

TOWN OF NEW WINDSOR

ZONING BOARD

October 27, 2014

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

ALSO PRESENT:      GEOFFREY CHANIN, ESQ.  
                             ZONING BOARD ATTORNEY

                             CAMMY AMMIRATI  
                             ZONING BOARD SECRETARY

ABSENT:      PATRICK TORPEY

MEETING AGENDA:

1.    Horner
2.    Slater

REGULAR MEETING

MR. KANE:    I'd like to call the Town of New Windsor  
Zoning Board of Appeals regular session for October 27,  
2014 to order.

APPROVAL OF MINUTES DATED 9/8/14 & 9/22/14

MR. KANE:    Motion to accept the minutes of 9/8/14,  
9/22/14 as written, they were sent out via e-mail on  
9/24 and 9/30/14

MR. BEDETTI:    So moved.

MR. SCHEIBLE:    Second it.

ROLL CALL

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

October 27, 2014

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MR. BIASOTTI  
MR. KANE

AYE  
AYE

PUBLIC HEARINGS:

ROBIN & SHARON HORNER (14-22)

MR. KANE: First public hearing Robin and Sharon Horner. Variance for a proposed 10 ft. x 20 ft. accessory building that will project closer to the street than the principal building. Located at 90 Silver Stream Road in a PI zone. Come on up, sir. Is there anybody here for this particular hearing that wishes to say anything? No? Good. You're on, same as the prelim, you want to state your name and address, talk loud enough for the young lady over there to hear you.

MR. HORNER: My name is Robin Horner, I reside at 90 Silver Stream Road, New Windsor, New York. The purpose of this variance is to put a shed on my property, due to the fact that my property is surrounded by three roads.

MR. KANE: You have three front yards.

MR. HORNER: I have three front yards, I have no place to put the shed other than in the back of the house which is only 25 feet and it also has drainage located in it because of the fact that my property is on a downhill slope from several properties up.

MR. KANE: In the building of the shed, will you be cutting down substantial vegetation or trees?

MR. HORNER: No.

MR. KANE: Creating any water hazards or runoffs?

MR. HORNER: No.

MR. KANE: Any easements going through where the proposed shed is going?

MR. HORNER: No.

MR. KANE: Height of the shed?

MR. HORNER: Approximately, eight feet, eight to ten feet, something like that.

MR. KANE: This is going to be used as a tool shed?

MR. HORNER: Yes, sir.

MR. KANE: Any power going to it?

MR. HORNER: No, sir.

MR. KANE: Further questions from the board?

MR. BEDETTI: I notice in one of the photographs there's a shed, are you replacing the shed or is that--

MR. KANE: Gone, it's gone.

MR. HORNER: It's gone.

MR. KANE: Can we keep the one picture?

MR. HORNER: Absolutely, sir.

MR. BEDETTI: I guess the answer to that is you're replacing the old one with a new one?

MR. HORNER: Yes.

MR. BEDETTI: In a different location?

MR. HORNER: Same location, yes.

MR. SCHEIBLE: And is it any larger than the former?

MR. HORNER: The new one is larger than the former.

MR. SCHEIBLE: Approximately?

MR. HORNER: It's approximately 12 foot longer.

MR. SCHEIBLE: You're not going to keep cars and trucks in there?

MR. HORNER: No, sir, strictly yard tools.

MR. SCHEIBLE: Okay.

MR. KANE: At this point, I'll open the public portion of the meeting and once again ask if there's anybody here for this particular hearing? Seeing as there's not, we'll close the public portion of the meeting and ask Cam how many mailings we had?

MRS AMMIRATI: On the sixth day of October 2014, I compared 10 addressed envelopes containing the public

hearing notice with no responses.

MR. KANE: We'll open it back up to the board for any further questions or if not, I'll accept a motion.

MR. HAMEL: I'll make a motion that we grant Robin Horner the variance as requested for the 10 foot by 20 foot building.

MR. BIASOTTI: I'll second it.

ROLL CALL

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

MR. KANE: You're all set, there's always more paperwork, you're dealing with the town.

MR. HORNER: Okay.

MR. KANE: Just follow that, any questions, give Cam a call.

