

PB# 86-83

Land of Muriel McNary

(3-Lot Sub.)

(Never Materialized)

4-1-30

86-83

Lands of Muriel McNary Subdivision
3 lot subdivision

Never Materialized

General Receipt

8351

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, N. Y. 12550

November 3, 1986

Received of

Lawrence F. MacNary

\$ 25.00

Twenty-Five and 00/100

DOLLARS

For

Subdivision lands of Mevred 86-83

DISTRIBUTION

FUND	CODE	AMOUNT
CH 1587		25.00

By

Pauline J. Towns

Town Clerk

Title

Williamson Law Book Co., Rochester, N. Y. 14609

Oxford®

ESSELTE

MADE IN U.S.A.

NO. 753 1/3

Maps given to

- ✓ P. B. Eng
- ✓ Bldg Insp
- ✓ Water
- ✓ Sanitary
- ✓ Fire Bureau

3 lot subdivision

Mr. Patrick Kennedy and Mr. Rashbaum came before the Board representing this proposal.

Mr. Rashbaum: I don't know if there can be very much in the way of changes unless you want some other configuration. Let me just review this for you a minute because I don't know whether you recall last time we were here, I complained Mrs. MacNary and her husband had a little over 40 years ago bought this 3 acre parcel from Mr. MacNary's father and they handbuilt their home on one side of it. Mr. MacNary died in recent years and Mrs. MacNary finds it extremely difficult to keep up the house, pay the taxes, sewer, etc. She is asking for subdivision approval so that she can sell off two one acre lots. She intends to remain there so she is very careful about what she wants done next door. And who is going to be there. She has indicated that since there is sewer there as the deed restriction, contract restriction, if she gets permission to sell, she will require people to attach to the sewer lines. Unfortunately, there is no water. She would do the same thing. She has well and others will have to have the same. Our problem lies with the right of way which runs from Woodland to 207 and we received a very sympathetic hearing from the Board last time and direction to go contact Mr. Spells who owns Rona properties, one of the adjoining people there. I contacted him a number of times. He said that he was interested if the Board told him how much it would cost and if all the adjoining land owners including the Chairman of the Board and Mrs. MacNary and everybody else would contribute their share he might be interested in doing something about improving the right of way to private road standards. Quite frankly, it just didn't seem practical to do that. Mrs. MacNary couldn't contribute to it. Her financial position is such that she can't contribute to the improvements of that road. She just doesn't have the money. So assume that however, if the Board grants subdivision approval, whoever buys that, those two acres or each lot or whatever, would want to have a private road.

Mr. Mc Carville: Have you determined in your research who actually owns the

road itself?

Mr. Kennedy: Spells only owns it up to Mrs. MacNary's property. The remainder out to 207 is owned by Inburrow.

Mr. Mc Carville: Do they pay taxes?

Mr. Rashbaum: No, they didn't pay taxes on it. We have determined that. It has been for more than the statutory period of time that they should have had for closure. It has been in excess of five years that no taxes have been paid.

Mr. Scheible: It has never been foreclosed?

Mr. Rashbaum: To the best of my knowledge, it never has been foreclosed. It sits. We tried to get in touch with Mr. Rosen. I figured if I could talk to the guy, maybe I could get someplace. But I think he is so gunshy about talking to lawyers. I wanted to take it off his hands. I was willing to do anything to take it off his hands. I think maybe I could have talked, if I could have spoken to him, but I can't tell you, I know him and I know his attorneys and we have tried to get in touch with him through his attorneys. They have said contact him directly. With all attorneys who practice real estate in the Town I have had a number of closings with Mr. Rosen. Not of one of which went happy. So we are back to you essentially unchanged and really begging for your indulgence.

Mr. Scheible: Actually nobody wants to own the road, to tell you the truth. Mrs. MacNary, myself, my father we have a right of way to use that road. You can't even call it a private road. You can't call it a private road. It is a piece of property owned by an individual.

Mr. Rashbaum: It's a road by definition as anything that people use for ingress and egress and so it's a road but certainly not public. I assume it would be defined as a private road, but if you wanted or it can be just left undefined.

Mr. Reynolds: Mr. Chairman, we have a letter here, a memorandum from our engineer on this thing which dates from April 7th and he states here that investigation of prior Planning Board requirements in the case that requires a major subdivision and development of the area road. The road was to be extended as a Town road. From Mac Nary road down to 207. Issuance of a building permits on 6 remaining lots to be developed off that road are understood to be contingent upon the completion of MacNary Road extends out to Route 207, it can be expected that some time in the future it will be required by the Planning Board, this road will become a Town road.

Mr. Mc Carville: That agreement was made when Izzie was in the process of buying the land from Spells, I believe. He has part of the agreement negotiated, the agreement with the Town to finish the entire road to 207. The property deal with Spells fell through. Izzy just dropped the whole thing.

Mr. Kennedy: Even Spells, what right does Spells have to continue the road out?

Mr. Rashbaum: He hasn't any.

Mr. Mc Carville: The only people that have the right to that property are the people that have deeded rights.

Mr. Rashbaum: And the right of way people like Mrs. MacNary.

Mr. Scheible: I have said it many a time, the fault lies on the Town of New Windsor. I will be very blunt saying that. With this situation here allowing to let this happen when they approved Woodwinds up above here.

Mr. Jones: Mr. Chairman, if you remember years ago, before you ever was a member and a lot of these other people you come in and complain with a whole group of people from the neighborhood. In regard to that road. He was supposed to put up a bond of \$27,000 or something like that and I understand there was a bond. Now nobody knows anything about the bond.

Mr. Scheible: I think Mr. Babcock can answer that. Wasn't that bond turned in?

Mr. Babcock: Yes.

Mr. Scheible: Just released. The bond was released.

Mr. Reynolds: The suggestion is how we can cure the situation because we have Swartz Lane which is the same thing as I would like to get the both of those cleared up because I think they are both the same condition.

Mr. Kennedy: At least we have a 50 foot right of way to deal with.

Mr. Mc Carville: What solution is, I think we should advise Spells of that and I think he may have been under the impression in the past that in order to develop his property, this road was going to have to be finished. He can develop his X number of lots up there. Once that's done, this opens this property up to the east. You follow me?

Mr. Rashbaum: Yes, I do, but if you make us contingent on that, we have got to wait for him to develop. By that time Mrs. Mac Nary will have lost her property.

Mr. Mc Carville: The Board cannot approve the subdivision because it does not meet the requirements of the law.

Mr. Kennedy: Even Spells would only develop it to here. She still needs access across that.

Mr. Reynolds: This is only three lots it can be made a private road. It is wide enough.

Mr. Schiefer: Who is going to pay to bring it up to private road, it's almost as much as public road.

Mr. Rashbaum: How about this, giving us that and no building permit to issue until that's brought up Town, private specs. Maybe I can get a developer to buy both lots, put it in. There is only two, Mrs. Mac Nary is retaining her house, we hope, if we can get approvals.

Mr. Reynolds: We have the power to adjust those specs then you can on the private road.

Mr. Jones: How far is that road paved?

Mr. Kennedy: It's not paved at all. It's gravel.

Mr. Bob Kalinski: I am a developer. I am doing New Windsor Square on Route 32. I also have a binder with this gentleman on this property. I am also speaking to Matt Spells. I am confused to say the least. I am discussing with Matt Spells a contract right now and I have a binder with the gentleman.

Mr. Rashbaum: No, you don't. It isn't true.

Mr. Kalinski: He has just returned it to me. Anyway, my question is this, if there is, if this is not a road, it's owned by somebody else that private road, how can you, you can't do anything with it. The only thing you can do is come to MacNary, build a cul-de-sac, either at the Town specs there and the cul-de-sac to the Town specs, you can't come down 207 anyway, am I right?

Mr. Scheible: Why not.

Mr. Rashbaum: It's already into 207.

Mr. Kalinski: Who owns this?

Mr. Mc Carville: All you have to do is have the Town condemn the Inburrow property which is a road, let the Town take it at that point.

Mr. Rashbaum: I will make this offer. Mrs. MacNary would be more than happy to deed her right of way to the Town, if they get the rest. I probably would say Mr. Scheible and the rest of the neighbors would be more than happy to do that.

Mr. Scheible: I want to pursue this road. I am speaking as neighbor, I am speaking-- I am going to release myself as the chairman right here, gentlemen. I want to pursue this and being made into a Town road whether we have to and I don't want to just settle with a private road spec here. Now, I will step back as chairman. That is my feeling.

Mr. Reynolds: Well then, our next move is to write a letter to the Town Board. I would recommend that we write a letter to the Town Board to pursue whatever has to be done to get this road to condemn the property and get this.

