

TOWN OF NEW WINDSOR

ZONING BOARD

April 22, 2013

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

ALSO PRESENT:      GEOFFREY CHANIN, ESQ.  
                             ZONING BOARD ATTORNEY

NICOLE PELESHUCK  
ZONING BOARD SECRETARY

MEETING AGENDA:

1. Donald & Bessie Harris
2. Felicita Pagan & Angel Reyes
3. Edward & Joan Polkowski
4. Michael & Elaine Veneziali

**REGULAR MEETING:**

MR. KANE: I'd like to call to order the Town of New Windsor Zoning Board of Appeals regular session for April 22, 2013. We're going to have a little change in the order that we're doing things tonight. Some information came up so the public hearing will be first.

PUBLIC HEARINGS:

MICHAEL & ELAINE VENEZIALI (13-01)

MR. KANE: Michael & Elaine Veneziali. Okay, what's gone on is that we have received a letter from somebody that disagrees with the violation but they also point out that between the building and the garage that a sidewalk has been put down which changes the numbers for developmental coverage. So the numbers that we have, you know, when you send pictures with it too our plans don't show a sidewalk and numbers from that change everything in the mailing. So legally we can't do anything. We have to have, the building inspector will go out tomorrow, take a look, get the exact numbers. We have to redo the mailing, the mailing has to go out 10 days before all that information. As long as that information is back by the 30th for you so that it can make the paper by May 3 then we can have our next meeting, we can go ahead and do this.

MR. CHANIN: And the numbers in the application have to be amended to reflect the accurate numbers taking the paving into account as developed area.

MR. VENEZIALI: The paving between the---

MR. CHANIN: Between the house and the garage.

MR. KANE: That changes the numbers for the developmental coverage.

MR. VENEZIALI: If I had known that--

MR. CHANIN: We have to amend the application so the numbers in the application are right and we have to amend the numbers so that when the public notice goes out to the public, the numbers are right in the public notice.

MR. KANE: Which means we have to re-notify the public because the numbers are wrong. So unfortunately, and I didn't want to keep you all night to hear that, so anybody that's here for this particular hearing it's not going to happen this evening, obviously, you've heard what's going on.

MR. CHANIN: What I'd like to ask is for the board, if the board is willing to do so to vote on a motion to table for the purpose just stated that is to determine

the correct developed acreage for the purpose of amending the application and the public notice. But let us put it on the record without having the formality of a resolution, is that the board's consensus and desire that we do this, that we proceed in the way that we have prescribed? Let me ask it this way. Is there any member of the board that's here tonight and the board is unanimously present here tonight who objects to that in any way, shape or form?

MR. BEDETTI: Object to the motion?

MR. CHANIN: No, who objects to asking the applicant to amend his application and so that we can properly amend the public notice.

MR. KANE: Really no legal way that we can proceed.

MR. TORPEY: Is this a sidewalk or is that the part of the driveway?

MR. KANE: Putting the sidewalk down affects the developmental coverage, that wasn't in our information. So since he's here to get a variance on his developmental coverage to exceed the allowable number that number's going to be even more because of the sidewalk that wasn't on all the plans, that hasn't been taken into account.

MR. TORPEY: So your driveway's part of that too?

MR. KANE: Anything that's not porous, that doesn't allow the rain to go through is part of the developmental coverage so your driveway, yes, unless it's Item 4 that doesn't count but if you have concrete or you have blacktop, all of that counts.

MR. CHANIN: Was there any objection from the board members?

MR. BEDETTI: I have no objection. Question relative to the sidewalk, is the sidewalk larger than the porch that's going up, is it a pad under the porch?

MR. KANE: No, nothing to do with the porch, it's between the garage and the house and that wasn't there when they originally came in for their variances to put the garage up that was staying a grass area which means it didn't effect, that was part of the, good part of the developmental coverage. So that all, all those

numbers have to change.

MR. BEDETTI: This is not under the proposed porch?

MR. KANE: No, yeah, it's fixing the numbers, really has nothing to do with the deck itself in that application but the numbers are wrong and we can't proceed.

MR. VENEZIALI: Okay.

MRS. PELESHUCK: Going to have the inspector come out to take a look to figure out--

MR. KANE: Make sure we have the correct numbers to come in.

MR. VENEZIALI: When? Soon?

MRS. PELESHUCK: I'll give you a call tomorrow. Maybe tomorrow.

MR. KANE: Maybe tomorrow. We need to get everything to her by the 30th so we can get it in the paper by the 3rd which gives us 10 days cause our next meeting is the 13th.

MR. VENEZIALI: Thank you.

PRELIMINARY MEETINGS:

DONALD & BESSIE HARRIS (13-05)

MR. KANE: Tonight's first preliminary meeting, Bessie and Donald Harris. An interpretation is requested for an existing single-family dwelling with two kitchens or is it a two-family dwelling. Located at 20 Knox Drive in an R-4 zone. Mr. and Mrs. Harris, hi, come on up. Basically, let me explain how we do what we do and any other applicants that are in the audience. In New Windsor we hold two meetings, we hold a preliminary meeting so we can get a general idea of what you want to do, make sure that you have the proper information for us to make a decision. In other towns they have one meeting, you walk in, you don't have the right stuff, you lose and you can't come back for six months. So we'd rather do everything right. And it's a two step process and with everything in New York State we can't make a decision unless we do it in a public hearing. What's going to happen now we're going to ask a bunch of questions, make sure we get the information that we need or have you provide pictures if we need that kind of stuff at public hearing and at the public hearing the same questions will be asked, only at that point anybody in the public, any neighbors that have questions or are for or against or whatever will be allowed to speak at that point. Okay, so that's how we proceed. So what I'd like you to do just state your name and address loud enough for the young lady over there to hear you and tell us in your own words exactly what you want to do.

MRS. HARRIS: It's Don and Bessie Harris.

MR. KANE: You live at 20 Knox Drive?

MRS. HARRIS: 20 Knox Drive.

MR. HARRIS: Want me to tell you?

MR. KANE: Yes.

MR. HARRIS: In 1967, my father moved in with me. In '68, I put a, took my downstairs and the people, the Lione (phonetic) Brothers told me they can do it, we wouldn't need a permit inside as long as it was inside the building. I had that made and it went on for 42 years then I'm trying to get a reverse mortgage now they did the assessment.

MR. KANE: Everything comes up.

MRS. HARRIS: Illegal apartment.

MR. HARRIS: In the assessment she said I had an illegal apartment, I don't want that, she said it's okay if you want to sell the house you can probably sell it with no problem but it's not legal they say. So I'm trying to get--

MR. KANE: We'll straighten that out.

MR. HARRIS: -- trying to straighten that out, that's all I want.

MR. KANE: Zoning came in in '66 so they were probably tap dancing around.

MR. HARRIS: I should of told you '66. No, I was a cop for 30 years, I don't have to.

MR. KANE: Let me ask a couple questions. You do not consider it an apartment downstairs, you do not rent it out?

MR. HARRIS: Oh, no.

MR. KANE: You consider your home a single-family home?

MR. HARRIS: That's correct. I wouldn't have anybody else living in my house, I wouldn't live in an apartment.

MR. KANE: There's one gas meter and one electric meter serving the home?

MR. HARRIS: Yes, one of each.

MRS. PELESHUCK: There's a picture, I think.

MR. KANE: And for the public hearing, if you would just take a picture outside of the gas meters for us so we can put that in the record, the gas and electric meter, take a photo.

MR. HARRIS: It's inside the breezeway the gas meter.

MR. KANE: Take a photo so we can put it in the record.

MR. HARRIS: You want a picture of the electric too?

MR. KANE: Yes, both.

MR. HARRIS: Meter downstairs and the electric meter?

MR. KANE: Yes.

MR. HARRIS: Sure.

MR. KANE: So we can put them in the file.

MR. HARRIS: No problem.

MR. KANE: Over the course of the years, has there been any complaints formally or informally?

MR. HARRIS: Nobody knows I've got one, only my friends and they haven't said anything. I mean, there's nobody, I don't see it's, nothing happened outside of the house, it's all inside.

MR. KANE: No, you know, we have as a matter of fact the next two hearings are basically the same thing. We see it a lot, we try and clear it up. Basically all safety issues, they want to make sure that the home if it's a two-family home is put together correctly, right fire alarms, all the stuff that you need for a two-family home in this particular area. So if it's in a single-family zone, we put it on record because it's illegal for you and we take it right from there and clean it all up.

