

TOWN OF NEW WINDSOR

ZONING BOARD

June 24, 2013

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

ALSO PRESENT: GEOFFREY CHANIN, ESQ.
 ZONING BOARD ATTORNEY

JENNIFER GALLAGHER
BUILDING INSPECTOR/ZONING BOARD
SECRETARY

ABSENT: PATRICK TORPEY

MEETING AGENDA:

1. Donna Mans (a/k/a Donna Gery)
2. Kelly Shalian
3. CA Custom Homes, LLC

REGULAR MEETING:

MR. KANE: I'd like to call the Town of New Windsor Zoning Board of Appeals meeting for June 24, 2013 to order.

APPROVAL OF MINUTES DATED 2/11/13 & 3/11/13

MR. KANE: Motion to accept the minutes of February 11, 2013 and March 11, 2013 as written.

MR. BEDETTI: So moved.

MR. HAMEL: Second it.

ROLL CALL

MR. BEDETTI AYE

June 24, 2013

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MR. SCHEIBLE	AYE
MR. HAMEL	AYE
MR. KANE	AYE

PRELIMINARY MEETINGS:

DONNA MANS A/K/A DONNA GERY) (13-10)

MR. KANE: Tonight we just have preliminary meetings. First preliminary meeting is Donna Mans, a/k/a Donna Gery. Proposed detached garage will project nearer to the street than the existing house per 300-11 (3) of the Town of New Windsor Code. Property is located at 599 Shore Drive in an R-4 zone. Hi, come on up. This is for everybody else that's here. In the Town of New Windsor what we do is we hold two meetings. We hold a preliminary meeting so we can get a general idea of what you want to do and to make sure that we enough information to make a proper decision. In other towns where there's one meeting, if you're not prepared when you come in you lose and you can't come back for six months. That's why we do a two step meeting. So tell us exactly in your own words what you want to do. First state your name and your address so that young lady over there can hear you and just tell us what you want to do in your own words.

MS. MANS: Okay, I want to add a garage to the house, a one car garage. And I guess the location is not the usual spot due to the way the house is. My house is facing with the side of the house not to the road or the front of the house not to the road so it's not the usual location. But as you can see on the picture there, my neighbor has their garage, it would be right across from where I am and the neighbor on the other side has a driveway with their garage in the same spot. I want to put mine adjacent to them.

MR. KANE: According to the pictures, do you guys share a driveway?

MS. MANS: Yes.

MR. KANE: So there's an easement going through there for both to use it?

MS. MANS: Yes.

MR. KANE: In the building of the garage, will there be any removal of substantial vegetation or trees?

MS. MANS: No.

MR. KANE: Creating any water hazards or runoffs?

MS. MANS: No.

MR. KANE: And there is no easement running through where you, where the proposed garage is going to be?

MS. MANS: What do you mean by that?

MR. KANE: You have an easement, right-of-way on your driveway so legally both of you can use that driveway no matter whose property. So where the shed is going, there's no easement or right-of-way going in that area?

MS. MANS: No, that's all on my property.

MR. KANE: Facing from Shore Drive to your home and this here where the yellow cones are, is that where the proposed garage would be?

MS. MANS: And I wanted to set it back from the window.

MR. KANE: It's built right to the, where the end of the macadam comes?

MS. MANS: Right.

MR. KANE: And the size of the garage?

MS. MANS: The dimensions are on there on the thing, I don't know it offhand.

MR. HAMEL: It's 16 by 24.

MR. KANE: Is that similar in size and in nature to other garages that are in your neighborhood?

MS. MANS: Yeah.

MR. KANE: Further questions from the board?

MR. BEDETTI: No, pretty straightforward.

MR. KANE: If you could for me this is coming from the street?

MS. MANS: Yes.

MR. KANE: All the way out from the street?

MS. MANS: Yeah, it's quite a distance, yeah.

MR. KANE: So the garage being built in that spot would be visible from the street?

MS. MANS: Yeah, yes, and that was kind of the only logical place because if we put it to the front of the house there's a well, oh, sorry in the front of the house there's a well and in the back of the house there's not enough room to put the garage.

MR. KANE: Is the front entrance to your house is that to the side of here on the lane?

MS. MANS: Yeah, that's facing--

MR. KANE: Facing like the driveway?

MS. MANS: Yeah, cause here's my neighbor's house and their front is facing this way.

MR. KANE: You kind of face each other that way so at the end it was, with the garage there on the side and the front of your house looks like a normal house even though it's not facing the street?

MS. MANS: Yes.

MR. SCHEIBLE: Your property borders the lake, am I correct?

MS. MANS: Yes, I have lake frontage.

MR. SCHEIBLE: You have lake frontage?

MS. MANS: Yes, that's why that was the only logical place because I didn't want it in front of my sliding glass doors of course.

MR. KANE: And you couldn't put it on the other side cause you have a well?

MS. MANS: That's right.

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

MR. HAMEL: I'll make a motion that we schedule a public hearing for Donna Mans for the variance as requested.

MR. BEDETTI: I'll second that.

ROLL CALL

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

MRS. GALLAGHER: This is what's next, come see me and we'll set up everything for your public hearing.

MS. MANS: Wasn't there some envelopes or something?

MRS. GALLAGHER: Come see me.

MR. KANE: Read that right there and come see us tomorrow.

MS. MANS: Thanks.

MR. KANE: You're welcome.

KELLY SHALIAN(13-11)

MR. KANE: Next preliminary meeting Kelly Shalian, excuse me if I butcher your name. An interpretation is requested for an existing single-family dwelling with two kitchens or is it a two-family dwelling. Located at 6 Ridge View Road in an R-4 zone. Alright, Kelly, name, address, speak loud enough for the young lady there to hear you. Tell us what you want to do.

MS. SHALIAN: Kelly Shalian, 6 Ridge View Road, Salisbury Mills, New York 12577 and I want to have a second kitchen in the house.

MR. KANE: Is it existing now or are you proposing to build it?

MS. SHALIAN: It's existing.

MR. KANE: How long has it been in existence?

MS. SHALIAN: Ten years.

MR. KANE: There's one single meter for gas and electric coming into the home?

MS. SHALIAN: Yes.

MR. KANE: Your intent is to use this as a second kitchen in your home and not use it as a rentable space?

MS. SHALIAN: Correct.

MR. KANE: You have ease of access from the rest of the home to this particular area?

MS. SHALIAN: Ah-huh, yes.

MR. SCHEIBLE: What was the reasoning behind having a second kitchen, just a lot of people come in here and say well, we have a mother and a father and in-laws and outlaws living in the house, you know, do you have any specific reason why do you have a second kitchen?

MS. SHALIAN: There's a couple reasons, you've heard of a second kitchen like a day like today would be perfect to cook there but I do get family that visits, my parents, my whole family's on Long Island so when they come up, they're going to stay overnight so, I mean, I

have a place for my mom and dad and they can use the kitchen there downstairs.

MR. KANE: Any complaints over the years on it formally or informally?

MS. SHALIAN: No.

MR. KANE: I guess the tree questions don't work here.

MS. SHALIAN: Trees?

MR. KANE: Any further questions from the board?

MR. BEDETTI: You're one that lives in the house, I mean, there's no rental?

MS. SHALIAN: My children and my husband.

MR. BEDETTI: Your immediate family?

MS. SHALIAN: No.

MR. BEDETTI: No renters, never been rented and no intentions of renting?

MS. SHALIAN: No intentions of renting.

MR. BEDETTI: I'm good.

MS. SHALIAN: I would say too though cause I believe in full disclosure eventually I do want to actually move to getting a mother-daughter because my daughter who's 22 she's about to turn 22 is going to stay in the house with, I mean, there's one up the street from me so I want to know whether--

MR. KANE: Mother-daughter is fine. Basically, what you're doing is what constitutes a mother-daughter but you have to have open access, you can't have locked doors in between, it can't be rented out, it's family only.

MS. SHALIAN: What's the difference between a mother-daughter and a second kitchen the legal difference?

MR. KANE: Words.

MS. SHALIAN: There is no other legal difference?

MR. CHANIN: Well, the zoning law says that the residence has to be a single family. The way that that term is defined means that you can't have a house that's sufficiently divided so that you have two private areas separately served by utilities so that one family can live in one part of the house and the different family can live in another part of the house. Otherwise, that would no longer be a single-family residence, okay. If you or anybody else in the future who's living in a zone that allows only a single-family residence wants to change it into something else, you have to file an application for that which would go before the zoning board of appeals at some future time because you would need a variance because the zone doesn't allow it. Now, it's alright to have guests, it's alright to have your family over, stay overnight and let them use a second kitchen but that doesn't make it a two-family home. But if it became a permanent arrangement either for somebody who's a member of your family--

MS. SHALIAN: My daughter.

MR. CHANIN: Or a renter or stranger or somebody to live there then it becomes a two family and that's not allowed by the code unless you get a variance.

MS. SHALIAN: Even if--

MR. KANE: If it was your daughter or your mom and dad that's part of your immediate family, immediate family is fine.

MR. CHANIN: But if your daughter remarried, if your daughter was married and she and her husband and kids moved into the second place and it was sealed off from the rest of the house, that now makes it a two family.

MS. SHALIAN: What if it's not sealed off?

MR. CHANIN: It's not just the relationship as relatives that makes it one or two family, it's the use that you make of the property that makes it.

MS. SHALIAN: Potentially, she's, if she gets married, I can foresee a situation where we do want to have an extended family, myself and my husband and my son and her, and her husband living there.

MR. CHANIN: Depends on what use they're making of it. If they're going to pay their own utilities, get a separate meter and have a separate lock and key that allows them into that part of the house and that they can get in and out without having to go through your part of the house, then by its use it has now become a two family, meaning they could move out and somebody else could move in there. That's a two family because that's how it's being used that's not allowed by the code. You would either not be allowed to do it or you'd have to come here and ask for a variance but that's for later. What you're doing now by get this opinion from this board tonight or when they have the public hearing if the board decides to give you an opinion, a ruling that that is a single-family home with a second kitchen then unless the day comes when that changes you and whoever else owns this house in the future can only use it as a single family with a second kitchen, not for two families.

MRS. SHALIAN: Right.

MR. CHANIN: Other than that, I can't help you because the rest of it's hypothetical, we're not here to answer "what if" questions. But we're here tonight to get a decision from this board to ask for a decision from this board declaring this to be a single-family home with two kitchens.

MS. SHALIAN: Right.

MR. CHANIN: In which case it will only be able to be used as a single-family home.

MS. SHALIAN: Right, I just didn't know the difference.

MR. CHANIN: The difference is its use.

MR. KANE: Use variances are extremely difficult to get, almost impossible, there are five specific rules. And the first rule that nobody can really, I mean, there's been one in the 20 years I've been doing this is that you have to prove by dollars and cents, not just your own words but authoritative figures that you cannot possibly sell your home for reasonable return which does not mean profit, it just means a reasonable return for use as a single-family home. Almost impossible to do.

MS. SHALIAN: Okay, that was what I, I didn't know the

difference here.

MR. KANE: Not a problem.

MS. SHALIAN: Is that it?

MR. KANE: No, not yet. Any further questions? I'll accept a motion.

MR. BEDETTI: I'll make a motion we schedule a public hearing for Kelly Shalian for an interpretation for an existing single-family dwelling with two kitchens located at 6 Ridge View Road in an R-4 zone.

MR. SCHEIBLE: Second it.

ROLL CALL

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

MS. SHALIAN: How do I find out when they'll be?

MR. KANE: All your directions are right here and give Jenn a call, read that and give Jenn a call and once everything's done we'll get you set up.

MS. SHALIAN: Now I can go?

MR. KANE: Yes, you can.

MS. SHALIAN: Okay, thanks.

CA CUSTOM HOMES LLC (13-12)

MR. KANE: Tonight's last preliminary meeting is CA Custom Homes LLC. Variance is needed to permit a proposed single-family dwelling that doesn't meet the minimum lot area of 40,000 square feet. The lot is 15,744 square feet. A variance of 24,256 square feet is required. A variance for the lot is also needed. The required lot width is 150 feet. Proposed lot width is 116 feet. A variance of 34 feet is required. Property is located at Vascello Road in an R-4 zone. Come on up, state your name and address for the record loud enough for that young lady to hear you.

MR. AGRESTI: Good evening, Gregory Agresti. And I'm trying to build a house for my daughter on a piece of property that I own in Beaver Dam.

MR. KANE: You're the homeowner?

MR. AGRESTI: I'm the owner of the lot.

MR. CHANIN: Is there a street address on Vascello Road?

MR. AGRESTI: I don't think there's a lot number.

MR. CHANIN: Just says Vascello Road?

MR. AGRESTI: It's a vacant lot so--

MR. KANE: So the proposed size of the home?

MR. AGRESTI: It's 2,044 square feet.

MR. KANE: He's the homeowner, let him speak, thanks. Septic, wells?

MR. AGRESTI: Sewer and well.

MR. SCHEIBLE: It's sewer and well, not septic?

MR. AGRESTI: Sewer, town sewer.

MR. SCHEIBLE: Give me an approximation, Vascello Road, approximately where on that road?

MR. AGRESTI: Well, the new section of Vascello Road 25 years ago, 30 years ago halfway up the hill on the right side.

MR. SCHEIBLE: Cause I'm looking at pictures here, all I see is green.

MR. AGRESTI: There's like three lots there, well, there's a sewer easement in one section and there's my lot and then there's another lot and it's been in our family since the early '40s so and I had purchased it from my cousin who originally owned it, Raymond Gazzola and he had a stroke and he never realized or never told me that they changed the zoning. So I had purchased the lot in the year 2000 never knowing that the zoning had changed.

MR. KANE: Are there other homes on that road?

MR. AGRESTI: Oh, yeah.

MR. KANE: With similar size lots?

MR. AGRESTI: Oh, yeah, that originally was all my grandfather's property which is Vascello when we moved up in the '40s.

MR. KANE: For the public meeting, if you could snap a couple pictures of the homes on that street so we can see them from the front?

MR. AGRESTI: Yes.

MR. KANE: Obviously, this next question, cutting down substantial trees and vegetation in the building of the home?

MR. AGRESTI: Will we be?

MR. KANE: Yes?

MR. AGRESTI: Enough to put the house in. We're not going to clear everything.

MR. KANE: Just what's necessary?

MR. AGRESTI: Correct?

MR. KANE: Creating any runoffs or water hazards?

MR. AGRESTI: No.

MR. KANE: Any easements running through that piece of

property?

MR. AGRESTI: I believe not.

MR. KANE: For the public hearing, we'd need to know for sure, although I'm not seeing anything on the map so I tend to agree with you.

MR. AGRESTI: I know there's a sewer easement one lot up from my lot and it's on their lot.

MR. KANE: We'll want to make sure for the public hearing there's no easements going through there.

MR. AGRESTI: Yeah.

MR. SCHEIBLE: What's the your neighborhood here from 71,000, 71,000, 71 right on down the line there and what size, do you have an approximation what size homes are already on these other lots that are there?

MR. AGRESTI: Size being square footage?

MR. SCHEIBLE: Square footage?

MR. AGRESTI: I would say they're probably 21, 22, 24, they're all bi-levels in that area, couple small colonials.

MR. BEDETTI: This is a separate lot?

MR. AGRESTI: Yes, like I said, I purchased it.

MR. BEDETTI: Do you live adjacent?

MR. AGRESTI: No, I'm on Lakeside Drive, my personal house and the gentleman that I bought it from which is my cousin lives on the opposite side of, directly across from this lot.

MR. BEDETTI: So these are not lots that are currently being subdivided?

MR. AGRESTI: No, no, no, they were originally--

MR. BEDETTI: They're existing lots?

MR. AGRESTI: When my family subdivided it, it was quarter acre zoning at the time and this was one of the lots that the family kept. Like I said, he had a

stroke and never realized or never thought about telling me about it.

MR. BEDETTI: You've owned this property for how long?

MR. AGRESTI: I bought it in 2000 from my cousin.

MR. SCHEIBLE: You've had this area surveyed exactly the size of the house that you want to put on it?

MR. AGRESTI: Yes.

MR. SCHEIBLE: And I'm trying to find here the footage away from the nearest property line, do you have any idea what that would be right now?

MR. AGRESTI: Is my daughter allowed to speak?

MS. AGRESTI: You have that there in the survey.

MRS. GALLAGHER: There's the proposed house.

MR. AGRESTI: This is Crystal.

MR. HAMEL: What kind of house is this going to be?

MR. AGRESTI: Small colonial.

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

MR. HAMEL: Yeah, what's in the back here? What's in this lot here undeveloped?

MR. AGRESTI: Undeveloped and in the very back is also the Town of New Windsor's park, Chestnut Park, but I think that's a little further up the hill.

MR. KANE: I'll accept a motion.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for CA Custom Homes for a variance as requested located on Vascello Road in an R-4 zone.

MR. HAMEL: Second it.

ROLL CALL

MR. BEDETTI AYE

MR. SCHEIBLE AYE

1. Morning Pond Florist
2. McDonald's Corp.
3. Thomas McDonald
4. Classic Home Builders - Fayo
5. Donald Harris
6. Felicita Pagan
7. Edward Polkowski

MR. KANE: The only thing we have left, we have formal decisions to vote on. I'll accept a motion and we can take them all in one vote, if that's your pleasure.

MR. CHANIN: Do this collectively, you may do this collectively. However, just so you know, should any one individual, it does not require a majority, if any one member of the board wishes to vote on any one of these decisions separately, that's all that that one member needs to say. Every individual member has the right to say I want to vote separately on any of them. Only in the absence of anybody saying they want that can you vote collectively.

MR. BEDETTI: Should we do this in two motions, one motion to do it collectively?

MR. CHANIN: No, you can vote collectively in one motion and approve them collectively if that's your pleasure?

MR. BEDETTI: I will make a motion that we approve the formal decisions as written and distributed by e-mail for Morning Pond Florist, McDonald Corporation, Thomas McDonald, Classic Home Builders-Fayo, Donald Harris, Felicita Pagan and Edward Polkowski.

MR. HAMEL: Second it.

ROLL CALL

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

MR. KANE: Motion to adjourn?

MR. HAMEL: So moved.

MR. BEDETTI: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth
Stenographer