Mr. Scheible: The Town has already ventured in there with a sewer line. The sewer line runs up there. They have come in there and they've allowed that to happen. I feel the whole thing lies in the Town's hands right now. It also gives, let me also add. You have a lot of developments back in this area that have got Woodwinds, Countryside, right. Now you have even more that are going to come in with Epiphany, adding a larger and larger strain to Union Avenue. If Woodwinds and Countryside had an alternate exit out of those two developments, not only for safety reasons, but for ambulatory reasons, it had another exit, that strain that is caused on Union Avenue would be relieved with the Town road, not a private road. This Town road going down to 207. There is a tremendous amount of traffic. You come out on Woodwind, sometimes and wait there and see how long you have to wait before you can pull out of that road. I am not saying it's any better down on 207. But's it is going to take off the strain. It is a lot better road on 207. You have a lot better vision from up here, down here.

Mr. Rashbaum: Unfortunately, what you say is true. I would love the idea if

it can take place this month. What do I do in the next 15 months to two years while the Town takes action, if it does.

Mr. Reynolds: Well, I think in that letter it could be suggested that it is a hardship case.

Mr. Ronen: Condemnation itself doesn't take that long. It is a question of filing the map.

Mr. Reynolds: We haven't written the letter and we are sitting here saying that it is going to take a long time. How do you know it is going to take a long time?

Mr. Scheible: Mr. Rashbaum, I was brought to court because of this situation. I tried to grab a bull by the horn and I was brought to court over it.

Mr. Rashbaum: I don't blame you for protecting yourself and your interests here. All I am asking is for some help for Mrs. MacNary. There is nothing to stop is from pursuing what you want in the meantime. If Mrs. MacNary can proceed and get subdivision approval, subject to the bringing this up to private road specs, there is nothing wrong with it, at the same time pursuing the Town to have him condemn it and make this a public road.

Mr. Scheible: Gentlemen---

Mr. Jones: The only thing you are going to talk to the Town. I would ask them why they released that bond because the Planning Board made them put that bond up. I think before they released it they should have contacted us.

Mr. Scheible: Very good point.

Mr. Reynolds: Do you feel you want to write a letter to the Town Board?

Mr. Scheible: I think we should write a letter to the Town Board and let them investigate the situation here. First of all, like at this point, I brought up why was the bond released. Then second of all, there are no taxes. Can this road be condemned and the Town take over. Just as they did on another one, just a little bit further towards Newburgh.

Mr. Kennedy: Has someone from the Town contacted the County Department of Finance?

Mr. Reynolds: I think we start actual work and include in the letter that it's a hardship case, that we may be able to get some action on it. Get it moving.

Mr. Mc Carville: I think we ought to actually meet with them at their workshop session rather than write a letter. So much more can be done at a quick meeting.

Mr. Scheible: One of the Monday workshop meetings. I will set it up and I will let you know exactly what night they are going to entertain.

Mr. Kennedy: With exception with what's on the County list right now for sale. The Finance Department has a separate list of properties that they don't consider very saleable, they call them dog parcels. It might be on that list. They felt they are really unsaleable and they might be on the list and Town

might be able to pick it up readily.

Mr. Scheible: Let me talk to the Town Board.

Mr. Rashbaum: What should I do with Mrs. Mac Nary?

Mr. Scheible: There is nothing we can do. I would like to know the reason why the bond was released and I would like to know if the Town is willing to condemn the piece of property and so forth. Until all these points are resolved, I can't see making any calls right now.

Mr. Reynolds: If we do that Monday night, we could have some direction by that time.

Mr. Scheible: Then I could get in touch with either Pat or yourself.

HERBST, RASHBAUM & VAUGHAN

ATTORNEYS & COUNSELLORS AT LAW

LAWRENCE HERBST
GILBERT RASHBAUM
THOMAS M. VAUGHAN

TOWN OF NEW WINDSOR
PLANNING BOARD

5 MEADOW HILL ROAD
POST OFFICE BOX 7002
NEWBURGH, N. Y. 12550 - 0053
9 1 4 - 5 6 4 - 6 1 0 0

RECEIVED

DATE ~~8-17-87~~ 8-13-87

August 13, 1987

Supervisor Petro
Town of New Windsor
555 Union Avenue
New Windsor, NY 12550

Re: MacNary w/ Planning Board 86-83

Dear Supervisor Petro:

I am sure that Mr. Henry Schieble of the Town of New Windsor Planning Board will be in touch with you very shortly concerning MacNary Road.