MR. HARRIS: That's all we want, single family. Her boy lives downstairs.

MRS. HARRIS: When he's around he stays.

MR. HARRIS: He comes and goes, he's not there too often.

MR. KANE: I've got one of them myself. Any questions from the board? Just a picture of the meters, we have the picture of everything else. I'll accept a motion.

MR. HARRIS: Give them to the--

MR. KANE: Just bring them into the office.

MR. HARRIS: No problem.

MR. BEDETTI: I'll make a motion we schedule a public hearing for Donald and Bessie Harris for an interpretation for a single-family residence with two kitchens located at 20 Knox Drive in an R-4 zone.

MR. TORPEY: I'll second that.

ROLL CALL

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

MRS. PELESHUCK: Okay, this is the next steps for the mailings, okay, you have to come in on or before April 30 to be able to be put on the next meeting.

MR. KANE: Cause the mailings have to be 10 days in advance.

MR. HARRIS: Okay, then we gotta come in with--

MRS. PELESHUCK: Pictures.

MR. HARRIS: About the letters and stuff?

MRS. PELESHUCK: Yes, that's all on there.

MR. KANE: The picture you can bring it in early or bring it that night with you.

MR. HARRIS: I'll probably bring it in tomorrow.

MR. KANE: That's fine. Have a great evening.

FELECITA PAGAN & ANGEL REYES (13-06)

MR. KANE: Tonight's next preliminary meeting Felecita Pagan and Angel Reyes. Request for interpretation of an existing single-family dwelling with two kitchens or is it a two-family dwelling. Located at 110 Blanche Avenue in an R-4 zone. Sir, you heard my spiel before?

MR. REYES: Yes, I did.

MR. KANE: State your name and address please, speak loud enough for that young lady over there to hear you and tell us in your own words exactly what you want to do.

MR. REYES: My name is Angel Reyes, I live at 110 Blanche Avenue, New Windsor, New York. Basically, after 911, my mother got separated from my dad and she was having some financial problems so she, I decided to move back from St. Thomas, I was living in the Virgin Islands at that time.

MR. KANE: You're a good son.

MR. REYES: To help her out and my sister did the same thing, so just for financial purposes and to have privacy we decided to make a kitchen downstairs. The contractor who did it for us didn't tell us about any permits that we needed at that time and we thought that it was all legal so when he came to inspect, we were shocked that it was not.

MR. CHANIN: Did you say that was 2001, 2002?

MR. REYES: 2001, 2002, yes, it was November that she moved in.

MR. KANE: Your intentions with the home is to use it as a single-family home and will always stay a single-family home?

MR. REYES: Yes.

MR. KANE: One electric and gas meter coming into the house?

MR. REYES: Yes.

MR. KANE: I see you provided us with a picture of that, thank you. Was that 2001 that you added the

second kitchen?

MR. REYES: No, it was 2002, she moved in 2001 and she was having financial problems, in 2002 we did the change.

MR. KANE: You have no intentions of using it as a rental space down the line?

MR. REYES: No, just me, my sister and my mom.

MR. KANE: Any complaints about the space formally or informally?

MR. REYES: Not that I know of, no.

MR. KANE: I think we're good enough. I'll accept a motion.

MR. BEDETTI: Other than you and your mother, that's it?

MR. REYES: Me, my mother and my sister.

MR. SCHEIBLE: Three of you living there?

MR. REYES: Three of us.

MR. BEDETTI: All the same family?

MR. REYES: Yes.

MR. SCHEIBLE: Any one person that uses that as an apartment downstairs?

MR. REYES: My sister, she likes her privacy more than I do so she's using downstairs and I think her boyfriend comes in and out once in a while.

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

MR. HAMEL: I'll make a motion we schedule a public hearing for Felicita Pagan and Angel Reyes for the variance as requested.

MR. TORPEY: I'll second it.

ROLL CALL

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

MRS. PELESHUCK: Your next steps.

MR. KANE: And if you get all the information back to Nicole by the 30th it will make the paper on the 3rd and you can make our next meeting which is the 13th of May.

MR. REYES: Thank you so much. Have a good night.

MR. KANE: Careful home.