MRS AMMIRATI: When the permit is ready to pick up I'll give you a call, we'll issue the permit and you can put up the shed.

MR. HORNER: How long?

MRS AMMIRATI: I'd say probably within a week.

MR. HORNER: I have to cancel the delivery of the shed, I ordered it in anticipation and they want to deliver it Thursday.

MRS AMMIRATI: I'll talk to the building inspector, see if he can put it to the top of the pile.

MR. KANE: Just give Cammy a call in the morning.

MR. HORNER: Thank you very much.

ITSIA M. SLATER (14-23)

MR. KANE: Tonight's next public hearing is Itsia Slater. Variance for interpretation is required for an existing single-family dwelling with two kitchens or is it a two-family dwelling located at 8 Regimental Place in an R-4 zone.

MR. KANE: I'm going to assume everybody here is here to, you're going to want to say something at this particular hearing? So what I'll need each one of you to do if you would just put your name and address on this, this is strictly for the stenographer so she has the proper information to write in, if you want to speak, name, address right there, thank you.

MR. KANE: You're on. You're Miss Slater?

MS. SLATER: Yes.

MR. SMITH: Robert Smith, Valley Inspections Plus with offices at 189 Rabbit Run Road, Clintondale, New York.

MR. CHANIN: Thank you. Briefly as you did on your first appearance on September 22, restate the purpose of the application please.

MR. SMITH: Absolutely. Earlier this summer, a complaint was filed with the town building inspector regarding work done at Itsia's home in the basement. It was purported that an apartment was created in the basement of her home. The fire inspector came to do an inspection at the residence and noted that there were some renovations there and made some recommendations and Miss Slater contacted me, I'm a friend of hers from church in order to help her and what we have in the basement is a kitchenette, that's a refrigerator and a sink, a full bathroom, it's a three quarter bath with shower, a sleeping room and a living room dining area. It's separated by a door between the first floor, the main floor of the house with a luann door. At the time of the inspection, there was a privacy lock on that door which has since been removed. Miss Slater does not rent that space, it's used for her family, her daughter who's currently in college was living in that space last and her relatives come to visit her quite frequently. And so that is the use of the space. It's not a rental space at all.

MR. CHANIN: Is it the applicant's request that this

board issue a finding, an interpretation that the presence of the kitchen in the basement does not and will not convert this residence to anything other than a single family residence, is that correct?

MS. SLATER: Yes.

MR. SMITH: Yes, it is.

MR. KANE: And there's a single gas meter and electric meter coming into the house?

MS. SLATER: Yes.

MR. SMITH: No separate furnace, no separate hot water heater, all utilities are part of the residence and no modifications were made to the systems that were there. In fact, the space that has been renovated already existed when Miss Slater bought the house she basically renovated it.

MR. KANE: Your intent and purpose in this home is to use it as a single-family home?

MS. SLATER: Yes.

MR. KANE: Non-rental units?

MS. SLATER: No.

MR. CHANIN: And you understand should the board grant your application, it will by doing so impose on you the obligation that it remain a single-family house and never be anything other than that until the town code changes?

MS. SLATER: Yes.

MR. KANE: Also if it's approved by the board, you understand you're still subject to approval by the building department for everything?

MS. SLATER: Yes.

MR. SMITH: Yes.

MR. KANE: Further questions from the board at this time?

MR. SCHEIBLE: Let me just backtrack, you said there

was a sink and a bathroom?

MR. SMITH: Right.

MR. CHANIN: Sink, refrigerator, a dining living room area and a bathroom and a full bath.

MR. SCHEIBLE: You didn't mention any heating.

MR. SMITH: Fireplace.

MR. SCHEIBLE: Fireplace or stove?

MS. SLATER: No, it was there.

MR. SCHEIBLE: Just wanted to--

MR. SMITH: There is no stove, there is a fireplace and it remains.

MR. KANE: Further questions?

MR. BEDETTI: Can you tell me has the space ever been rented at any time?

MS. SLATER: Well, what happened like a friend before that lived there and what we do is we help each other, not rent, I don't have any rent, all, you know, it's people who they know me, it's my friend, you know, we help each other, she pay the electricity or buy food, stuff like that, you know, when I was living with my daughter.

MR. BEDETTI: And can you tell me what the nature of the complaint was the building department got?

MR. SMITH: That was the nature of the complaint, it's my understanding it was converted to a two-family residence.

MR. BEDETTI: Okay.

MR. KANE: Any further questions at this time?

MR. BIASOTTI: Was there at one time a stove in the kitchen?

MR. SMITH: Yes, there was.

MR. BIASOTTI: Are the hookups are still available?

MS. SLATER: No.

MR. SMITH: The hookup was removed completely.

MR. CHANIN: Now you say that a complaint was made and the building inspector came out and inspected?

MR. SMITH: Correct.

MR. CHANIN: Did he issue a code violation?

MR. SMITH: I don't recall seeing a violation notice, no.

MR. CHANIN: Do you have any outstanding code violation pending against you at this time?

MS. SLATER: No.

MR. SMITH: No.

MR. CHANIN: Did you ever have to pay a fine because of any prior violations?

MS. SLATER: No.

MR. KANE: Just so you know, the presence of a stove doesn't qualify as a second kitchen, as long as there's one gas meter and electric meter coming into the home that's what matters under one bill. Further questions?

MR. SCHEIBLE: You may have said it but I just want to reiterate is there a private entranceway to this?

MR. SMITH: Yes.

MS. SLATER: Yes, it's private, there's three entrances.

MR. SCHEIBLE: Into there?

MR. SMITH: Yeah, the entrance, the primary entrance to the house is the primary entrance to the space, however, there is a patio door, it's shown on the last page of photographs that provides access through the rear yard. It's a swinging patio door.

MR. CHANIN: So what you're saying is that if somebody wanted to enter this downstairs space through this

separate door, they could only do so from the back of the property, in other words, somebody wouldn't be able to walk up the front and into the front door, they'd have to go around the back?

MR. SMITH: That's correct.

MR. CHANIN: Which implies if a stranger would do that it would be a trespass?

MR. SMITH: Correct. There's no entrance to the space from the front of the house, you have to go through the primary house to get to the space.

MR. KANE: I'm going to open it up for the public and ask if anybody wants to speak, please come up, do not be repetitive, okay, state your name and address and ask whatever questions you need.

MS. MARTINEZ: Sure, hi, my name is Rachael Martinez. I live next door to Itsia Slater at Six Regimental Place. I have resided next to her with my family for nine years. In that time she has had people living in her home the entire time. Itsia is not a bad person and I don't feel that she has any malintent, she's just trying to raise her daughter. However, the choices of people that she's had in her home I cannot accept. Unfortunately, the last people that moved in on Memorial Day weekend did some cursing and screaming. I have an 11 year old son and I find that unacceptable. She's also had police there not for her but for the tenants in the apartment at previous occasions that was in 2007 and we could certainly pull up those records for domestic dispute or domestic violence.

MR. KANE: That doesn't go with the property, this is not a hearing about who they rent to, this has to deal with the building and the property.

MS. MARTINEZ: Right, so the back door is within like 10 feet of my property and there's people back there, they've been smoking pot, they've been smoking cigarettes, they've been out there talking, they're out there at midnight, it certainly seems like a rental property. There are also people upstairs living there, there's cars, they're back, they're forth, they're turning around in my driveway, it's a one family neighborhood, it's, you know, it's not a situation that's agreeable to having two families. And over the years there's been a number of people in and out,

moving in and out and it's been quite a situation.

MR. KANE: Okay.

MS. MARTINEZ: Thank you very much.

MR. KANE: Next?

MS. BATTIPAGLIA: My name is Jacqueline Battipaglia, I live at 8 Parade Place. I will follow your instructions not to reiterate things that Mrs. Martinez has just brought up. From my observation, it's not only just a two-family house but at times even a boarding house. One of the tenants has had her Social Security Disability check or her rent actually sent directly to this homeowner. A realtor also in addition to that had told me that she was looking for an apartment for herself, answered an ad placed on Craig's List and when she got to this address 8 Regimental, it turned out to be an ad for renting one of the bedrooms at 8 Regimental. Of course, this did not suit the person's needs and also as a realtor knew that it was zoned for one family residential. One more point I'd like to make because my house number is eight and the property in question's also eight, we occasionally get misdirected, missorted mail and I had asked our letter carrier what name I should be looking for, you know, do I put it back in my mailbox or do I bring it to somebody's house and he admonished me and this is pretty much his words for 10 years, there's all kinds of names arriving on the mail. Our interpretation as neighbors is it is not a single-family dwelling, it has been even with rent checks being sent directly to the property owner someplace between a two family as well as a boarding house. And because of the already other families and other houses that have used liberties they're our relatives, they're our friends, we're helping each other, we're seeing a trend towards the multi-family and boarding house and two family uses of the properties in our neighborhood. It is not agreeable to us. Thank you.

MR. CHANIN: Miss Battipaglia, can I ask you a question please? Would you like it if the town on the record restricted it strictly to be a one-family house? Is that something you would like?

MRS. BATTIPAGLIA: Oh, yes.

MR. CHANIN: Okay.

MRS. BATTIPAGLIA: Did I understand your question correctly?

MR. CHANIN: My question is do you want there to be on the record of the town a condition placed on this property that it can be only used for no other purpose except as a one-family house, is that what you would like?

MRS. BATTIPAGLIA: Yes. Can we also define family as being family?

MR. CHANIN: The definition of those terms first of all is found in the law and second of all is enforced by the building inspector. But I want to know for the sake of the record, for the sake of clarity that I understand you correctly. Actually, it's more so the board understands you correctly, not me but what I hear you saying I think is that you would like to the greatest degree possible the use of this property in writing on the record to be restricted to be only used as a one-family house, a single-family house?

MRS. BATTIPAGLIA: To the best of my understanding, I think that is yes, what we want, a one-family house.

MR. CHANIN: Thank you, that's all I wanted to know.

MRS. BATTIPAGLIA: Thank you.

MR. KANE: Anybody else wish to speak? One quick question first, you put an ad in Craig's List for rentals?

MS. SLATER: I was--

MR. KANE: It's a simple yes or no?

MS. SLATER: Yes, a room in the top of my house.

MR. KANE: Okay, ma'am?

MS. TAYLOR: My name is Lorraine Taylor, 78 Continental Drive and I'd like to stick to the language here first in reference to what qualifies a two-family home, first question and what qualifies something as a kitchen versus a kitchenette, that's my second question. And I'll get to the third one later.

MR. KANE: What defines what ma'am?

MS. TAYLOR: What qualifies a home as a two-family home in this case and what qualifies a kitchen as a kitchen versus a kitchenette in this case?

MR. CHANIN: Okay, the answer to both of your questions is that ultimately the final criteria that people who are in a position of making a decision which could be in the first instance the building inspector and then if there is a proceeding in court it would ultimately be up to a judge but the answer to both of your questions is that what something is, whether it's a one-family house or a two-family house or an accessory building or a commercial property is determined by its use, it's determined by what's allowed in the zone. But in the end, if somebody is using a property in a way that's prohibited by the local code then the code defines that use and the building inspector in the first place as the enforcement officer or ultimately a judge if there's a proceeding in a court such as here will determine whether or not a property is or is not in compliance with the zoning code according to how it is used. So, if a property, now you heard Mr. Kane ask the prior person or actually ask Mr. Smith in this hearing is there a separate door, are there two utility meters, is there a way to get to this property without going through the main house, is there a way to get to this property without going around trespassing through the back yard? Who are the people who are using it? Why is the applicant making this application? All of those factors go into the mix that ultimately answers the question is it being used as a single-family house or a two-family house? So in a hypothetical example, if I had a house that had an upstairs where I live and a basement and I rented it out to strangers and they paid me rent, that would be a two-family house cause I'm not related to them and I'm gaining income and we live in separate parts of the house. If on the other hand my son comes to visit me for a few weeks and there's only one meter and there's no locked separation between the different parts of the house then it's a single-family house. So the ultimate answer to your question and Mr. Smith you can disagree with me if you think I'm wrong, I'm not either speaking for or against your application, but the answer to your question, Miss Taylor, is that the ultimate answer depends on the use. Now what's going on here is that Miss Slater is asking this board to put on the record of the town that this property is and can only be used as a single-family

house. If this board does that and if in the future you or your neighbors think that there's evidence to show that it's being used for something other than a single-family house than as previously happened you and all your neighbors have absolutely every right to report that to the building department. He's the law enforcement officer, he will go there and inspect and because this has been declared to be a single-family house, only if the building inspector finds that it is being used as a two-family house for a renter or for a stranger or for people who don't belong there, then the building inspector will issue a violation which is returnable in this room before the town judge who has the authority if the judge finds that the violation is well-founded to punish Miss Slater for violating the town code. So actually what you should understand is that what the applicant is asking this board to do tonight, this is why I asked Miss Battipaglia the question I asked her, you should realize that what Miss Slater is asking this board to do is to rule on the record that this is only a single-family house and when I asked Miss Battipaglia was that what you'd like to board to do and I think quite properly she said yes.

MS. TAYLOR: That answered the first question. The second question had to do with the kitchen?

MR. CHANIN: And the answer to that question is--

MS. TAYLOR: You said kitchen then I heard kitchenette.

MR. CHANIN: The answer to that question is in some towns, they have, not every town code is the same, as a matter of fact, there are individual differences between one municipality and the next in what are called their zoning ordinances, which is the rules and regulations that say how a person can and what they may not do with their property, okay. Some town codes in the definitional section define kitchen differently than kitchenette.

MS. TAYLOR: So in this case, in this case?

MR. CHANIN: In this case, I'm not aware that our town code makes that distinction. So in general, unless I'm wrong, our town code treats a kitchen and kitchenette the same. Mr. Smith, is that your understanding?

MR. SMITH: They do.

MR. KANE: That's my understanding, as I spoke before when he asked about the stove in the kitchen doesn't make a stove, whether there's a stove or not as long as there's one gas meter coming into the house, it's considered, you know, summer kitchen, I grew up with them having a kitchen in the basement. So having a stove in there, whether it's a kitchen or kitchenette doesn't make a difference in New Windsor.

MS. TAYLOR: So if in place of a refrigerator I had a double laundry washer and dryer and I had cabinets and I had a sink is that considered a kitchen?

MR. CHANIN: Miss Taylor, did you put those things in there for your convenience?

MS. TAYLOR: Did I put them in for my convenience in my house or in general?

MR. CHANIN: No, what you're referring to the washer dryer and the cabinets, did you put those for your convenience?

MS. TAYLOR: I would one day in my house but what would make that a kitchen?

MR. KANE: The building inspector will go in and what he sees he will decide.

MS. TAYLOR: If I put cabinets and stackable washer and dryer he'll decide, is that it?

MR. CHANIN: I asked if you'd put those in there for your personal use?

MS. TAYLOR: I probably would for convenience in general, yes.

MR. CHANIN: So what you're saying is you're repeating the answer I gave you to your first question, what it is depends on its use, if you put it in there for your convenience that doesn't make it a two-family house.

MS. TAYLOR: Correct, I agree.

MR. CHANIN: It makes it a convenience.

MS. TAYLOR: I absolutely agree with you.

MR. CHANIN: What Mr. Kane said in answer to your

question it's not a code violation if I add an extra refrigerator or cabinet for my convenience. If I add them for the purpose of a tenant now I'm in violation of the code.

MS. TAYLOR: I understand that.

MR. CHANIN: That's what the building inspectors look for when they go out is there some kind of sign this is going to be used as an illegal apartment. And if it is, he'll issue a code violation and if there's a trial before the judge who sits here in the town court and the judge finds that the violation is well founded then the homeowner is subject to a penalty and not just a penalty, a fine for violating the code but will also be ordered to remove.

MS. TAYLOR: Right now my third question is this. If I have a party on Memorial Day, what constitutes my neighbor saying to me that these people don't belong here? And part two of that question is if they're paying my mortgage then I could see them walking into my house, doing an inspection illegally uninvited and then going to the town and telling them that I had a party and all this other stuff without being arrested, first of all, but what constitutes the fact that you have people in your house during a party as illegal or violation?

MR. CHANIN: Okay, well, I can only give you a theoretical abstract answer to your theoretical hypothetical question. The answer is that the, that any given situation such as the one that you describe as an example are governed by laws but not the zoning law. And very briefly cause we're not going to take all night on this, but very briefly I will tell you what other laws govern. First of all, the Constitution of the United States of America and the Constitution of the State of New York protects under the First Amendment, what's called our right of free association so you are entitled to have anybody you want over to your house for any reasonable, legitimate, lawful purpose. If the people that you invite over to your house which you have the absolute right to do make too much noise that's a violation of the Penal Code, it's called public nuisance, your neighbors can call the police and say go over there and make them be quiet.

MS. TAYLOR: They can't walk into your house uninvited.

MR. CHANIN: That's called trespassing.

MS. TAYLOR: Absolutely, so there's two sides of that, I understand this is the zoning.

MR. KANE: Nothing to do with us.

MS. TAYLOR: Nothing to do with you but the point is it was brought up and so I just wanted to make things a little bit more level.

MR. KANE: The other thing that you need to be aware of is that if it does get approved as a single-family home with a second kitchen in there, only family members can live in that house, they have to, and that's immediate family, it can't be people from Craig's List, it can't be a friend coming down the line giving you, it has to be immediate family, that's the law. We're not subject to change that. So if at some point if this does get approved going through that if a complaint comes and somebody's there and they're not a family member, you could probably be fined under that scenario too so it's got to be immediate family, that's the law in New Windsor.

MR. CHANIN: Also one of the factors, not the only factor, one of the factors that the building inspector or police officer or any law enforcement officer takes into account in determining whether or not there's evidence of a violation is the length of stay. That can be a factor too but it is the, here's the legal expression, it's the totality of the circumstances that the law enforcement officer takes into account in the first instance and whether or not those circumstances add up to a violation or not is ultimately up to the judge. That's how it works.

MS. TAYLOR: I understand.

MR. CHANIN: Does that answer your question?

MS. TAYLOR: Yes, sir, it does. I was just trying to think of another question but not to keep you all, I just felt compelled to be here because I thought it was a little unbalanced with the language that was here. I just saw kitchen and two-family dwelling and I know it's not a two-family dwelling but--

MR. KANE: Well, part of what they do the building inspectors when they walk into that situation is

they'll put that right out there because they want it on the record, the town does have a history of going against illegal apartments and part of that is when that building inspector walks in that he's going to err on the side of what's this, I don't know, it's not on the record, therefore you've got to come in front of us, that's how we see most of this stuff.

MS. TAYLOR: I understand. Now if in fact it was strictly a single-family home and you look at, you know, length of stay, who comes there, all those additional things which would ultimately you'd be penalized if you go against that, what would change that, I mean, saying that it's a two-family home and then you can do whatever you want?

MR. KANE: It has to be zoned for it.

MR. CHANIN: This zone only allows as a matter of right single-family homes in this zone.

MS. TAYLOR: In my area we're single-family homes, right.

MR. CHANIN: To be used as a single-family home.

MS. TAYLOR: I totally understand that.

MR. CHANIN: If somebody is using it for something other than a single-family home, the code officer will issue a violation.

MS. TAYLOR: Isn't it on record as a single-family home?

MR. KANE: Well, the speed limit's 40, do people go over that?

MS. TAYLOR: But it's on record as a single-family home so what's the nature of this meeting?

MR. KANE: The nature is there's a complaint that there's a second kitchen and they're using it as a two-family home. So if you don't have a meeting in front of us--

MS. TAYLOR: Can't you dismiss the complaint?

MR. KANE: No, we have to make a decision is it a two-family home, if the board itself, and I'm not

saying they're voting one way or the other, if the board votes against it that we're not going to see that as a second kitchen that doesn't change it from a single-family home, it just means that nobody else can live there by that and if people keep complaining on that then that decision is here. Our other decision would be that if it is, we see it as a second kitchen being used as single-family home it puts it on record then it puts teeth into the law if the neighbors or whoever has a complaint and calls they have been in front of us, it's on record that yes, I'm not renting it out to non-family people, yes, there's only one gas and electric meter coming in there, yes, and you say yes to all this stuff and then you get nailed six months down the line.

MR. CHANIN: That's a violation.

MR. KANE: You're lying in court.

MR. CHANIN: Now the answer to your, to part of your question is yeah, Miss Slater could at her option if she wanted to file a different application to this board and say this zone prevents me from having a two-family home but I'd like to have one so I'm asking the board for a variance that allows me to have that. But that's not what she's doing. What she's saying I want to go on record in harmony with you and Mrs. Battipaglia and I want this to be restricted to a single-family home.

MS. TAYLOR: But you get neighbors to dictate who you can have in and out of your house?

MR. KANE: That's people overstepping their bounds.

MS. TAYLOR: Absolutely they're overstepping their bounds.

MR. KANE: We're going to end that part of the conversation, had it, not going there anymore, okay?

MS. TAYLOR: Okay, so do the variance and then--

MR. KANE: The other thing you have to understand as counsel just stated was that if somebody, if she wanted to come in and ask us if this is a single family, I want to use it as a two family, well her zone is only for single-family homes so that doesn't become a property, that becomes a use variance that's dictated

by the state, the requirements. And the main requirements on that is that you cannot sell that piece of property for its intended use at a reasonable return, that doesn't mean make a profit, that means you can't sell it at a loss for somebody that would take that property and use it as a single-family home.

MR. CHANIN: Unless you got the variance.

MR. KANE: And you just can't pass that.

MR. CHANIN: But Mrs. Slater is not asking for that.

MS. TAYLOR: Thank you so much for that, I appreciate it but it's necessary information for today.

MR. KANE: In the 20 odd years I've been doing this there's been one place in Ducktown that actually got that passed, all the neighbors were for it, I think it's the funeral home that's down there.

MR. CHANIN: That was an example because it was so unusual the board felt that it was appropriate to give that rare variance because if they didn't the value of the property wouldn't be useful and nobody profits when a property can't be usefully used but that's the exception, the rare exception and that is not what Mrs. Slater is asking for.

MS. TAYLOR: I understand.

MR. KANE: Just to clarify.

MS. TAYLOR: I appreciate that, thank you so much, I'm done, thank you.

MR. KANE: Further questions? Anybody else wish to speak?

MR. BATTIPAGLIA: Good evening.

MR. KANE: Please state your name and address. Do not be repetitive.

MR. BATTIPAGLIA: I'm Nick Battipaglia from 8 Parade Place. I understand fully so I'm going to make this very short, what's already been said and somebody who's a neighbor and I am not a next door neighbor by any means has said there's been some problems with the people who have come in. I don't know if that's

something that you folks discount but that seems like the only way to truly verify or dispute the use that's going in, otherwise you're just looking at I know lights and fixtures and doors or whatever if that's how you determine use.

MR. KANE: We cannot determine who the renters are, that's not our job, we cannot qualify that this person's a good renter, this person's a bad renter. I don't know where you're going with that, that has nothing to do with this board, we deal with the property.

MR. BATTIPAGLIA: You accepted the complaint for some value to hear it.

MR. KANE: I didn't accept it for anything, I heard it.

MR. BATTIPAGLIA: So if you just want to hear things that's okay, I don't need to say anything more.

MR. KANE: No, speak.

MR. BATTIPAGLIA: I have no way of proving anything that actually happens there at another person's house.

MR. KANE: That becomes hearsay, therefore, it's--

MR. BATTIPAGLIA: But I would like to say since I've lived in this house for 40 years that I would like it to be like that area to be considered a single family area.

MR. KANE: It should be, it's zoned for single family and our intent is not to change that zoning whatsoever.

MR. BATTIPAGLIA: Apparently the law has different ways of determining if that's actually being carried out.

MR. KANE: That's correct, if it gets approved tonight, okay, I don't see that as detrimental to what you want which is what counsel brought up before, this actually puts teeth in the law for the building department because they were just here, it's all on record that this is the way it's going to go down, okay, and if somebody complains and they go over and it's not going that way now they're coming to court, now it's not hearsay, you know what I'm saying? It's a different world.

MR. CHANIN: To Mr. Battipaglia, I'm going to ask you the same question I asked Jacqueline Battipaglia, do I understand correctly that what you would like is for there to be on record a very clear stricture that this property of Mrs. Slater can only be used as a single-family residence and nothing else? Is that correct?

MR. BATTIPAGLIA: I do, thank you.

MR. KANE: Thank you. Anybody else wish to speak?

MR. CHANIN: Mr. Smith, you're entitled to jump in here anytime you want, I don't mean to be putting words in your client's mouth.

MR. SMITH: I'll comment when he's done.

MR. KANE: Any other comments? Seeing as there's none, we'll close, this is your last chance to speak if you've never been through this before? Okay, we'll close the public portion of the meeting at this point and ask Cam how many mailings we had?

MRS AMMIRATI: On the ninth day of October 2014, I compared 71 addressed envelopes containing the public hearing notice with no responses and two returned envelopes.

MR. KANE: Okay, bring it back to the board for further questions?

MR. SCHEIBLE: I have a question. You know, just to straighten things out here, over the years people have said that you have possibly had other people living in that house, right, and over the years this is just for the record I want you to answer yes or no, has there ever been any moneys received for any of the people that were living in your house at that time to you?

MS. SLATER: How you putting--

MR. SCHEIBLE: Have you ever, when I say moneys received, that's in lieu of rent or so forth, alright, have you ever charged anyone?

MS. SLATER: Not like that, no, sir, not like that.

MR. SCHEIBLE: That's for the record, I just want to have that on the record.

MS. SLATER: What do you say like if upstairs in my room I have four bedrooms if I have my friend upstairs she said I don't have a place to live, I cannot rent a place because it's expensive and it's my friend, she's living with me, we help each other, right, she say I help you pay this, that's rent, no, I feel that that's friendship. I'm a Christian, I'm a Christian woman, I feel like single women we have to help each other.

MR. CHANIN: Before you say anything else, the answer to Mr. Scheible's, the answer to Mr. Scheible's question is that you don't and have not in the past rented your property in return for rental paid to you?

MS. SLATER: No.

MR. CHANIN: Or something in lieu of rent to somebody who's not a close family member, is that correct?

MS. SLATER: No, not rent like that, no, no, friendship.

MR. SCHEIBLE: In lieu of rent somebody mowed your grass to be able to live there?

MS. SLATER: Yes, no.

MR. SMITH: Current friend pays electric bill when she can.

MS. SLATER: Yes.

MR. SCHEIBLE: She does pay the electric bill?

MR. SMITH: When she can.

MRS. SLATER: That's how we help.

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

MR. BEDETTI: I'll make a motion that we make an interpretation for a single-family dwelling with two kitchens located at 8 Regimental Place in an R-4 zone and that interpretation is that this residence is a single-family home, can only be used as a single-family home, cannot be rented as anything other than a single-family home nor can it be sold for anything other than a single-family home.

MR. SCHEIBLE: I'll second that.

ROLL CALL

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

MR. KANE: Okay, we'll give you a letter and Mrs. Slater just doublecheck on who's allowed to live in that house, it's a single family, okay?

MS. SLATER: Okay.

MR. KANE: It's a big difference.

MR. SMITH: Thank you.

MR. KANE: Have a good evening.

FORMAL DECISIONS

1. Michael & Elaine Veneziali
2. Resto Corp. for Stephen Coyle

MR. KANE: Formal decisions, gentlemen, we have two decisions, formal decisions to vote on, take them in one vote if it's your pleasure.

MR. BEDETTI: I'll make a motion that we accept the formal decisions identified as Michael and Elaine Veneziali identified as 14-19 and Resto Corp. for Stephen Coyle identified as 14-21 as written and distributed by e-mail.

MR. HAMEL: Second it.

ROLL CALL

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

MR. KANE: Before we break, on the 29 this Wednesday there is a certification course down in Haverstraw, runs from seven to ten, all three hours count. Geoff is going to try to make it down, I'm going to see if I am, if not, we'll still hold the things at my house for training, just to let you know, yeah, there's no charge there. Cam, do you have a copy of this?

MRS. AMMIRATI: No, I don't.

MR. KANE: Can we get a copy to Cam? Motion to adjourn?

MR. BEDETTI: So moved.

MR. SCHEIBLE: Second it.

Respectfully Submitted By:

Frances Roth  
Stenographer