

TOWN OF NEW WINDSOR

ZONING BOARD

January 13, 2014

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

ALTERNATE: GREGORY BIASOTTI

ALSO PRESENT: GEOFFREY CHANIN, ESQ.
 ZONING BOARD ATTORNEY

JENNIFER GALLAGHER
BUILDING INSPECTOR

CAMMY AMMIRATI
ZONING BOARD SECRETARY

MEETING AGENDA:

1. Kenneth Parker
2. Thomas & James Amend
3. WLD, LLC

REGULAR MEETING:

MR. KANE: I'd like to call the Town of New Windsor Zoning Board of Appeals regular session for January 13, 2014 to order.

APPROVAL OF MINUTES DATED 11/25/13

MR. KANE: Motion to accept the minutes of November 25, 2013 meeting as written and sent via e-mail December 3.

MR. SCHEIBLE: So moved.

MR. BEDETTI: Second it.

ROLL CALL

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

PRELIMINARY MEETINGS:

KENNETH PARKER (13-29)

MR. KANE: Tonight's first preliminary meeting Kenneth Parker. Area variance of eight foot four inches is requested for an existing 12 foot by 26 foot addition with deck that does not meet minimum rear yard setback of 40 feet. Located at 11 Valewood Drive. For those of you here for a preliminary meeting tonight it's going to be very similar to the public meeting. We get a chance to get an idea of what you want to do, make sure you have the right information and ask any questions. And then all of our decisions have to be done in a public meeting. In other towns that I know of that are in this area, they hold a meeting, you walk in, you're not prepared, you lose, can't come back for six months. So we do a two meeting scenario. So Mr. Parker, come right up, state your name and address and I'd like you to just speak loud enough for the young lady over there to hear you.

MR. PARKER: Kenneth Parker, 11 Valewood Drive, New Windsor, New York 12553.

MR. KANE: Tell us exactly what you want to in your own words.

MR. PARKER: Well, we need 40 into the setback for an existing room and we need an additional eight feet four inches to make the 40 feet to meet the zoning requirements.

MR. KANE: Is the addition already existing?

MR. PARKER: Yes, it is, those are pictures of the existing room.

MR. KANE: How long has the addition been up?

MR. PARKER: Since '86.

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

MR. PARKER: No, none.

MR. KANE: Cut down substantial vegetation or trees to your knowledge?

MR. PARKER: No, there was just a mound of dirt when Schoonmaker built the homes.

MR. KANE: Any easements running through that particular area?

MR. PARKER: None.

MR. KANE: Has there been any complaints formally or informally about the addition or the deck over the years?

MR. PARKER: No, if there have been anything, they've been compliments as opposed to--

MR. KANE: Very good. Gentlemen, further questions? Pretty straightforward, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Kenneth Parker for a variance or request located at 11 Valewood Drive in an R-4 zone for a minimum rear yard setback.

MR. TORPEY: I'll second that.

ROLL CALL

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

MR. KANE: Your next steps and just complete that, any questions, give Cam a call at the Town Hall.

MR. PARKER: Complete this at home?

MR. KANE: Just read the directions right there, any questions, give her a call tomorrow, finish up all those steps.

MR. PARKER: I understand we're supposed to come tomorrow morning and get the envelopes and all that taken care of.

MR. KANE: That would be your next step.

MR. PARKER: Thank you.

MR. KANE: You're welcome, sir.

MR. PARKER: Am I done for tonight?

MR. KANE: You are, careful home.

THOMAS & JAMES AMEND (13-30)

MR. KANE: Tonight's next preliminary meeting Thomas and James Amend. An area variance of eight foot in height is requested for a proposed second story addition to an existing garage making the total height 24 feet. The height of the principal building on the property is approximately 16 feet. Located at 111 Toleman Road in an R-3 zone. Mr. Amend?

MR. AMEND: Hello, how are you, I'm James, my brother isn't here tonight. We own the property together, 111 Toleman Road, New Windsor, New York. We bought the house about eight months ago and we're looking to do a couple things to it right now. The existing garage has a flat roof that's leaking very much so we want to spice it up a little bit and just obviously the roof has to be fixed so we wanted to put storage up above and add another garage onto the right side of the existing garage that's there now. Obviously, the house that we have is a low house, it's a ranch, it's only 16 feet tall, most houses are between 20, 25 feet tall in this day and age so we're not really, we're just trying to have a variance for a couple feet taller than the existing house now.

MR. KANE: Is your intent to stay in the home or is it a spec?

MR. AMEND: Going to stay in the home.

MR. KANE: Some questions I have to ask, even if they seem to not make any sense. Going to be creating water hazards or runoffs?

MR. AMEND: No.

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

MR. AMEND: No.

MR. KANE: Any easements running through that particular area?

MR. AMEND: No.

MR. KANE: The only other question I would ask at this point is in regards to the height, you know, substantially higher, so for the public hearing if you

can in your neighborhood if you can grab us some pictures of other detached garages, that kind of stuff, give us some pictures on that?

MR. AMEND: Sure.

MR. KANE: That will help down there. Gentlemen, further questions?

MR. BEDETTI: To your knowledge, are there any other garages that are higher than the main residence in that area neighborhood?

MR. AMEND: There's a barn on one side of us, I believe it's the left side if you're looking at the house, it's set pretty far back but I believe it's a high structure. And most of the houses in that area are taller than ours with, there's a couple detached garages and so on and so forth if you go down Toleman Road.

MR. BEDETTI: Is the detached structure, are they higher than the main residence on that same property?

MR. AMEND: Yes, there's one down the road a little ways.

MR. BEDETTI: That's the one with the barn?

MR. AMEND: No, the barn is directly next to us.

MR. KANE: Again, some pictures will help with that at the public hearing, a lot further. Questions, gentlemen?

MR. SCHEIBLE: In what year was this garage built, do you have any records of that?

MR. AMEND: I don't know.

MR. SCHEIBLE: And my question is going to be was there a permit given, you know, that was needed to put this garage up?

MR. KANE: You can research through the building department on that.

MR. SCHEIBLE: Yeah, that will have to be researched.

MR. AMEND: Sure.

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

MR. HAMEL: I'll make a motion that we schedule a public hearing for Thomas and James Amend for the variance as requested.

MR. TORPEY: I'll second that.

ROLL CALL

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

MR. KANE: Besides the couple things we asked you checking on information on the permit for that and the pictures, just follow everything else on that list. Any questions, give Cam a call.

MR. AMEND: Great, awesome, thank you.

MR. KANE: Have a good evening, thank you.

PUBLIC HEARINGS:

WLD, LLC (13-27)

MR. KANE: Okay, how many people are here for the next hearing, the public hearing besides the applicant? Okay, we're going to pass a sheet around just for your name and address, all this is for, is to aid the stenographer if you have any questions and she can put that information in. We just want to wait a couple more minutes and our legal counsel will be here. Since it's a public hearing, we definitely want to come out so we just got a couple minute break, he's stuck in an accident so--

(Whereupon, a brief recess was taken.)

(Whereupon, Mr. Chanin entered the room.)

MR. KANE: Okay, we're all set for tonight's only public hearing, WLD, LLC. A use variance is requested for the boarding, breeding and raising of fowl not permitted in an NC zone. Located at 400 Blooming Grove Turnpike. You're on, sir.

MR. DUNN: Good evening, my name is Bruce Dunn, 67 South Plank Road, Newburgh, New York 12550 and I represent the applicant. We appreciate the opportunity to present to you, I hope to speak loud enough so that anybody who's interested in the proceeding could also hear. My new hearing aids make me sound like I'm shouting but I'll try, if you can't hear me, let me know. I want to first ask whether or not you would like to impose a time limit on my presentation? I can go short, I can go long, my siblings and wife tell me I talk forever.

MR. KANE: Say what you need to say.

MR. DUNN: Okay, the applicant who is WLD, LLC is the applicant because it's the owner of the property. It's a single member entity where that single member is Wendy Doviken and she's the managing member, president, sole operator of the business. The business on the property is Star Quality Auto and Wendy has substantial experience in the sales and service of automobiles and has a very active business at this location. The notice for the application suggests that it's for the boarding, breeding and raising of fowl and the petition filed as well as the application is not for the

breeding of fowl nor the production of eggs nor the farm use of hens and according to the zoning code in the Town of New Windsor, is not an agricultural use. So that the only variance sought or the only permission sought from this board is to house six or seven hens, no roosters and no production of eggs for commercial use because the eggs that are naturally laid by hens without roosters involvement don't, aren't suitable for breeding because they're not fertilized and the only use that's made of them is they get re-fed to the hens for their nutrition. The point and the purpose of the application is because these hens are therapy pets, are companion pets for the owner operator and manager of this business who has Crohn's disease. They are housed in a small five by seven foot penned area in the rear right corner of the property and in a way that's both humane and safe for these pets and not obtrusive to the neighborhood. So with respect to the application, that's what we're looking for is that permission. And it's not that it's prohibited in the NC zone where this property is located, it's just not permitted and in fact nowhere in the code is there a permission by right for use of therapy pets which are non-agricultural non-licensed by the Department of Agriculture and not used for commercial production. In my own mind, I liken it to the fact or the activity of children who might have rabbits in their back yard which fall within the category of furred animals. But even the Town of New Windsor Code when it talks about dogs and animals, it only talks about dogs and in some places in the code it only talks about dogs and cats. Other places in the code it talks about commercial use, perhaps goats, horses and other animals. But in the definition of domestic animals, it talks about fowl or other birds raised in a confinement under license from the Department of Environmental Conservation. There's no license for therapy or companion pets. It talks about farm animals which are poultry raised for commercial or subsistence purposes and that's not, doesn't fit this category either. The parts of the code which deal with non-farm animal restrictions or prohibitions or permissions relate to veterinary kennels and that's not what we're looking for here, although I believe that's a permitted why use in the NC zone. So the neighborhood commercial zone has its purpose which is in subparagraph six and that's the purpose of the NC district is to encourage commercial uses and offices intended to serve the immediate area or neighborhood, primarily with convenience goods and services. Not to suggest therefore that the purpose of the NC zone is to

exclude therapy or companion animals. And having driven through the area, I can certainly see, not physically see, but I can certainly envision seeing rabbit pens and other cages in the back yards of people with pets that aren't in-house pets, like dogs or cats or goats in some cases. In all commercial districts according to Article 5 after there is a site plan permitted use which this service station is, it talks about permitted principal uses and goes through those which are permitted according to the table and adds other similar uses if approved by the Zoning Board of Appeals. So in an NC zone, you're more familiar with the table than I am, but it has a commercial use similar to light commercial and the keeping of therapeutic or companion pets is not inconsistent with the activities that occur in an NC zone. In fact, in two of your residential zones permit with five acres permit keeping of fowl and horses and other things like that. So what I'm suggesting is that animals within the code, therapy animals, companion animals which are, happen to be fowl, F-O-W-L and chickens, are not things or activities which seems to be particularly prescribed anywhere. And because there is no particular definition in the Town of New Windsor Code, we go to other sources and many of those sometimes are Webster's Dictionary, myself I go to Wikipedia so I use the internet so I'll quote from Wikipedia. And they tell you what a chicken is and the chicken is a domesticated fowl subspecies of the red jungle fowl and is one of the most common and widespread domestic animals with a population of 24 billion back in 2003. There are more chickens in the world than any other species. When we look at your code Section 96 where you principally talk about dogs, there's a Section 96-19 which says it will be a violation punishable under that section for any owner or harbinger of a companion animal, domestic animal or farm animal to fail to keep said animal on owner's premises and/or permit it but not permitted to run at large. So we're looking to board, harbor, keep domesticated chickens in a setting of therapy and companionship. Referring to the article which is a brief information resource on the assistance of animals for the disabled, we find that chickens are not service animals because under that definition of the federal section because they can't be trained and they don't open doors and they don't find articles that somebody with a lack of mobility would otherwise not be able to reach. But it does say even a greater number of animal species, service therapy animals including rabbits, hamsters, snakes and these are animals that help

persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or disruptive behaviors. Whether or not Miss Doviken, the applicant, is in need of this sort of therapy and companionship given the instance of Crohn's disease we do have a letter from her doctor and clinical psychologist. That one's addressed to you, Mr. Kane, but it was just dated January 9, I can pass these around if you'd like.

MR. KANE: Sure.

MR. DUNN: This is the clinical psychologist and this next one is the one from the DSW, LCSWR, ACSW so it's not unknown that companion and therapy animals of all kinds and in this instance chickens and others that we have heard do provide a benefit to those who qualify as being disabled under the act in ways that are beneficial to that person. Now when we were here for the preliminary hearing, we were told that there are five things we must show and the ones that presented or we were told present the most largest hurdle is that which is an economic disadvantage. And what we present the fact that Wendy Doviken who manages and runs this business which employs mechanics and one office assistant spends five days a week there, most often from 6:00 a.m. in the morning until 8:00 at night and at least half if not more than half a day on Saturday. In the event that her pattern of management at Star Quality Auto was disrupted, interfered with or totally negated because of the interaction of the Crohn's disease, the business would fail. There would be a total economic disadvantage for the use of this property if Wendy were not able to conduct her business there. There is no one else who manages it and it's actively employing people servicing cars, if that weren't able to be done, there would be no economic benefit or use to the property by its owner, WLD Properties, LLC. So that economic loss would be substantial.

MR. KANE: The instance on that economic loss that you need to address it has nothing to do with the person and their ability to make money. It has to do with the property, this whole thing goes with the property. She can leave and it stays with the property. You need to address the issue as far as the property is concerned, not the applicant's income. You follow what I'm saying?

MR. AMEND: I follow what you're saying. WLD, LLC owns

this property, it's a permitted use by virtue of the site plan review and permit is the operation of an auto repair and service station. If WLD, LLC with its sole member being Wendy Doviken, if she's not able to operate it, the service station fails.

MR. KANE: But the property can be sold at a reasonable return, which is the next thing on the list. Can that property be sold for a reasonable return? And that does not mean make a profit, it means a reasonable return which means selling at a loss. So you would have to prove that that property itself couldn't be sold to another automotive guy that makes it a business.

MR. DUNN: It very well could be sold to another automotive guy.

MR. KANE: That's what the question is. I understand what you're doing, to me you're steering it towards the person. It has to be steered towards the property. It goes with the property.

MR. AMEND: And that's why I'm telling you that the property's owned by WLD and that's run by Star, operates Star Quality Auto, Star Quality Auto is Wendy Doviken. When we get to the other parts of the prongs of those five things we're talking about the, whether or not this type of application we're making is for minimal relief and the presence of therapy or companion pets in a five by seven foot pen in the back which as you can see from your pictures can't even be seen from the road in any direction unless you're standing on property and looking directly at it there's nothing that interferes with neighboring properties.

MR. KANE: We have yet to hear from your neighbors.

MR. DUNN: We do. And from what Wendy can tell you and if you want evidentiary information from her testimony what we would be saying to you is that these hens make less noise than the crows and the pigeons that fly openly in the area, don't have an odor, are well kept, the pen is clean all the time by Wendy who spends time during the day with them in the course of the companionship and therapy. So we suggest as we come to the other forms of the test this is extremely minimal relief in terms of an accessory use. All that being said, we can tell you how we got here and that's by a single complaint of a neighbor in July without any

specifics, just seems like these chickens were there and an inquiry as to whether or not that was permitted under the code, even though it's not prescribed. We had an Order to Remedy, an application to permit a non-permanent chicken coop housing service animals which was then denied in October, Notice of Disapproval and then our application for maintaining seven hens as pets not for production or breeding. And with that application we had presented the pictures that I can give you again if you'd like.

MR. KANE: No, we have them.

MR. DUNN: Where by reference you can see but really only on the third page if you have your pages, the pen with an actual face on view third and fourth pages but in all the other directions of the pictures taken from the neighboring properties and street you can't tell it's there. There had been a request at our preliminary hearing for a determination of whether or not this particular property had come from the Schoonmaker development because there may be some restrictions on the property. We presented to the board and I think you have copies of the chain of title which goes back to 1957 where Fred Warmers (phonetic) was the former owner and Phillips Petroleum had the service station there. It proceeded through various owners and then was foreclosed and came to be a derelict, vacant, awful looking building with no activity and that's when Wendy bought it, WLD, LLC bought it and invested over half a million dollars in its refurbishment, creation and improvement as well as its site improvement. WLD might be able to sell the business to somebody else to service autos there but could never recover half a million dollars in the improvement costs that it put into the property. And those improvements to the property we propose or suggest substantially improved the value of the neighboring properties, both commercial and residential, by taking away a blight and an eyesore. The circumstances that, so apart from the complaint from a single individual, circumstances that brought us here for this application as we discussed at the preliminary hearing when Wendy bought the property in April of 2011 and opened her shop in July of 2011, her disease was in remission. It has come back. So that's a situation and a condition which is beyond our control and it's a circumstance that we didn't create in terms of our need for therapy companion pets. It would be, there are a few properties along Route 94 where you

can't see the back of, this is one of them, you can't see in back so is this property unique to others in the whole district? Probably not. But as I said before, I can envision pens with rabbits and other types of companion pets which again are not pre-proscribed or prohibited by the code. It's just not therapy and companion animals just are not permitted uses in any district unless they are agricultural or farming and these are not. So the inclusion of five non-breeding non-egg producing hens producing for commercial purposes in the NC zone I suggest does not change the character of the neighborhood or the zone. I suggest it is consistent with the purpose for the zone and I also suggest is necessary for a person who, you know, if you've read the letters from the doctors say disabled individual under the Americans for Disabilities Act and benefits from therapeutic and companion pets. Happy to answer any questions.

MR. KANE: Questions from the board at this time? If not, I'll open it up to the public. Does anybody have any questions, statements? I would ask you to come up, state your name and address and say what you need to say or ask what you need to ask.

MR. SATINI: My name is Joe Satini, this is my wife, Nancy Satini, we live at 10 Oakwood Terrace. And outside of my unit it's an absolute eyesore that I have to look at out of my kitchen window, out of my living room window and deck. When I bought my unit in 2011, there was no chickens anywhere on the property. Now I have to look at a chicken pen with six or seven chickens in there. I understand she has Crohn's disease, I feel bad, I understand it's for therapeutic usage. She's not there on Sundays and evenings, so what kind of therapy are the chickens performing? Why doesn't she bring them to her house for therapy? I don't think I bought a condo having to look at chickens, now this is what I have to look at. I'm selling my unit in the spring and I know that this is going to bring the value down because every single window I look out I look at chicken pens.

MRS. SATINI: You say that you don't see it, come on my deck and look at it.

MR. CHANIN: One at a time, please.

MRS. SATINI: And you can see it.

MR. KANE: Your first name?

MRS. SATINI; Nancy Satini, 10 Oakwood Terrace. And I'm the one who put the complaint in. I put the complaint in. I was very specific in my e-mails to the Code Compliance Department. I was told by Code Compliance you need a certain amount of acreage to have chickens on the property and it's a commercial property and she has a dog and a turtle that are also on the property, in the property. So, therefore, that's comfort. The chickens shouldn't be on commercial property. I have to listen to them cackle in the morning. I have to look out my window and see a shanty mesh fence that was put up that's a tiki hut fence put up around it that I can clearly see through as soon as the sun comes up you can see right through to the chicken coop. It's shielded in the summertime by a tire sign advertising Dunlap Tires or something, big yellow banner put over the top of the coop to keep the sun out, off of the chickens. I would not have bought at Oakwood, I'm a taxpayer and homeowner and I shouldn't have to look at that, at a commercial space. And my property value is going to go down and I'm not going to be able to sell my unit. Who's going to want to sit on the deck and look at chickens?

MR. KANE: How far away is your condo from the property?

MR. SATINI: Right on Oakwood Terrace there's a street and beauty shop and then there's the back of the garage, I don't know the distance, you know, 1,000 feet or so.

MRS. SATINI: We're up in the air.

MR. SATINI: We're on the second floor.

MR. KANE: You're on the second floor?

MR. SATINI: Yes, and then there's the parking lot and the garage.

MR. KANE: Anything else?

MR. SATINI: No.

MR. KANE: Thank very much, appreciate it. Anybody else to speak?

MR. WRIGHT: I have to admit publicly that I didn't hear the conversations as well as I would have.

MR. CHANIN: This is Jim Wright

MR. WRIGHT: James Wright, 3 Saint Anne Drive, New Windsor, New York.

MR. WRIGHT: I have lived at that intersection since 1960, 3 Saint Anne Drive. My mother lives in Oakwood Terrace so I know the area well. There's no question that when she took the place over she fixed it up, she performed a valuable service. I'm a customer of hers, we've had an informal discussion in the shop as I would use her services. My concern is the fact that I have another neighbor who had their property for sale and they have expressed their concern to me that it will lower the value of the property. I agree with that. I think you did set a precedence because when you think about it, that whole stretch basically outside of a little strip mall is residential. You've got Oakwood, you've got a number of other apartments, you've got condos, you've got condos, the only reason that shop is there today is and the attorney spelled out the original lot was sold by Schoonmaker Brothers when they built the unit there, Phillips 66 had a beautiful gas station, you could eat off the floor in the place it was so nice. The next one down Murry Weinstein's property, that development too, that gas station got there because that was an American Oil Company had that but that's how both of those two auto service outfits got started. I think today if you wanted to put in that type of an operation in that neighborhood you probably wouldn't do it, you couldn't do it, you'd have a lot of objection but they're there and they're a good neighbor, they're a good neighbor, I must say that I'm delighted and I'm concerned about the precedent being set, not so much there, the entire town. Anybody that has any little spot left in their property, whether it's a garden apartment or what will want to put in chickens or some other pets. I think you're setting a precedence and I think you're certainly reducing the value of property and probably get a few laughs, ha, I'm not moving in that place. Clancyville in New Windsor is called Ducktown, I don't know where it ever got the Ducktown, maybe they grew ducks over there. That's all I have to say. No hard feelings, Wendy, I will be over to see you any time I need you, you're services and but I think they've got to take a look at the precedence you might be setting by the decision you

make. The attorney brought out other information I could not hear some of it but that's a whole different issue and it's a whole new approach. You'll have to sit there because you're on a new ground when you start considering the reason for the chicken coops.

MR. KANE: Thank you very much, sir, appreciate it. Anybody else?

MR. LITTIER: Steve Littier, L-I-T-T-I-E-R, 7 Saint Anne Drive. I would have to say that I would object to the approval based on the reasons that Jim basically outlined. These are agricultural animals, farm animals and they are within 200 feet of my home. I'm concerned about disease, the smells, the noise and what have you.

MR. KANE: Okay, thank you very much, sir. Anybody else wish to speak?

MS. HOEY: Hi, good evening, my name is Sherry Hoey, I'm the owner of 5 Saint Anne Drive, my dad passed away and I'm also the one that's talking about selling the house. And I'm concerned about that house being sold with chickens in the area, people finding out, coming in to look for a development home, all of a sudden now there are chicken coops. I sympathize with the illness, I own pets, I love animals, but I have a concern about having chickens. I think if you talk to people, first thing you say if you talk about chickens they smell, they're noisy and they also tend to bring other rodents into the area. So I have some grave concerns about this going through. Thank you for your time.

MR. KANE: Thank you. Anybody else? Sir?

MR. ROGERS: I'm William J. Rogers, I live up the street on Saint Anne Drive number 23. Now I realize that what you're looking for and personally I thank each one of you for taking the time for the concern to do things right for New Windsor. However, I'd like to give you a little bit of background. For years I lived next to a chicken farm. Now you can imagine what that is, right, but it wasn't that bad. They did have roosters, they crowed in the morning, they'd wake you up. But also right here in New Windsor where I live there's plenty of dogs barking all hours. And I know every one of you know what I'm talking about. The chickens and the chicken farm, the only time I really smelled them is when they took the manure out and

spread it on the grass to make the grass grow better. Now that really stunk. However, in New Windsor right just up the street from here I have a problem with the dogs, they all like to do their thing on my lawn it seems. Tonight I went out to get the mail, I got a walkway, that far away from the walkway was a nice big one, somebody with a dog on their leash evidently decided to leave it. Now I get up in the morning and I look out and I see deer running through my yards, no problem, they just go from one side of the road to the other. I have a lot of wild animals there. I don't want to get anybody in trouble but if you go down River Road and you look you're gonna see a nice, big, old black goat living in a dog house bothering nobody. But yes, New Windsor has other farm animals if you want to call them. Today I was in Wendy's shop and I went back to see the chickens, there's six beautiful little chickens back there and they come right over and they are cooing to me and whatever they're saying, I don't know but they were very friendly. Looking in her cage, she's got gravel on the floor, it was very clean, she's got heaters set up for the water for the heat, she's got a nice little place for them to sleep at night. These are her pets. I spoke to her before she got them, she was just thrilled with the idea of getting them. When she ordered them she was on pins and needles every time I saw her waiting for them to come. These are her pets, like you may have even a pet rat or a pet snake, python or something else. I think sometimes we have too many laws restricting us and I think you can realize that yourself just by reading the newspapers. Yes, she has a problem, is that the answer, not totally. But it certainly is a consideration. But if you have to decline, to ask her not to have them, I would hope that one of you would maybe take a little visit and look at her little chicken coop. I can understand some neighbors being offended but, you know, we all do something that's going to offend someone else. So think it over. But I would encourage you to let her have her little chickens. And I see no reason why that property could never be sold simply or anybody else's property simply because somebody has a couple of chickens. They're clean, they're cared for, her dog, her turtle, you go in her shop and see them both, they're wonderful. Actually what I understand is the dog had been a little maltreated and she grabbed him and took good care of him. And if you know yourself if you had a dog going to a veterinary is very, very expensive. You gotta have a strong feeling to spend that money, especially

when it was someone else's animal maybe. So I just appeal to you to be fair and I thank you.

MR. KANE: Anybody else wish to speak? Ma'am?

MS. THOMPSON: My name is Ann Marie Thomson, I live at 8 Saint Anne Drive in New Windsor. I just want to mirror what they said. I know it's visible from Oakwood Terrace, actually a neighbor of mine pointed it out to me and mirror what the first other three said. It is a problem. My kid was skateboarding, they do make noise, it's an eyesore, it's not attractive. The tarp is not attractive. I'm sympathetic to Crohn's, my sister has it, I understand it. Maybe there's another animal that can be indoors. I mean, they're outside pets. Is there any way maybe there's a compromise but having them outside in the neighborhood I don't think is okay.

MR. KANE: Okay, thank you. Anybody else? 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 27th day of December, 2013, I compared 49 addressed envelopes containing the public hearing notice with no responses.

MR. KANE: Thank you. And we'll bring it back to the board for further questions.

MR. BEDETTI: I have a couple questions. I guess it's already been stated that she does not take the animals home at night, I assume she doesn't live at the station, she lives someplace else?

MR. DUNN: Correct.

MR. BEDETTI: I assume she does not take them out of there?

MR. DUNN: That's correct.

MR. BEDETTI: Do you know if when the site plan was presented before the Town of New Windsor Planning Board whether that was ever the chicken coop or whatever you want to call it pen was part of that site plan?

MR. DUNN: Oh, it was not, it was at that point in time she was in remission, she didn't need the therapy or companion pet of the hens.

MR. BEDETTI: Okay.

MR. DUNN: I can say though that in your pictures I think you'd probably have to be on a second floor in order to see it. But if that were the case, and that was offensive to somebody over 1,000 feet away from their second floor deck, we certainly would if it were permitted to use as an accessory use the therapy pets and seven hens we certainly can construct if that's permitted as well a shelter which would not be, if you can see the coops of the chickens from a second floor of 1,000 feet away, we don't have a problem doing that, we don't have a problem otherwise enclosing it more so that if that was a request of anybody as well.

MR. BEDETTI: Okay. I had one other thing that I, the counsel was reading from various statements and I'd like to take one statement that I think alludes to what the chairman said earlier, it's 300-84 (b) sub number one and it says the needs or desires of a particular owner or tenant of or a particular perspective owner or tenant shall not either alone or in conjunction with other factors afford any basis for the granting of a variance. So this in my mind I believe the chairman is right on that, that's a property issue, it's not an issue with the owner or her needs but does state in the code that that should not be, we shouldn't even be considering that as part of the, as part of our decision on granting or not granting the variance. That's all that I have.

MR. KANE: Any other questions?

MR. SCHEIBLE: That fence, is that protruding, the mesh fence, is that protruding onto the neighbor almost like it's protruding onto the neighbor's property?

MS. DOVIKEN: No.

MR. DUNN: No, it's not. With the application we submitted the picture of the survey with the coop written on it and there's a corner area back there and it's just not. I mean, there's enough room actually on the property to construct a kind of shelter that people put around their dumpsters approximately eight of which can be seen from the second floor of which aren't ours, not our dumpsters, but there would be enough room on this property where it sits now to construct that kind of attractive cover.

MR. KANE: Any further questions? Okay, if not, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we grant a use variance for the presence of fowl not permitted in an NC zone located at 400 Blooming Grove Turnpike in an NC zone.

MR. TORPEY: Second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BEDETTI	NO
MR. TORPEY	NO
MR. HAMEL	AYE
MR. KANE	NO

MR. DUNN: Thank you.

MR. KANE: You're welcome.

FORMAL DECISION

1. Viviano Corradi
2. New Windsor Stewart Assoc./Summit Terrace

MR. KANE: Then we have a couple formal decisions to make and then a little something after that about reorganizing. So you want to do the formal decisions? I'll take a motion to accept those.

MR. BEDETTI: Do we take them together?

MR. KANE: Yes.

MR. BEDETTI: I'll make a motion that we accept the formal decisions for Viviano Corradi identified as 13-25, New Windsor Stewart Association LLC/Summit Terrace 13-26 as written and submitted by e-mail for circulation.

MR. TORPEY: Second it.

ROLL CALL

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

REORGANIZATION

MR. KANE: Two other things before we leave. I got reappointed so I'm going to stay on, I guess I'll be pushing 24 years but that's alright.

MR. BEDETTI: Stay on the Zoning Board of Appeals or stay on as chairman?

MR. KANE: I'm going to do both if I get voted in. So in any case, we've got everybody here tonight, I intend to run for chairman. Anybody else want to?

MR. TORPEY: I've been dealing with you for 25 years, when I first came to the zoning board, he was little a skinny kid with glasses.

MR. KANE: I'll accept a motion, basically I intend to run, if anybody else does, we need a formal vote on it. Anybody else want to run for chairman? No, so I need a

motion.

MR. TORPEY: I'll make a motion that Mike gives us half his pay, that Mike is staying chairman of the zoning board.

MR. BEDETTI: I'll second that.

ROLL CALL

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

MR. KANE: The other thing technically Cammy is our zoning secretary and Jeffrey is our legal counsel and Franny too.

MR. CHANIN: As far as I'm concerned, I don't care what the other rules are, if a majority of this board at any time did not want me to continue to serve, I would resign.

MR. KANE: Oh, stop. One more thing, guys, this is Greg Biasotti, Greg is our alternate. So we finally have an alternate. We used to have a couple, it's been a number of years, we welcome you. We'll get you some sheets, just procedurally wise whether you agree or disagree, everything is in the affirmative and you make your vote afterwards, it's all just common sense.

MR. CHANIN: If you have any questions at any time you want to just discuss anything, feel free to give me a call.

MR. BIASOTTI: I've been working for a land surveyor for 28 years as his crew chief so I'm pretty well versed in this, although most of our work was Town of Newburgh and City of Newburgh.

MR. KANE: Motion to adjourn?

MR. BEDETTI: So moved.

MR. SCHEIBLE: Second it.

ROLL CALL

January 13, 2014

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

Respectfully Submitted By:

Frances Roth
Stenographer