

August 8, 2005

1

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

AUGUST 8, 2005

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
MICHAEL REIS
KATHLEEN LOCEY
KIMBERLY GANN
HOWARD BROWN

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD
STEPHEN RIVERA

REGULAR MEETING: _____

MR. KANE: I'd like to call the August 8 meeting to
order.

APPROVAL OF MINUTES DATED 6/27/05 & 7/11/05 _____

MR. KANE: Motion to accept the minutes of June 27 and
July 11, 2005 meetings as written.

August 8, 2005

2

MR. REIS: So moved.

MS. GANN: Second the motion.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MR. KANE	AYE

August 8, 2005

3

PRELIMINARY_MEETINGS: _____

FRANK_PUCCIO_(05-43) _____

Mr. Frank Puccio appeared before the board for this proposal.

MR. KANE: Request for existing shed, 8.5 ft. side yard setback, 7.8 ft. rear yard setback, existing pool & deck, 2 ft. rear yard setback, existing dwelling & deck, 22 ft. rear yard setback all at 118 Glendale Drive.

MR. KANE: We need you to state your name and address, speak loud enough so this young lady can hear and tell us what you want to do.

MR. PUCCIO: Frank Puccio, 118 Glendale Drive, New Windsor. I want to get a variance on my shed, deck and pool and just get everything legal.

MR. KANE: All existing?

MR. PUCCIO: Existing, yes.

MR. KANE: Let's start with the shed, existing shed, how long has the shed been up approximately?

MR. PUCCIO: Twenty years.

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

MR. PUCCIO: No.

MR. KANE: Create any water hazards or runoffs in the building of the shed?

MR. PUCCIO: No.

August 8, 2005

4

MR. KANE: Any easements in the shed area?

MR. PUCCIO: No.

MR. KANE: And the shed is located, the shed's been there 20 years so you consider it financially unfeasible to move the shed at this point?

MR. PUCCIO: Exactly, yeah.

MR. KANE: And you're sure of the 8.5 and the 7.8 feet requirements?

MR. PUCCIO: Yes.

MR. KANE: Any questions from the board on the shed at this point? Existing pool and deck, how long have they been existing, approximately?

MR. PUCCIO: Twenty-five years.

MR. KANE: Inground pool, above-ground?

MR. PUCCIO: Above.

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

MR. PUCCIO: No.

MR. KANE: Similar to other pools and decks that are in your neighborhoods?

MR. PUCCIO: Yes.

MR. KANE: Create any water hazards or runoffs in the building of the deck?

MR. PUCCIO: No.

August 8, 2005

5

MR. KANE: Cut down any trees, substantial vegetation?

MR. PUCCIO: No.

MR. KANE: Any easements in the area of the pool or deck?

MR. PUCCIO: No.

MR. KANE: And since the pool has been up again for 25 years, it would be financially unreasonable to move the pool at this point?

MR. PUCCIO: Yes.

MR. KANE: Any questions on the existing pool and deck at this point?

MR. REIS: Yes, Mr. Puccio, 20 years have passed and you come before our board, what brings you here?

MR. PUCCIO: I just want to get everything legal around the house, I don't know what tomorrow's going to bring. It's about time, right?

MR. REIS: Thank you.

MR. KANE: Existing dwelling and deck, is that a 22 foot rear yard, Mike?

MR. BABCOCK: Existing, I've have got so much paperwork here, it's 50 foot required rear yard and they have 28 feet so they need a 22 foot variance.

MR. KANE: How old is the deck that's on the house?

MR. PUCCIO: Twenty-three years.

MR. KANE: And how old is the house?

August 8, 2005

6

MR. PUCCIO: House is 30 years old.

MR. KANE: Why at this point wouldn't the home itself be pre-existing or something or was there--

MR. BABCOCK: The home maybe but the deck was added at a later date.

MR. PUCCIO: Actually I bought the house, it had a deck on it.

MR. KANE: They never got a permit so what happens is the deck becomes part of the house so the offsets change.

MR. BABCOCK: That's correct.

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

MR. PUCCIO: No.

MR. KANE: Create any water hazards or runoffs?

MR. PUCCIO: No.

MR. KANE: Cut down any substantial trees or vegetation?

MR. PUCCIO: No.

MR. KANE: Any easements in the deck area?

MR. PUCCIO: No.

MR. KANE: Any other questions?

MR. REIS: Make a motion we set up Mr. Frank Puccio for his requested variances for existing shed of 8.5 foot side yard setback, 7.8 foot rear yard setback, existing

August 8, 2005

7

pool and deck, two foot rear yard setback and existing dwelling and deck 22 foot rear yard setback all at 118 Glendale Drive.

MS. GANN: Second the motion.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. KANE: So you understand what's going on in the Town of New Windsor we hold two meetings, one is a preliminary meeting so we can get an idea of what you want to do, make sure that you have everything that you need and in some towns you walk in cold, if you don't have everything, you lose. And by law in New York State everything has to be decided in a public hearing, just follow the information on that paper and we get to do it all over again in public hearing. Have a good evening.

MR. PUCCIO: Thank you.

August 8, 2005

8

MICHAEL_MC_GOVERN_(05-44)

MR. KANE: Request for interpretation and/or use variance for single family dwelling with two kitchens or a two-family dwelling at 22 Birch Drive.

Mr. and Mrs. Michael McGovern appeared before the board for this proposal.

MR. KANE: Same thing, just speak loudly so Franny can hear you and tell us what you want to do.

MRS. MC GOVERN: Okay, we actually purchased our house in 1997 with an existing second kitchen, from what we understand, the history that the original kitchen was put in when it was first built, so we have since then found out that there's no C.O. and nothing legal with the town for it.

MR. KANE: We're looking for an interpretation as a single-family home with a second kitchen in it and basically the reason that Michael's people go through and bring that forward we want to make sure there are no illegal unsafe two family situations that aren't put together right. Your intention is to use this as a single-family home with two kitchens?

MRS. MC GOVERN: Correct.

MR. KANE: There's no intention of using a second kitchen as a second apartment area for the basement?

MRS. MC GOVERN: No.

MR. KANE: Everything is going to be on one gas line and electric meter coming into the house?

MRS. MC GOVERN: Yes.

MR. KANE: Utilities rather there's only one coming?

August 8, 2005

9

MR. MC GOVERN: Yes.

MR. KANE: And your intent and purpose is to use it that way?

MR. MC GOVERN: Yes.

MR. KANE: Other questions?

MR. REIS: No, sir.

MR. KANE: This is pretty straightforward, just want to make sure we got you on record. This way, if you ever do the bad stuff, bang.

MRS. MC GOVERN: Okay.

MS. GANN: Make a motion we set up Michael McGovern for a public hearing for request for an interpretation for a single-family dwelling with two kitchens at 122 Birch Drive in an R-3 zone.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MS. LOCEY	AYE
MR. KANE	AYE

August 8, 2005

10

FRANK_MANDATO_(05-45) _____

MR. KANE: Request for 20.1 ft. front yard setback for proposed deck at 7 Mitchell Lane.

Mr. Frank Mandato appeared before the board for this proposal.

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

MR. MANDATO: I just want to tear off the old one and replace it with a safer one, more space.

MR. KANE: So the purpose is to tear down the old front steps coming, leading up to your door, put up a more safety orientated deck?

MR. MANDATO: Yes.

MR. KANE: Right by the front?

MR. MANDATO: Yes, with a little more space.

MR. KANE: How big?

MR. MANDATO: It was, it's going to go from the corner of the house to where the existing one is, so it's going to go from there from this.

MR. KANE: From the cut-out all the way to the corner of the house?

MR. MANDATO: Yes and come out 9 feet from the front and it's to the bottom of the sill of the door.

MR. KANE: Okay, what kind of width dimensions would that give you?

MR. MANDATO: This is 9 feet out, 21 feet wide and it's going to be I believe it was 40 inches high.

August 8, 2005

11

MR. KANE: So 9 feet from the door out?

MR. MANDATO: Yes, 9 feet out.

MR. KANE: So you don't see that as being substantially big?

MR. MANDATO: No, the other houses in the neighborhood I think I'm the only one left without one, everybody else has a porch in the front already.

MR. KANE: So similar with the new deck it will be similar in nature to other decks in the front of people's houses in your neighborhood?

MR. MANDATO: Yes.

MR. KANE: Not cutting down any substantial trees or vegetation?

MR. MANDATO: No.

MR. KANE: Creating any water hazards or runoffs?

MR. MANDATO: No.

MR. REIS: Is this a wood deck?

MR. MANDATO: Yes.

MR. KANE: You guys have pictures?

MR. MANDATO: Yes.

MR. KANE: Other questions by the board?

MS. LOCEY: I have a question. If the deck will be 40 inches high, I assume there will be stairs?

MR. MANDATO: Yes.

MS. LOCEY: Are those stairs figured into the size variance you need or should they be, I don't know?

MR. MANDATO: The stairs are going to come from the side so they're going to be, they're not going to come out any further than the 9 feet that's there.

MR. KANE: So the stairs are going to come off on the side?

MR. MANDATO: Come out the door and come down this way for the walkway.

MS. LOCEY: So it is included in those dimensions?

MR. MANDATO: Yeah, won't go any further than the 9 feet out.

MR. BABCOCK: When she was saying we don't count the stairs, we count just the edge of the deck.

MR. KANE: Is it going to make the deck that you're going to put on, is it going to project any closer to the road than other homes on your side of the street?

MR. MANDATO: It's going to be the same, all the houses I guess are supposed to be a 45 foot setback for anything from the property line, the house isn't even 45 feet, I think I have 30 feet to the house and that whole one side of Mitchell Lane all the houses are in the same location.

MR. KANE: So you won't be any closer to the street?

MR. MANDATO: No.

MR. KANE: Okay, any other questions? Accept a motion.

August 8, 2005

13

MS. LOCEY: I will move that we schedule a public hearing on the application of Frank Mandato for his request for a 20.1 foot front yard setback for proposed deck at 7 Mitchell Lane in an R-4 zone.

MS. GANN: Second the motion.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MS. LOCEY	AYE
MR. KANE	AYE

August 8, 2005

14

MARILYN_THOMPSON_(05-46)

MR. KANE: Request for interpretation and/or use variance for single-family dwelling with two kitchens or a two-family dwelling at 10 Barclay Road.

Ms. Marilyn Thompson appeared before the board for this proposal.

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

MS. THOMPSON: Well, I want to make my basement legal, it's basically exactly the way it was when I bought my house and I never realized that there was a problem with it. Now I'm refinancing my mortgage.

MR. KANE: That's usually when it all comes up.

MS. THOMPSON: There's a second kitchen down there, it's been down there but I use it because of the nature of my house which when you walk in the front door you're on ground level but when you walk in the back, you're on ground level as well, so we have French doors there and we have an inground pool so it's always been handy to use that when we have things in the back yard, stuff like that. And I have a large family, five kids, four grandkids so I mean we have just always needed it.

MR. KANE: Again, to repeat we're not against second kitchens, I grew up with a summer kitchen, cooking out of the basement, it was good, we just want to make sure everything is legitimate and up and not being used for an illegal apartment so we've got you on record.

MS. THOMPSON: I wish.

MR. KANE: The kitchen itself is going to be on same utilities that's serving the whole house?

MS. THOMPSON: It's always been that way.

August 8, 2005

15

MR. KANE: Your intent is to always use it as a single family house with two kitchens, never putting an apartment or allow an apartment in the basement?

MS. THOMPSON: No, my goal is to get enough of my kids to leave home so I can sell this house.

MR. KANE: Any other question by the board? I'll accept a motion.

MR. BROWN: Make a motion we set up Marilyn Thompson's request for interpretation and/or use variance for single family dwelling with two kitchens at 10 Barclay Road in an R-4 zone.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MS. LOCEY	AYE
MR. KANE	AYE

PUBLIC HEARINGS: _____

OMAT, INC. (PETRONE) (05-38) _____

Mr. Michael Petrone appeared before the board for this proposal.

MR. KANE: Request for 73.4 ft. minimum lot width and 2.5 ft. side yard setback and 50 ft. total side yard setback for proposed one-family dwelling at Riley Road.

MR. KANE: I will ask at this point if there's anybody in the audience for this particular hearing? Okay, Mike, would you do the honors? He's just going to bring that to you to put your name and address on it so we have it for the stenographer and when we come around to the public portion, I will state it and then you can come up and ask whatever questions you need to. Tell us what you want to do, sir.

MR. PETRONE: I want to build a house on the lot and as we discussed already when the lot has been there for a long time, the bulk regulations of the Town have changed and so we had to adjust the conditions so that we can make it buildable. We need a side yard variance and a lot width variance.

MR. KANE: And the lot width variance is because of the unique nature of the layout of the property?

MR. PETRONE: No, the lot met the original, the old Town Code, Town Code has changed and therefore, nowhere you can you place a house leaving the approximately 60 feet or 80 feet side yard which is not, which is now required and this is the last lot available in the area.

MR. BABCOCK: Mr. Chairman, when this lot was created, the lot width requirement was 100 feet, today's code it's 175 feet. At the time the lot was created, it had

101.6 so it did meet the code.

MR. KANE: Going to be cutting down any substantial amount of trees and vegetation in the building of the house?

MR. PETRONE: The two roads, driveways that are already open we'll need to clear for the house and probably 50 or 60 foot driveway to get there.

MR. KANE: So is there a substantial amount of vegetation that you're clearing out?

MR. PETRONE: I don't think so.

MR. KANE: That's a fair answer. Will you be creating any water hazards or runoffs in the building of the home?

MR. PETRONE: No, there will be no.

MR. KANE: Home going to be on well, septic, town water?

MR. PETRONE: Well, I should not, I cannot answer that, it would be on sewer because we have sewer access there, I hope Mr. Babcock can clarify that.

MR. BABCOCK: We're going to want the house on town water and town sewer, if at all possible for him to hook up to town water and town sewer we'll make him do that.

MR. PETRONE: All the lots I used to own these lots originally.

MR. KANE: Are they on town water and sewer?

MR. PETRONE: They all are, every single house is on town sewer and water, I have reason to believe that

this lot is included.

MR. KANE: So if it is available, the intent is to have it hooked up?

MR. PETRONE: Absolutely and there's also town water.

MR. BABCOCK: Yeah.

MR. BABCOCK: There was an issue with the rest of the lots about an outside users agreement, they'll have to get one for this lot if it's not already been taken care of by the ones prior.

MR. PETRONE: That's correct, we have obtained outside user agreement for each lot, I cannot tell this board that we did for this one lot, but if we didn't, it should be done, it will be the only one.

MR. REIS: According to the survey you submitted Mr. Petrone your access is going to be off Birch Drive?

MR. PETRONE: Well, we have access, we own both driveways, both streets, it looks to me like Birch will be the principal one, I see it's wider than the other one.

MR. KANE: Any easements running through the property?

MR. PETRONE: No, sir. Well, yes, plenty of easements from--

MR. KANE: Where you're going to build the house?

MR. PETRONE: Not where we're going to build the house but on the driveway there are plenty of easements.

MR. KANE: But just where you're going to build the house?

MR. PETRONE: There's nothing there.

MR. KANE: Okay, at this point, I'm going to remove from the board and open it up to the public. If anybody has anything to say, please step forward, state your name and address and say what you have to say.

MS. BELTEMPO: My name is Joan Beltempo and I live at 16 Riley, I was a little confused as to exactly where the house is going to be built. My house is the first house on the right-hand side off of Route 94 so I was wondering if that's the property. So you're on Birch then?

MR. PETRONE: We own Birch and Ash.

MR. KANE: Back here.

MR. PETRONE: You're on Riley?

MS. BELTEMPO: I'm on Riley.

MR. PETRONE: We're 500 feet from you.

MS. BELTEMPO: I wanted to make sure it wasn't the piece on the corner of Riley and Route 94.

MR. PETRONE: No, we're way back.

MR. KRIEGER: Now that your question has been answered, are you opposed, in favor of it?

MS. BELTEMPO: No, I'm in favor, the man owns the property, he should be able to do what he wants with it. That's it.

MR. KANE: Thank you. Anybody else in the audience for this particular hearing? Seeing as there's not, we'll ask Myra how many, I'll close the public hearing.

MR. KRIEGER: It was originally part of a subdivision?

MR. PETRONE: Yes.

MR. KRIEGER: And you owned that property but you don't own them anymore?

MR. PETRONE: No, none of it, the only one left is this one and it was left because of its peculiar shape.

MR. KRIEGER: Okay, the house that you propose building on it is it going to be bigger, smaller, about the same size as the other houses in the neighborhood?

MR. PETRONE: Substantially the same, I don't know, I don't remember but it's going to be around 3,000 square feet.

MR. KRIEGER: And you believe that to be similar to the other houses in the neighborhood?

MR. PETRONE: Yes.

MR. KRIEGER: It will be similar in appearance, there's no limit as to what it's going to look like, just want it to be similar?

MR. PETRONE: Sure, there's a general appearance of the whole neighborhood.

MR. KRIEGER: How big are the other lots that are close to it?

MR. PETRONE: The other 7 lots if I remember right were at 2/3 of an acre.

MR. KRIEGER: And this would be?

MR. PETRONE: This would be two acres including of course the driveways and all that but as bulk it's

August 8, 2005

21

going to be two acres so its way over.

MR. KRIEGER: It's an unusual shape.

MR. PETRONE: Yes.

MR. BABCOCK: Lot 1 in the subdivision is 39,000 square feet, lot 3 is 33,000 square feet, this lot is 107,000 square feet, it's the biggest of all of them, it's just odd shaped.

MR. PETRONE: Well, Mr. Chairman, originally we thought we could make two lots of this but access became very difficult, frontage on Riley and so this is really a merger of the two proposed lots, one of which couldn't meet the code and this is why it's so large. Of course, you know, the shape is also very odd so--

MR. KANE: Right back to Myra, how many mailings did we have?

MS. MASON: On July 22, I mailed out 51 envelopes and had no response.

MR. PETRONE: I got four back.

MR. KANE: Four returns on that, thank you. I will bring it to the board, any further questions? All set, I'll accept a motion.

MR. REIS: I make a motion that we grant Mr. Petrone, Omat, Inc. his request for 73.4 foot minimum lot width and 25 foot side yard setback and 50 foot total side yard setback for proposed one-family dwelling. Should we include in that on Birch Drive?

MR. KANE: No, I don't think it's necessary.

MR. BABCOCK: What's that?

August 8, 2005

22

MR. REIS: For identification purposes include Birch Drive on that?

MR. BABCOCK: That's fine.

MS. LOCEY: Is it supposed to be subject to the road agreement, maintenance agreement?

MR. KANE: Well, he has to get that agreement, the outside users agreement?

MR. BABCOCK: Yeah, if he doesn't have that, he will have to apply for that.

MS. LOCEY: So there's no need to make that a condition.

MR. BABCOCK: I think that that property is in the sewer and water districts.

MR. PETRONE: That's what I believe.

MR. KRIEGER: If it's a condition, it's a condition regardless of what this board does.

MR. BABCOCK: But you can make it a condition if you'd like.

MR. KANE: My only question is that if, you know, if you don't get the outside user agreement that the variances go with the land.

MR. BABCOCK: Well, no, if he wasn't successful, he'd have to put a well and septic in and if he can't put a well and septic, he can't build, we don't want a well and septic there so--

MR. KANE: Yeah, I don't think we need to make it a condition, I think it's--

August 8, 2005

23

MR. KRIEGER: I think it sounds like it exists, otherwise, even if the board grants a variance, he still has to meet that requirement or the variance is useless.

MS. LOCEY: I'll second that motion.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MS. LOCEY	AYE
MR. KANE	AYE

August 8, 2005

24

TYREE_SMALLWOOD_(05-39) _____

Mr. and Mrs. Tyree Smallwood appeared before the board for this proposal.

MR. KANE: Request for 21 ft. rear yard setback for proposed pool deck at 2020 Independence Drive. Let me first ask if there's anybody in the audience for this particular hearing? Okay, name and address, please. Just like in the preliminary, tell us what you want to do.

MR. SMALLWOOD: Just want to build a deck on the side of my house up to my pool.

MR. KANE: So the deck is going to run from the house and just on the house side of the pool?

MR. SMALLWOOD: Basically, yes.

MR. KANE: Not cutting down any trees or substantial vegetation in the building of the deck?

MR. SMALLWOOD: No.

MR. KANE: Creating any water hazards or runoffs?

MR. SMALLWOOD: No.

MR. KANE: Any easements on the property where the deck is going to be?

MR. SMALLWOOD: No.

MR. KANE: You would consider the deck a safety issue you coming off of the rear door of your house up to the deck, up to the pool rather?

MR. SMALLWOOD: When you say safety, what do you mean?

MR. KRIEGER: Without the deck, a person exiting the rear of the house would fall and likely sustain serious physical injury?

MR. SMALLWOOD: Yes.

MR. KANE: What's the total size of the deck that you want to build?

MR. SMALLWOOD: It's I believe it's 21 feet across and 10 feet out to the pool.

MR. KANE: Up to the pool 10 feet and then 24 feet to the end of the pool?

MR. SMALLWOOD: Right.

MS. GANN: So it's not going to continue around the pool?

MR. SMALLWOOD: No.

MR. KANE: At this point, I'm going to close it to the board, open it up to the public since we do have public on this actually come up ask any questions you need to, just state your name and address.

MR. WEISS: Scott Weiss, 2203 Revere's Run. My question about the pool setup is just that well, unfortunately, we don't have a whole lot of property in the back and they're looking to come out how many feet, 24 feet the property is barely--

MR. KANE: This is the deck, it's not going to extend passed the pool on the back end and it's not going to extend passed the house on the pool on the side.

MR. MANDATO: This is only 10 feet from here to here and do you know how high that's going to be?

August 8, 2005

26

MR. SMALLWOOD: It's going to go right up to the pool.

MR. KANE: Which will be 52 inches.

MR. SMALLWOOD: This is the pool height, it's going to come right under the lip of the pool so I think it was--

MR. KANE: Your pool wall is 52 inches, trust me, I do it for a living.

MR. SMALLWOOD: I think it's 40 something inches right up to under the lip.

MR. MANDATO: My biggest concern is I don't have a problem with the back part or anything, I would want that if I were you as well, but my only concern unfortunately the property is somewhat elevated and this is my fence at 6 feet, so basically the pool is going to be 5 1/2 feet up my fence which would also be the size of the deck and it's going to come 24 feet out from the house, so I didn't know what you guys had any intention to do as far as maybe privacy.

MRS. SMALLWOOD: Yes, some bushes.

MR. WEISS: That's what we were concerned about so we figured we would be on top of each other unfortunately that's the way it's set up so we were concerned about what else, we can only see the sketch, we didn't know what else was going to be behind it.

MR. SMALLWOOD: We're going to put trees along the side.

MR. KRIEGER: Along the rear?

MR. SMALLWOOD: Yes.

MR. KANE: When you're putting a pool up, it's an

August 8, 2005

27

auxiliary structure, so there's only so many feet you can go from the back of the house. Now he has a deck attached to the house, the deck becomes part of the house so the whole setback changes, that's why the number seems a lot bigger than if you were just talking about the pool, see it's 10 foot to come off here but since that's part of the house that offset becomes huge so your intent is to put some trees up there and a little privacy on that.

MRS. SMALLWOOD: Yes.

MR. WEISS: No, that's what we were concerned about, we'd like to have caught you at home but we didn't see you.

MR. SMALLWOOD: No problem.

MR. KANE: Anybody else for this particular hearing? I'll close it to the public and ask Myra how many mailings we had.

MS. MASON: On July 22, I mailed out 49 envelopes and had no response.

MR. KANE: Okay, any other questions from the board? I'll accept a motion.

MS. GANN: Offer a motion that we grant Tyree Smallwood's request for a 20 foot rear yard setback for proposed pool deck at 2020 Independence Drive in an R-3 zone.

MR. KANE: Did you say 20 or 21?

MS. GANN: Twenty-one.

MR. KANE: It's a 21 foot, just want to make sure.

MR. REIS: Second it.

August 8, 2005

28

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MS. LOCEY	AYE
MR. KANE	AYE

August 8, 2005

29

FRANK_TRAMONTANO_(05-40) _____

Mr. Frank Tramontano appeared before the board for this proposal.

MR. KANE: Request for 2 ft. side yard setback for existing 12 ft. x 20 ft. deck on a corner lot at 26 Barclay Road.

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

MR. TRAMONTANO: It's an already existing deck, for some reason, the records only show the deck on two sides of the house as opposed to three, we're trying to make the third side legal.

MR. KANE: Original permit for the two sides that they show.

MR. TRAMONTANO: It was part of the original construction cause you couldn't get in and out of the house without--

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

MR. TRAMONTANO: No, sir.

MR. KANE: How long has it been existing?

MR. TRAMONTANO: Most people believe it was there as part of the original construction but definitely nine years before I bought the home in 1990.

MR. KANE: So at least 15 that you know of.

MR. TRAMONTANO: I'm sorry, 1999, the house was built in 1994.

MR. KANE: As far as you know, it's been existing since

'84?

MR. TRAMONTANO: As far as I can tell, yes, considering the shade of the wood and the age.

MR. KANE: You've had no complaints formally or informally?

MR. TRAMONTANO: No, sir.

MR. KANE: You wouldn't know but I've got to ask anyway, do you know if there was any cutting down of substantial trees or vegetation in the building of it?

MR. TRAMONTANO: I don't think so.

MR. KANE: Any water hazards or runoffs?

MR. TRAMONTANO: No.

MR. KANE: And obviously without the deck being there you have a couple of doors that come you out that are probably a good 15 foot drop so it would be a safety issue?

MR. TRAMONTANO: On the driveway side, that's correct, the front door side obviously much less than 15 feet.

MR. KRIEGER: Still enough to sustain serious physical injury.

MR. TRAMONTANO: Sure, absolutely, not 15 feet though.

MR. KRIEGER: Just enough.

MR. KANE: I'll close it to the board and open it to the public, ask if anybody's here that's part of this particular hearing? Nobody cares, we'll close it to the public, ask Myra how many mailings we had.

August 8, 2005

31

MS. MASON: On July 22, I mailed out 53 envelopes and had no response.

MR. KANE: And one other question, there's no easements at all that you know of that run through where the decks are currently?

MR. TRAMONTANO: No.

MR. KANE: That's all I have. Any other questions from the board?

MR. BROWN: I'll make a motion.

MR. KANE: I'll accept a motion.

MR. BROWN: That we grant Frank Tramontano's request for two foot side yard setback for existing 12 x 20 foot deck on the corner lot at 26 Barclay Road in an R-4 zone.

MS. GANN: Second the motion.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MS. LOCEY	AYE
MR. KANE	AYE

August 8, 2005

32

ROBERT_MULLEAVY_(05-41) _____

MR. KANE: Request for 50 ft. lot width and 20 ft. side yard setback for proposed single-family home at 33 Dutchman Drive.

Mr. and Mrs. Mulleavy appeared before the board for this proposal.

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

MR. MULLEAVY: This is my wife, Barbara.

MRS. MULLEAVY: He doesn't like to speak in public. The zoning changed on the property effective from what I understand October, 2004, it used to be 125 foot frontage and it's been changed to 175 foot frontage so we're asking for a 50 foot easement, I mean variance and the side used to be 20 foot setbacks and now they're 40 so we're asking for a 20 foot variance there on the side.

MR. KANE: Is that for one side of the home?

MRS. MULLEAVY: Yes, one side is going to be 20 and the other side is 45.

MR. BABCOCK: Yes.

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

MRS. MULLEAVY: Negative, there's no trees, it's just brush.

MR. KRIEGER: It's a lot now and you're proposing?

MRS. MULLEAVY: Yes, there's trees in the back but we won't touch them.

August 8, 2005

33

MR. KANE: Create any water hazards on runoffs in the building of it?

MRS. MULLEAVY: No.

MR. KANE: Any easements going through the property that you know of?

MR. MULLEAVY: There's a tree line, there's an acre and a half in the front property and there's an easement behind the tree line in the back.

MR. KANE: And that won't be affected by the building of the house at all?

MR. MULLEAVY: No.

MR. KANE: You're going to be on well and septic?

MRS. MULLEAVY: Yes.

MR. KANE: At this point, I'll close it to the board and open it up to the public, ask if anybody's here that wants to speak at this particular meeting. We'll close the public portion of the hearing, ask Myra how many mailings we had.

MS. MASON: On July 22, I mailed out 15 envelopes and had no response.

MR. KRIEGER: The home that you're proposing to build, is it going to be similar in size and appearance to other homes in the neighborhood?

MRS. MULLEAVY: Yes, it is.

MR. KRIEGER: How is this lot size wise in relation to the lots immediately on either side of it?

MR. MULLEAVY: They're exactly the same, this is a

corner lot the one we have and three lots that are next to it are all exactly the same, they're 125 feet wide and 1,100 feet long.

MR. KRIEGER: Mike, if they were not on a corner lot, would they be here?

MR. BABCOCK: Actually, they may believe it's a corner lot, it's not classified as corner lot, oh, they did put the road in, they put the road in, yeah, when they created this, the road wasn't there.

MR. KRIEGER: It was not a corner lot when it was created but it is now by virtue of the road.

MR. BABCOCK: Yes.

MR. KANE: So there's no problem with the side of the house on the one corner with the distances as long as they're here?

MR. BABCOCK: Now that's the side that they're farthest away from.

MR. KANE: And hence they need the variance on the other side.

MR. BABCOCK: That's correct.

MR. KANE: Okay, thank you, Michael. Anybody else have any questions? I'll accept a motion.

MS. LOCEY: I will offer a motion to grant regarding the application of Robert Mulleavy's request his variance for a 50 foot lot width and 20 foot side yard setback for a proposed single family home at 33 Dutchman Drive in an R-1 district.

MR. REIS: Second it.

August 8, 2005

35

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MS. LOCEY	AYE
MR. KANE	AYE

FORMAL DECISIONS

1. GODFREY
2. DANTAS
3. BATES
4. BELLBER
5. ETESS
6. PERAINO
7. SWEENEY
8. ODDO
9. KAVANA
10. MIELE

MR. KANE: We have a bunch of formal decisions to handle tonight, would you guys like to take them all in one vote?

MR. REIS: I agree with that.

MR. KANE: Can I have a motion stating such?

MR. REIS: I make a motion that we grant formal decisions all named on the agenda.

MS. GANN: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MS. LOCEY	AYE

August 8, 2005

37

MR. KANE

AYE

Respectfully Submitted By:

Frances Roth
Stenographer