EDWARD & JOAN POLKOWSKI (13-07)

MR. KANE: Tonight's next preliminary meeting Edward and Joan Polkowski. Request for an interpretation of an existing single-family dwelling with two kitchens or is it a two-family dwelling. Located at 14 Martha's Way in an R-1 zone. Same deal, just state your name, address, speak loud enough for that young lady over there to hear you and tell us exactly what you want to do.

MR. POLKOWSKI: Ed and Joan Polkowski, 14 Martha's Way, New Windsor. What we want to do, it's already done.

MR. KANE: What's been done can be undone.

MR. POLKOWSKI: Well, the downstairs we had an area down there and there's no heat or anything down there, got a wood stove so we put a kitchen downstairs and basically that's what it is. And now there's, the reason why is because there's 15 steps and it's getting a little harder to go up and down them steps when we go downstairs.

MR. CHANIN: When was the kitchen put in?

MRS. POLKOWSKI: Five years ago.

MR. KANE: About five years ago, okay, I grew up with summer kitchens.

MR. CHANIN: Around 2008?

MR. HARRIS: Yeah, yeah, I did it myself.

MR. KANE: And now you provided us with a picture, only one gas meter and electric meter coming into the home?

MR. POLKOWSKI: One.

MR. KANE: Your intent with the home is to use it as a single-family home, not as a two family rental?

MR. POLKOWSKI: No.

MR. KANE: Okay, and since you put in the second kitchen downstairs, has there been any complaints formally or informally to you about it?

MR. POLKOWSKI: Well, the only ones complaining would

be our family.

MRS. POLKOWSKI: The kids, they better not.

MR. KANE: They're young, they can climb the stairs, that's what I'd tell them. Further questions from the board?

MR. BEDETTI: You're the only ones who have ever lived in the house?

MR. POLKOWSKI: Yes, Mr. Bedetti.

MR. KANE: I'll accept a motion if there are no further questions.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Edward and Joan Polkowski regarding interpretation for a single-family dwelling with two kitchens located at 14 Martha's Way in an R-1 zone.

MR. HAMEL: I'll second it.

ROLL CALL

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

MRS. PELESHUCK: This is your next steps with the mailings, I told you how many you need and when to come in on or before.

MR. POLKOWSKI: I need 17.

MRS. PELESHUCK: Envelopes with stamps on them.

MRS. POLKOWSKI: It's got to be 500 feet?

MR. KANE: Just follow the directions there but basically you're going to go down to the assessor's office, they'll give you a list.

MRS. PELESHUCK: That's what you're paying for.

MR. KANE: Then they do the mailing, all that stuff. We're all set, we're done.

April 22, 2013

14

MR. CHANIN: You guys are done. If you have any questions, call the building department.

DISCUSSION

MR. CHANIN: In closing, let me make part of the record that I have distributed to the board members a set of opinions, legal opinions concerning planning and zoning issues. And it's the board's intention at some future time, either at the close of a short meeting like tonight or at some other convenient time and place to discuss these cases that I have handed out as part of our continuing legal education program.

MR. KANE: Okay, so what I will have Nicole do is let us know next time we're going to have a short meeting coming in advance, we'll know that we'll spend an extra 15, half hour whatever here and we can go over that.

MR. CHANIN: What I would suggest you do is read them in chronological order, in other words, the earliest ones, the ones on the top first, read those first and take out like a yellow marker and if anything strikes you as interesting or you have a question or you want to talk about something that's--

MR. TORPEY: These are all basically examples?

MR. CHANIN: Yes, they are cases selected to illustrate various legal points that are important to zoning boards. So use a yellow highlighter, if you see something that's interesting or you want to ask a question about or talk about, just highlight it.

MR. SCHEIBLE: Anything about kitchens since kitchens are in season right now?

MR. KANE: They are in season, we're on a streak.

MR. CHANIN: No, but it's a lot of stuff we talked about, it's SEQRA, open meetings, that kind of stuff.

MR. KANE: Motion to adjourn?

MR. BEDETTI: So moved.

MR. SCHEIBLE: Second it.

ROLL CALL

MR. SCHEIBLE            AYE  
MR. BEDETTI            AYE

April 22, 2013

16

MR. HAMEL	AYE
MR. TORPEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer