A variance of 27.5 feet is required to build a one family dwelling located at 315 Lake Road in an R-1 zone. You're on.

MRS. LUPINACCI: Okay, Doretta Lupinacci. Do you want my home address or the address--

MRS. PELESHUCK: Home.

MRS. LUPINACCI: It's Schuart Road, Airmont, New York 10952. Okay, I have this piece of property, I, actually, couple of years ago, my husband was, the variance was approved at one point, actually. My husband passed away shortly thereafter and the whole thing sort of fell through the cracks. So we're now we're starting again. We actually have a buyer who'd like to buy the property and build a home on it, a single-family home on it, if we can of course the stipulation is that we can get the variance to build on it.

MR. KANE: So you guys know there was a variance approved on this?

MR. BEDETTI: I remember that.

MR. KANE: And unfortunately, the circumstances took a pass. In the building of the possible home, cutting down substantial trees or vegetation?

MRS. LUPINACCI: Just what would be necessary to build the home.

MR. KANE: Would you be creating any water hazards or runoffs?

MRS. LUPINACCI: No.

MR. KANE: This location would have well and septic, not, you're on town?

MRS. LUPINACCI: No.

MR. KANE: So you would have a well and proposed septic area?

MRS. LUPINACCI: Yes, yes, definitely.

MR. SCHEIBLE: How long ago was that what you just mentioned that there was a variance given and then things didn't happen?

MRS. LUPINACCI: It was around--

MRS. PELESHUCK: '08, 2008, am I right or 2009?

MRS. LUPINACCI: Actually I thought it was a little bit later. My husband passed away in January of 2011 and just prior to that towards the end of 2010 I thought, you know, he had gotten the variance and was planning to move, to sell the property, hopefully have, you know, anyway, he passed away.

MR. SCHEIBLE: At one time you have there lot one, two, at one time were they one lot?

MRS. LUPINACCI: Yes, we had it, forgive me if I don't know the terminology, this was my husband's baby. We had to subdivide it, the other property was sold, we actually had the same type of situation and I actually have a picture of the house they built on the other property. I have the listing. It was built, we sold the property, the new buyer put a house on it and has since sold that house. So now we had the second half of that property that was subdivided and I'd like to sell it. I have a buyer that would be interested in buying it and putting a house on it.

MR. BEDETTI: Let me just understand this, this piece of property has already been issued a variance, is that correct?

MR. KANE: Correct.

MR. BEDETTI: Time expired?

MR. KANE: You have 12 months and then it expires. And just so you know, if we go further and you get a variance, if that's the way everything goes on this in here you have the ability before that variance expires to come in and extend it for six months.

MRS. PELESHUCK: I have to check with Jenn because I don't think that's true anymore.

MR. KANE: Did they change it?

MRS. PELESHUCK: Yeah.

MR. KANE: They should let us know.

MRS. LUPINACCI: We kind of thought that, my sons kind of thought that we dropped the ball that we could have maybe had it extended but--

MR. KANE: We'll find out if that law has changed or not, it's been a while since I've had to even bring that up.

MRS. PELESHUCK: Jenn and I tried to do it for someone else and--

MR. KANE: That's a dead issue. Okay, never mind.

MRS. PELESHUCK: You just need a building permit, we can extend the building permits, just not the variance. So if it goes through, bring in just a foundation plan is what we would need in order to issue you a building permit.

MRS. LUPINACCI: Well, that would be God willing the buyer would come in so and that would be their responsibility.

MR. KANE: This way at least you can explain from whatever date that this is approved then you have 12 months.

MRS. LUPINACCI: Good, otherwise they would, I'm assuming that they would have to go through this?

MR. KANE: Correct.

MR. KANE: Further questions? None? I'll accept a motion.

MR. HAMEL: I'll make a motion that we schedule a public hearing for the Doretta Lupinacci for the variance as requested.

MR. BEDETTI: Second that.

ROLL CALL

MR. SCHEIBLE                      AYE

MR. BEDETTI            AYE  
MR. HAMEL             AYE  
MR. KANE               AYE

MRS. LUPINACCI: Thank you.

MRS. PELESHUCK: Your next steps for tomorrow.

MRS. LUPINACCI: Thank you so much.

MR. HAMEL: Maybe she can bring in a picture of the house next door for the vacant lot.

MR. KANE: For the public hearing that will be fine.

MRS. PELESHUCK: Bring it in to me tomorrow and we'll make copies.

MRS. LUPINACCI: Thank you.

PUBLIC HEARINGS:

MARK WICHER (12-27)

MR. KANE: Tonight's first public hearing Mark Wicher. A variance for proposed attached rear pool deck which will need a variance of 25 feet. Required rear yard setback the 50 foot located at 19 Samantha Court in an R-4 zone. Good evening.

MR. WICHER: Mark Wicher, 19 Samantha Court, New Windsor, New York 12553.

MR. KANE: Tell us exactly what you want to do.

MR. WICHER: Well, I need a 25 foot variance to put a pool from my house, excuse me, put a deck from my house out to my pool. Basically, it's coming out from the back center of my house through sliding doors.

MR. KANE: You have an existing deck there now?

MR. WICHER: Yes, I do.

MR. KANE: And do you have sliding doors there, the deck is part of the safety for the doors access from the doors?

MR. WICHER: Yes, it is.

MR. KANE: Cut down any substantial trees or vegetation in the building of the new deck?

MR. WICHER: Absolutely nothing will have to be.

MR. KANE: Create any water hazards or runoffs?

MR. WICHER: We're not going to change the level of the land at all.

MR. KANE: And any easements running through that specific area?

MR. WICHER: No, there's not.

MR. KANE: The deck that you're building right now, is that going to give you direct access to the pool from the deck?

MR. WICHER: Yes.

MR. KANE: So you realize that you will have to, if the variance is granted, that you will have to comply with all the building department's codes as far as having a deck right up to the pool?

MR. WICHER: Yes, they already have it.

MR. KANE: Okay, further questions from the board right now?

MR. HAMEL: What are we looking at, are we looking at the pool itself or the deck?

MR. KANE: No, we're looking at the deck.

MR. WICHER: Just the deck.

MR. KANE: The current deck, how big is that?

MR. WICHER: It's 12 by 12.

MR. KANE: And the new deck is going to be 34 long and 24 coming out from the house?

MR. WICHER: Yes.

MR. KANE: And 24 feet coming out from the house is not oversized for your neighborhood compared to other decks that are there?

MR. WICHER: There's a lot of decks in my area, very big, you come down the road here and look at my neighbor down here, his deck is his whole back yard.

MR. KANE: So it's not oversized?

MR. WICHER: No.

MR. KANE: Further questions, gentlemen?

MR. SCHEIBLE: Was there a permit received for the original deck that's there right now?

MR. WICHER: Yes, it was new construction, prior to new construction.

MR. SCHEIBLE: That was part of the house construction?

MR. WICHER: Yes, sir.

MR. SCHEIBLE: When it was built?

MR. WICHER: Yes, sir.

MR. KANE: At this point, I'm going to open up the public portion of the meeting and ask if there's anybody for this particular hearing? Seeing as there's not, we'll close the public portion and bring it back to Nicole, ask how many mailings we had.

MRS. PELESHUCK: On the 31st day of July, 2012 we mailed out 57 addressed envelopes and I had no written responses back.

MR. KANE: Frank, question?

MR. BEDETTI: Yeah, what's right behind you?

MR. WICHER: I do have a neighbor but he has a six foot solid white fence and his yard is raised about another two foot higher than mine so it's like eight feet off my level solid fence all the way down the whole length of his back yard. I have nobody on the sides.

MR. BEDETTI: So, I mean, really you're not looking into his, looking down into his house?

MR. WICHER: No, he's looking down into me. I've got the disadvantage, he's got a ranch so he's looking down.

MR. BEDETTI: I'm good.

MR. SCHEIBLE: That's so, behind you is we used to call it Park Hill Development?

MR. WICHER: Yes.

MR. KANE: Further questions? If not, I'll accept a motion.

MR. HAMEL: I'll make a motion that we grant Mark Wicher the variance as requested.

MR. SCHEIBLE: I'll second it.

ROLL CALL

MR. SCHEIBLE                      AYE

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MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. KANE	AYE

MRS. PELESHUCK: I'll call you probably tomorrow so you can get your building permit.

FORMAL DECISIONS:

1. Chatfield
2. Tripodo-Annacome
3. Hudson Valley SPCA
4. Mason
5. Harsch
6. Bruce (Shevibe)
7. McMillan
8. Epstein
9. Happy Internet Cafe
10. Elabbadi
11. Tarsio
12. Moslem

MR. KANE: We have a bunch of formal decisions, if you want, I'll take a motion to take them in one vote.

MR. BEDETTI: I'll make a motion that we accept the formal decisions as distributed by e-mail for Chatfield, Tripodo-Annacome, Hudson Valley SPCA, Mason, Harsch, Bruce (Shevibe), McMillan, Epstein, Happy Internet Cafe, Elabbadi, Evangelista, Tarsio and Moslem.

MR. HAMEL: I'll second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer