

TOWN OF NEW WINDSOR

ZONING BOARD

November 10, 2014

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

ALSO PRESENT: GEOFFREY CHANIN, ESQ.
 ZONING BOARD ATTORNEY

 CAMMY AMMIRATI
 ZONING BOARD SECRETARY

ABSENT: PATRICK TORPEY

MEETING AGENDA:

1. Cecil Martinez
2. Warwick Properties
3. 134 Lake Osiris Road, LLC

REGULAR MEETING:

MR. KANE: I'd like to call the Town of New Windsor Zoning Board of Appeals regular session for November 10, 2014 meeting to order.

PRELIMINARY MEETINGS:

CECIL MARTINEZ (14-24)

MR. KANE: Tonight's first preliminary meeting Cecil Martinez. Variance for proposed lot one Of 18,605 square feet for minimum lot area and lot number two for 93.8 feet for lot width and 12.63 feet for required frontage located at 30 Riley Road in an R-3 zone. Referred by the planning board with a positive recommendation. So for everybody here this evening for a preliminary hearing the way we do it in New Windsor we hold two meetings, the prelim gives us a general idea of what you guys want to do and we make sure that you have all the things you need to make a decision. Other towns you go in, you go in cold, you don't have the right stuff, you're gone for six months. So we do a two step process here. The public process will be basically the same thing except the public will be involved at that point and have an opportunity to ask questions and speak. Okay, so would you tell us your name, address, speak loud enough for this young lady over there to hear you?

MR. MINUTA: Good evening, Joseph Minuta for Minuta Architecture representing Cecil Martinez for the project. What we have is an existing lot that's being subdivided which effectually creates a flag lot. It's a family situation where they're sectioning off the property so they can build a home on the parcel that's being created. We have looked at other properties within the area, they're relatively the same size which is why we had a positive recommendation from the planning board. What we're seeking are a few variances to make these palatable in conformance with the code. The first lot we have an existing dwelling which is 10.4 feet from the side yard that requires a variance on an existing non-conformance. What we're creating is a couple of conditions where we have the roadway that's cutting through here were being created through here is 56.2 feet in width which requires a variance of 93.8 feet and that's for the lot width because it's measured at the setback line. The remainder of the lot is well over roughly 200 feet once we get it passed that point. The other variance that we're seeking is lot width for that and then street frontage so lot width is 93.8 feet and the street frontage is 3.68 feet for lot two. Lot one which is the existing which is being reduced down the area being created is 21,395

square feet, required is 40,000 so we're requesting a variance of 18,605 square feet. And the minimum livable square area according to the code is 1,500 square feet, the existing dwelling is 1,252 square feet so we're seeking a variance on the square footage of that existing building. And lastly, the side yard that I discussed.

MR. KANE: The reason just to put it on the record that you're at 49,501 on the other and which brings you let's call it 9,500 over the 40,000 minimum, the reason you can't add that to the other lot is because of the flag situation, the roadway coming up?

MR. MINUTA: That's correct.

MR. KANE: I just wanted to put that on.

MR. MINUTA: Thank you.

MR. KANE: Going to be on septic?

MR. MINUTA: No, public water and sewer.

MR. KANE: Okay.

MR. MINUTA: We'll have a pump station.

MR. KANE: Creating any water hazards or runoffs with the building?

MR. MINUTA: No.

MR. KANE: Taking down substantial vegetation and trees?

MR. MINUTA: No, just clearing for the property.

MR. KANE: Any easements running through?

MR. MINUTA: Not that we're aware of.

MR. KANE: Open it up to the board for further questions?

MR. BEDETTI: What did you say the purpose of this subdividing is for, is it a family thing?

MR. MINUTA: Yes, yes, the property is being subdivided so the family member can build their home on the newly

created parcel.

MR. SCHEIBLE: So the newly created piece is larger than the--

MR. MINUTA: That's correct.

MR. SCHEIBLE: Than the other piece?

MR. MINUTA: Correct.

MR. SCHEIBLE: What's this I'm reading it here it's .491 acres that's the--

MR. MINUTA: Proposed.

MR. SCHEIBLE: -- proposed?

MR. MINUTA: Which is 21,395 square feet.

MR. BEDETTI: That existing dwelling it's going to stay in place or is that going to be replaced?

MR. MINUTA: No, that's staying where it is, the owner's staying in place and relatives will build the house.

MR. BEDETTI: Got it, I'm good.

MR. SCHEIBLE: Not to be nosy, you're talking about owner and the new house, is this immediate family or is this some cousin or something like that?

MR. MINUTA: I think it's a cousin situation.

MR. SCHEIBLE: Just curious.

MR. MINUTA: I don't have the exact details on that but--

MR. HAMEL: So the new house looks like it's in a little bit of a valley, it's lower, that's why you need the grinder pump?

MR. MINUTA: The grinder pump system because the sewer line invert is higher than the actual dwelling so yes.

MR. HAMEL: So the actual drive is going to be on their property, they own the property for the driveway right out to Riley Road?

MR. MINUTA: Yes, wholly contained.

MR. CHANIN: Mr. Minuta, I'm unclear because our agenda indicates that you're only seeking one variance for lot number one and I think you mentioned two.

MR. MINUTA: Correct.

MR. CHANIN: Is lot number one just for identification purposes lot number one is where the existing dwelling is?

MR. MINUTA: Correct.

MR. CHANIN: And proposed newly created lot for the proposed dwelling is referred to as lot number two?

MR. MINUTA: Correct.

MR. CHANIN: Okay, and lot number one you're actually seeking two variances, not one as stated on the agenda, the one that's on the agenda is for a variance of 18,605 square feet for minimum lot area?

MR. MINUTA: Correct.

MR. CHANIN: What's the other variance that you need for lot number one?

MR. MINUTA: There are two.

MR. CHANIN: Non-conforming side yard and?

MR. MINUTA: And non-conforming minimum livable square footage.

MR. CHANIN: The reason I'm asking you these annoying questions because I'm the guy who has to write these things.

MR. MINUTA: Fair enough.

MR. CHANIN: If I write them correctly your client is protected and if I don't write them correctly neither your client nor this board is protected. So it's important to me to be specific and I think it would be important to your client as well.

MR. MINUTA: Absolutely.

MR. CHANIN: So for lot number one where the existing dwelling currently exists you need actually three variances?

MR. MINUTA: Correct.

MR. CHANIN: Okay, and they're the ones that we stated, one for minimum lot area but also for two non-conforming side yard and minimum livable area?

MR. KANE: Those were both pre-existing, non-conforming conditions.

MR. MINUTA: Correct.

MR. KANE: So we're going to clear them up at this point?

MR. MINUTA: Exactly.

MR. CHANIN: Thank you very much, you understand my need.

MR. MINUTA: Yes, I do.

MR. KANE: He's been here before. Any further questions? If not, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Cecil Martinez for variances as requested located at 30 Riley Road in an R-3 zone.

MR. HAMEL: I'll second it.

ROLL CALL

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

MR. CHANIN: You need those two for lot number two, is that right?

MR. MINUTA: Yes, the lot width and street frontage.

MR. CHANIN: Right, okay, thank you very much.

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MR. KANE: Here's your further paperwork, have a great evening.

WARWICK PROPERTIES INC. (14-25)

MR. KANE: Warwick Properties Inc. Variances for proposed workforce housing lot #1 for required are of 2.42 acres and lot #2 for required area of 2.74 acres for a subdivision within a site plan. Located at New York State Route 300 in an R-5 zone. Again referred to us by the planning board with a positive recommendation. As before, speak loud enough for that young lady over there to hear you, tell us your name, address and exactly what you want to do.

MR. PFAU: My name is Joe Pfau with Pietrzak & Pfau. I represent Mr. Mandelbaum who's also here, Warwick Properties. This is a simply, a subdivision of a previously approved site plan. The site plan consisted of two work force housing buildings and four senior citizen housing buildings. There was overlay zones created for both. We did go through all of our site plan approval process, all our SEQRA review based on site plan approval and what we're trying to do now is merely subdivide the six buildings into six lots. There's absolutely no changes to the site plan, the building locations, storm water, utilities, parking, any of that. This is really a subdivision for financing purposes when Mr. Mandelbaum goes to the state for his applications, it will also give a little flexibility with the assessor in the future to have separate tax parcels. But really the point of this whole subdivision is for us to get separate tax lot numbers so we can make our application to the state and that's in its simplest terms. And, I'm sorry, let me just explain, the two variances that are required are for the work force housing lots, they are, there's a five acre minimum and when we split them lot one is 2.58 acres and lot two is 2.26 acres. But when we did the overall site plan for the work force and the senior housing, we met the requirements for total area. And that is why the planning board gave us the positive recommendation.

MR. SCHEIBLE: You just answered my question why they sent it here.

MR. KANE: Basically, the breakup is for financing type of situation so -- creating any water hazards or runoffs?

MR. PFAU: No, sir.

MR. KANE: Cutting down any substantial vegetation or trees in the building of it?

MR. PFAU: No.

MR. KANE: Any easements running through that we need to deal with?

MR. PFAU: Well, there are easements on the site plan map. There's also shown on the subdivision map you'll see that there's a conservation easement that shows up on sheet one, there's also a utility easement that's on lot six, these are all easements that were reviewed during the site plan process and reviewed and approved by your town engineer as well. I'm sorry, there's one more, there's an access easement into the Purple Heart Museum for potential future accesses if they so choose to utilize that.

MR. KANE: And this application here is dealing with lots one and two?

MR. PFAU: That's correct.

MR. KANE: So no easements, sorry, no easements through lot one and two?

MR. PFAU: There's one proposed easement on lot one which is a potential future access into the Purple Heart Museum.

MR. KANE: I got it.

MR. SCHEIBLE: Let me just backtrack, you explained it to me but in essence it's not a matter of how it's going to be divided, just a matter of finance?

MR. PFAU: Correct.

MR. SCHEIBLE: Just wanted to have that in my mind, that's all.

MR. PFAU: They require separate section, block and lots when they go for financing.

MR. CHANIN: Mr. Pfau, you said that this was a subdivision that had previously been approved by the planning board?

MR. PFAU: Site plan had previously been approved.

MR. CHANIN: Can you tell me when was it, a month ago, a year ago, 10 years ago?

MR. MANDELBAUM: About a year ago.

MR. PFAU: About a year ago.

MR. CHANIN: Okay, just wanted to know when cause you mentioned it but these things can sometimes be a long time.

MR. PFAU: Okay, no.

MR. KANE: Further questions from the board?

MR. BEDETTI: Just again out of curiosity, have the finance conditions changed from the initial proposal to this new proposal?

MR. MANDELBAUM: Very simple.

MR. CHANIN: For the record, that's Mr. Jonah Mandelbaum who is the applicant. Mr. Mandelbaum?

MR. MANDELBAUM: Very simple, we go to the state now I was, the state doesn't have the money like they used to have several years ago so they don't want to do a lot of building at once. So we're applying for two buildings at a time per phase, that's how once you go with too many buildings you're asking for too much tax credit they just don't have enough. We're going to do it in several phases, two phases at a time and as each building gets by the state once you get approved a tax credit they get a separate section, block and lot number each building even on the same parcel so it's a separate number, it's almost like a separate tax number, each building by itself on, so we cannot go and apply for everything at one shot. When we started the whole process, obviously we thought about doing it in bonds which when you do bonds you can do two or 300 units at one time. There's no money anymore, the fact is that's being realistic, the funds are not there like they used to be and they only have a limited amount of money with the tax credit and 51 percent of that goes to New York City automatically. So we're left with the leftover and I have to compete with the rest of the state. So we're only going to apply for two buildings at a time in phases so if I go to a bank and I finance these buildings next phase is the bank, you know,

they'll lien the whole property. When you're talking to the assessor, he preferred to have separate section, block lot number per building so in 10 years from now if I sell it to him and he doesn't pay on building B, the taxes instead of lienning everybody and going to court because owner A paid but owner B didn't, he can just lien his section, block and lot number and actually the town can have more control of what's going on in each building.

MR. KANE: Makes sense.

MR. SCHEIBLE: When's the expectancy of having the project finished?

MR. MANDELBAUM: I'm applying for the first two buildings in December 4 or the 7 I think is the deadline, I'm going to apply, we're already got for the first two building approvals from one state agency. Now we have to go to home and do community rules for the next agency and we're supposed to hear from them in April and once we have approval I'm going to go for a building permit in May, I'm going to start on that building because we already have people calling in Oak Ridge we have 400 people on waiting list so we have a lot of people on the waiting list. The reason it took so long I had to do the road, the town just accepted the road last Wednesday at the board meeting so now we have legal road. We're going to have legal address because you can't really do things without the legal address, you know, cause right now the whole address is on Route 300 for all of these sections so now we're going to have once you, providing your approval we go back to the planning board for the final subdivision now we'll have actually legal address. I spoke to your 911 coordinator, we already started working on it so we're waiting for you to approve the, go back to the planning board then we get our addresses now we can, we'll exist, it took longer than I expected to be honest with you but there's a lot of work here, lot of site work.

MR. SCHEIBLE: I can see that.

MR. CHANIN: I just want to say for the record that Mr. Mandelbaum and I have known each other for a long time.

MR. MANDELBAUM: Since the county.

MR. CHANIN: That, you know, I consider him a good friend, I don't know what he thinks of me but-

MR. MANDELBAUM: Mutual.

MR. CHANIN: But although he and I are not relatives nor are we engaged in any ongoing piece of business currently, in the past being a prominent member of the Orange County community, having many dealings with the County Attorney's Office and other such offices, Mr. Mandelbaum and I have gotten to know each other very well. So I just want to offer to Mr. Mandelbaum if he wants to exercise the right to ask me to recuse myself if you think that I cannot treat this application or advise the board fairly in your particular case?

MR. MANDELBAUM: No, I think it's fine. I've known him from the county days when he was county legislature attorney and I think we have very mutual respect and I respect his opinion.

MR. CHANIN: Just wanted to put that on the record.

MR. MANDELBAUM: Thank you.

MR. CHANIN: Thank you.

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

MR. SCHEIBLE: I'd like to make a motion for the Warwick Properties seeking a variance for proposed work force housing lot number one, I'd like to set up a public hearing.

MR. HAMEL: Second it.

ROLL CALL

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

MR. KANE: More paperwork.

MR. PFAU: Will that be December 8?

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MRS. AMMIRATI: Yes.

MR. PFAU: Thank you very much.

MR. KANE: Have a great evening.

134 LAKE OSIRIS ROAD LLC

MR. KANE: Tonight's last preliminary meeting Lake Osiris Road, LLC. Variances for proposed lot number one 31,600 square foot, gross lot area, 45 foot lot width, 25.4 feet front yard, 25.8 foot side yard, 14.3 foot rear yard and 9.7 percent developmental coverage, lot number two of 31,600 square feet gross lot area, 45 feet lot width, 25.4 foot front yard, nine foot side yard, nine foot total side yard, 7.27 foot rear yard and nine percent developmental coverage located on 39 Lawrence Avenue referred by the planning board with a positive recommendation, and that's the longest one I've ever read. You're on.

MR. SAMUELSON: Good evening, Jay Samuelson, Engineering Properties. I'm here representing 134 Lake Osiris Road. As you stated, we're seeking several variances tonight. What we have is an existing 16,800 square foot lot in this area that's a 40,000 square foot zone. What we're looking to do is proposed to subdivide it into two lots, both will be public water and sewer, one lot will contain the existing dwelling and garage that's on there and one will contain a new residence. As you mentioned, there are 12 total variances, I don't think I need to repeat them cause I think you did very well. But I know this is very unusual. I did create an exhibit that I'd like to show you guys just to show you the areas of the lots in question. This box right here is the existing lot that we're talking about, the yellow and the gold or the orange or whatever colors you'd like to call them, these are our two proposed lots, they'll both be 8,400 square feet in size, we're going to split that lot in half. The lots that are in blue are actual commercial non-conforming lots in a residential zone. The lots that are green in this three block radius are all lots that are less than 8,400 square feet that we're proposing, the one, two three pink lots are the ones over 8,400, I believe the largest is around 11,000 square feet. So what we're proposing is in very similar nature so the whole entire existing neighborhood in this area that's a 40,000 square foot zone but none of the lots in this area are that big. So there's, like I said, if we go back to this one there's an existing dwelling here with a garage, we're looking to subdivide it down the middle and put a second dwelling on this lot, we're proposing to keep all the setbacks from the road similar to what's up and down the street. We're proposing our setback to be the

same that's one, this one is within a foot, this one might be a foot farther back. We'll need front and rear setbacks no matter what because the lot is not deep enough to even handle the actual setbacks that are required. The setbacks that are required are more than the lot. So I will answer any additional questions you may have. We have been to the planning board and talked to them, we were there in October and as you said, they referred us here with a positive recommendation.

MR. KANE: Cutting down substantial trees and vegetation?

MR. SAMUELSON: There are two pine trees that will probably come down that are in the area of the proposed house.

MR. KANE: Creating any water hazards or runoffs?

MR. SAMUELSON: No.

MR. KANE: Any easements running through the lots?

MR. SAMUELSON: No.

MR. KANE: You said this is going to be town sewer and water?

MR. SAMUELSON: Town sewer and water there, yes.

MR. SCHEIBLE: Just to go back, are both these lots vacant presently?

MR. SAMUELSON: No, there's a house on the lot right now.

MR. KANE: This white house right here.

MR. SAMUELSON: Yes.

MR. SCHEIBLE: That will continue to stay there?

MR. SAMUELSON: That will remain on proposed lot one, yes.

MR. SCHEIBLE: Okay, alright.

MR. KANE: Total side yard variances lot number one the existing home that's going to clear up the side issues?

MR. SAMUELSON: Yes, the existing home has three or four non-conforming requirements at this point in time for lot area, it does not meet the required front yard does not meet required rear yard, it does not meet the required, one of the side yards, it does meet both at current time but does not meet one.

MR. SCHEIBLE: So you're bringing those up to par then?

MR. SAMUELSON: Yes, we're looking for a variance to make that a conforming variance, yes.

MR. CHANIN: Mr. Samuelson, is it proposed that the newly created lot on which there now exists no improvements be used to create a one-family home?

MR. SAMUELSON: That's correct, we're looking to create a single-family home.

MR. CHANIN: I knew that, I just wanted to get it on the record.

MR. KANE: What size is the home that you're going to be putting on that lot? Have we handled anything for variances on that?

MR. SAMUELSON: No, the minimum finished livable area is 1,500 square feet, we're proposing a minimum 1,500 square foot home, we show a footprint that's roughly 15 by 30 maybe so put two stories you're close to 3,000 with the garage you're probably 500, we just showed the maximum footprint we think we may have but we'll be within that footprint when we build the home.

MR. KANE: And the two story home that you're proposing going in there the height on that?

MR. SAMUELSON: Will meet the height requirements.

MR. KANE: Further questions gentlemen? If not, I will accept a motion.

MR. HAMEL: I'll make a motion that we schedule a public hearing for 134 Lake Osiris Road, LLC for the variance as requested.

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: Always paperwork.

MR. SAMUELSON: Thank you.

MR. KANE: Careful home.

FORMAL DECISIONS

1. Robin & Sharon Horner
2. Itsia M. Slater

MR. KANE: We have two formal decisions that need to be voted on this evening, take them any way you want to give them to us.

MR. BEDETTI: I'll make a motion we accept the formal decisions listed as Robin and Sharon Horner identified as 14-22 and Itsia M. Slater identified as 14-23 as written and distributed by e-mail.

MR. HAMEL: I'll second it.

ROLL CALL

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

DISCUSSION

MR. CHANIN: Let me just advise the board Mr. Biasotti and I attended the training sponsored by the Rockland Planning Federation, that training was held on Wednesday, October 29 in Haverstraw. Mr. Stephen Silverberg, land use attorney with some expertise and well renowned presented a two and a half hour zoning and land use seminar which Mr. Biasotti and I found enlightening and rewarding, although it covered a lot of the same grounds that all of us have been talking about both in terms of our applications and in terms of the various legal issues that we have all discussed together. So if at any time any one of you individually or collectively would like to spend some time with me, we can talk about what we heard at that session, I'd be happy to do so. And I'm also remaining at your service for any additional training or anything else that you and the board would like to undertake.

MR. KANE: I'm thinking I've got Tuesday the 18 and/or Monday December 2, how's that work for you guys for getting to my house?

MR. CHANIN: It's a week from tomorrow.

MR. KANE: The second works for me.

MR. BEDETTI: Two separate ones?

MR. CHANIN: Well, I'll tell you something, you guys have to swear that you've maintained your four hours of annual training. As far as I'm concerned, a lot of things we talked about and a lot of the material that we've dealt with this past year including the lawsuit and everything else that's good training. So if we spend another hour, another hour and a half together.

MR. KANE: We usually spend a good three hours.

MR. CHANIN: That's more than enough as far as I'm concerned for you to satisfy your obligations.

MR. KANE: If you just want to check at home, check your schedules or whatever.

MR. CHANIN: Let's make it the 2nd.

MR. KANE: My house 7:00. Motion to adjourn?

MR. BEDETTI: So moved.

MR. SCHEIBLE: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth
Stenographer