As you no doubt know, MacNary Road, from Route 207 leads past Mrs. MacNary's property located on that 50 foot wide right of way. It is privately owned and the adjacent property owners have a right of way on it. Mrs. MacNary who owns Section 4, Block 1, Lot 30 on the Town of New Windsor tax map applied for a three lot subdivision to be able to sell off two, one acre parcels. The Town Planning Board has held her application in abeyance and are going to contact you, if they have not already done so with a view towards discussing and trying to persuade the Town to take over MacNary Road, either by deed or condemnation so as to turn it into a town road, at least as far as Mrs. MacNary's property on one side and Mr. Scheible's property on the other side.

I would like to let you know that on behalf of Mrs. MacNary we heartily join in the request of the Planning Board and offer without cost, of course, to the Town, to release our right of way and convey it to the Town of New Windsor if they desire so as to have MacNary Road become a town road. If there are any questions that you have or any help I can be in this matter, please let me know.

Very truly yours,

HERBST, RASHBAUM & VAUGHAN

By: Gilbert Rashbaum

GR:ll
cc: Mrs. Muriel MacNary
Mr. Henry Scheible, Town Planning Board

PLANNING BOARD

Rec 7/6/87

HERBST, RASHBAUM & VAUGHAN

ATTORNEYS & COUNSELLORS AT LAW

LAWRENCE HERBST
GILBERT RASHBAUM
THOMAS M. VAUGHAN

5 MEADOW HILL ROAD
POST OFFICE BOX 7002
NEWBURGH, N. Y. 12550 - 0053
9 1 4 - 5 6 4 - 6 1 0 0

July 2, 1987

Planning Board
Town of New Windsor
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12550

Attention: Mr. Henry Scheible

Re: Muriel MacNary

Dear Mr. Scheible:

Enclosed are copies of my letters of May 8th and May 22nd.

I would have expected a reply by this time, and would appreciate hearing from you.

Very truly yours,

HERBST, RASHBAUM & VAUGHAN

By:
Gilbert Rashbaum

GR:el

Enc.

HERBST, RASHBAUM & VAUGHAN

ATTORNEYS & COUNSELLORS AT LAW

**LAWRENCE HERBST
GILBERT RASHBAUM
THOMAS M. VAUGHAN**

**5 MEADOW HILL ROAD
POST OFFICE BOX 7002
NEWBURGH, N. Y. 12550 - 0053
9 1 4 - 5 6 4 - 6 1 0 0**

May 8, 1987

Planning Board
Town of New Windsor
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12550

Attention: Mr. Henry Scheible

Re: Muriel MacNary

Dear Mr. Scheible:

When I was last at the Planning Board, you told me that this would be adjourned for two weeks from the night of the 22nd, and I advised you I would appear before you on May 6th.

Unfortunately, the two week adjournment was not the date that should have been chosen, it was a three adjournment to the night of the 13th, since the night of the 6th, although I appeared, was not a scheduled meeting date.

Unfortunately, I will not be available on the 13th, and would appreciate an adjournment. Please let me know when this matter will appear before the Planning Board.

In the meantime, I wish to advise you that I did write to Mr. Spells, and he indicated to me that if the Planning Board gave him the figures as to what it would cost, and what his proportionate share would be, he might consider contributing towards the rebuilding of the road to private road standards.

I will wait to hear from you.

Very truly yours,

HERBST, RASHBAUM & VAUGHAN

GR:el

By:
Gilbert Rashbaum

cc: Mrs. Muriel MacNary



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12550
(914) 565-8800

OFFICE OF THE SUPERVISOR

*File w/ McNary
subdivision*

June 2, 1987

Mr. Spells
Rona Properties, Inc.
654 Madison Avenue
Suite 802
New York, N.Y.
10021

Re: Lots, Nina/McNary Road

Dear Mr. Spells:

Your letter of May 20, 1987 was discussed at our Town Board Worksession of Monday, June 1, 1987.

The reaction of the Town Board to your request for building a portion of McNary Road that runs through your property is a function of the Town Planning Board and they request that you direct your efforts to that Board for a remedy of any subdivision problem you may have.

Very truly yours

John A. Petro
Supervisor

jap/md

cc: N.W. Planning Board

PLANNING BOARD

Rec 6/3/87

6/1/87 (3)

RONA PROPERTIES INC.

654 MADISON AVENUE
SUITE 802
NEW YORK, N. Y. 10021

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

May 20th, 1987

John Petro
Supervisor
Town of New Windsor
Town Hall
555 Union Avenue
New Windsor, N. Y. 12550

COPY		T.B.
NO	173	
INITIAL		DATE
vp		5-26-87

Re: Property
Six (6) Tax Lots known as
6-7-1, 2, 3, 4, 5, and 6
Nina Street; McNary Road

Dear Mr. Petro:

We are the owners of the above mentioned property and would like to develop the land. Our land abuts two (2) paved roads namely McNary Road and Knox Drive.

We received a building permit for one (1) lot, (6F). We were told that no C.O. or permits would be issued unless we would extend McNary Road to Route 207. We acquired the property through a mortgage foreclosure action. We are not responsible for obligations taken by the previous owner. The bond posted by the previous owner was not enforced.

The request to extend McNary Road to Route 207 is economically not feasible and legally not justified. We will extend this portion of McNary Road which runs through our property. We will also build a road running through our property up to Knox Drive.

We would like to bring your attention to the fact that we are the owners of the land in the bed of McNary Road running only up to the end of our property.

We do not have an easement through the McNary Road running from the end of our property to Route 207.

Your prompt answer will be greatly appreciated.

Waiting to hear from you, we remain,

Very truly yours,

by T. Thomas L. Sperry Pres.

RPI:dm

RONA PROPERTIES INC.

4/22/87

Mr. Kennedy: We can change the parking around.

Mr. Mc Carville: At what point do we stop?

Mr. Van Leeuwen: I think we ought to go down and take a look at it. Here is a copy of the engineer's report. I don't think the Board is too happy with what they see here Patrick.

Mr. Jones: Too much on one piece of land.

Mr. Kennedy: The zoning allows it on that street.

MURIEL MAC NARY SUBDIVISION (86-83) 4/22/87

Mr. Patrick Kennedy came before the Board representing this proposal, along with Gil Rashbaum, Esq.

Mr. Rashbaum: I am Mrs. Mac Nary's family attorney I wanted to take a minute here on her behalf to explain. Mr. Mac Nary bought this property from a member of the family in 46 and in the few years that followed Mr. and Mrs. Mac Nary built the house that is on the property. They had constructed and they lived there until Mr. Mac Nary passed away last year. Unfortunately Mrs. Mac Nary is not able to maintain the property and the cost and the taxes and everything being a widow and she would like to stay in the house that she and her husband built but to make it economically feasible she'd like to be able to sell off two lots next to her. So she asked Mr. Kennedy if he'd draw up a plan to meet your approval for a three lot subdivision.

Mr. Jones: Who is going to pave that road?

Mr. Van Leeuwen: First we should find out who owns the road?

Mr. Kennedy: Yes, I don't know the history of how all the different ownerships took place. There is a single private owner now Mrs. Mac Nary by deed has rights across the road.

Mr. Rashbaum: That road is 50 foot right of way that goes from Little Britain Road over to Mac Nary in the Woodwinds Development to Mac Nary Lane.

Mr. Mac Carville: Who owns the road?

Mr. Rashbaum: We are not exactly sure who owns the road but I think he claims the road, Mr. Spells. I have never researched it and we have no title policy except that he claims he owns it.

Mr. Reynolds: How can we do anything on that?

Mr. Scheible: I personally would like to see the road developed naturally but I do not think that Mrs. Mac Nary should have to develop that road down to 207. This is a personal reason. I think that the fault lies with the Town of New Windsor so far as the condition of the road that is it now and I think that the Town should look into this very seriously as to who should develop it and I believe that the Town has a responsibility.

Mr. Rashbaum: We agree with you but unfortunately that doesn't help Mrs. Mac Nary very much.

Mr. Mc Carville: I'd like to add to that I think Henry can confirm this at one point the Town let this get away from them because when that development was being built that was originally part of the proposal of that development that road we finished and a performance bond was held on all the roads in the development.

Mr. Van Leeuwen: The six lots that are back here the reason you wanted to put lots we told them that the road from WoodWinds to 207 since that is part of his property had to be finished and upgraded. It was Spells property.

Mr. Mc Carville: It was not Rosen's property?

Mr. Van Leeuwen: He was in contract at the time under contract with Spells that is why Mr. Rosen decided not to buy the property because he realized one thing when we got done with him he'd had to finish the road. That is where we made a mistake was when we approved the Woodsind Subdivision we should have demanded this as an access road but we couldn't do that because Spells own it.

Mr. Jones: What happened to the \$27,000 bond that Rosen put up?

Mr. Van Leeuwen: Mr. Rosen never did it.

Mr. Mc Carville: We are all talking about finishing the road to 207 which is a pipe dream and we have no legal claim against Spells.

Mr. Van Leeuwen: If the Town comes in and develops the road Spells is going to be in the drivers seat because he is going to develop the lots but I don't think we should develop the road out to 207. We should have made Rosen use that as an exit out of the development.

Mr. Scheible: How come the construction went all the way to 207? The grade was dropped in some spots 8 to 10 feet in the upper area there that the Town allowed this to happen? When I saw all the equipment coming in dropping the grade we assumed this was going to be a Town road and it was just dropped.

Mr. Van Leeuwen: He was going under contract to buy it from Spells.

Mr. Scheible: How was the building permit issued to allow the man to go in there and drop the level of the property?

Mr. Mc Carville: Everybody that has talked about that says that has to be developed down to 207.

Mr. Rossini: As a comment there is a vehicle in New York State Town law that provides for a creation of benefit areas or improvement areas you can upgrade a road and create similar to a benefit district but not quite the same and have the surrounding property owners who would benefit by that essentially pay for the improvement of the road, something perhaps your attorney might want to discuss with Tad Seaman because we have done the same thing on sewers and it applies to roads also. You may want to explore that as an avenue.

Mr. Van Leeuwen: The situation is really in place. We are bound by certain laws. The only way this is my own view point if we ask the people to bring it up to a private road specs and then approve it then we can get away with it. If we ask the Town to go in and pick it up.

Mr. Rashbaum: I am not in a position to tell you what to do and of course if you want to ask the Town to pick it up fine if you want private district then you have the hearings and you are looking at about 2 years worth of work, I have been looking at a problem that we need a solution to at the earliest possible time. And that is just the appeal to sell off two lots on this road and it is really what we are asking for can we sell two lots on here, there is access, the road is sufficient now for the use of the people, two more families isn't going to make any difference.

Mr. Van Leeuwen: Those two families are going to move in there and they are going to say we demand the Town fix up the road.

Mr. Mc Carville: This reminds me of Swartz, we decided if they had the 50 foot easement and they agreed to widen it we would approve them to build down there. There is no difference in Swartz Road and this stays in my mind if Mac Nary and her neighbors want to bring it up to what we call private road specs which includes shale, etc. no problem approving it.

Mr. Scheible: Yes, this is a problem the road is owned by one man, it is not owned by Scheible, etc., it is owned by one man. Mr. Spells owns the road.

Mr. Mc Carville: Each of these parties have an access they have deeded rights to use the road, therefore they must have deeded rights to maintain it, to keep it in repairable condition.

Mr. Scheible: It is not a public right of way.

Mr. Reynolds: You can't touch it then.

Mr. Van Leeuwen: The only way you can do that is to see if Mr. Spells will let you.

Mr. Scheible: Spells is going to say sure, black top it.

Mr. Mc Carville: If these people have deeded rights to access.

Mr. Rones: They have an obligation there is in common law an obligation on the part of the user of a right of way to share in a pro-rata basis for the cost of maintaining the right of way now the problem is that sounds good, but in the exclusion of that the fellow that owns the road has something to say about how it is going to be maintained too. Unless these parties get together and agree as to what they are going to do with the road, they are going to maintain it and what the expenses of upgrading that will be or maintaining it is going to be shared practically speaking not much is going to be done unless somebody brings a lawsuit and has the court tell everybody what to do.

Mr. Reynolds: What would be the next step to get these going? This is obviously a hardship, can't we get to this person, write a letter to this gentleman?

Mr. Van Leeuwen: Our attorney should write a letter.

Mr. Roncs: It is up to the people in the neighborhood to solve this problem. Not to me.

Mr. Scheible: We asked Mr. Spells we were trying to get water through the top and I asked Mr. Spells if I could run a water line to reach our property and he said sure there'd be no problem as long as you run a road, sewer, blacktopping and everything else along with it.

Mr. Mc Carville: If you look at this you see a right of way adjoining the eastern portion of the Mac Nary property, does this right of way go out to Oxford so why couldn't these properties be subdivided through Oxford?

Mr. Scheible: That doesn't come out to Oxford. It comes out into somebody's back yard. You can check it out. Somebody's back yard in Windsor Estates.

Mr. Rashbaum: That is not our right of way anyway. Our property line ends along the west side of that.

Mr. Scheible: Mr. Rashbaum what you are going to have to do is send a letter to Mr. Spells requesting what we have discussed this evening and find out for yourself.

Mr. Rashbaum: You want me to write to Spells to tell him that you want him to improve the road so that Mrs. Mac Nary can sell off two lots and assuming that Mr. Spells has all his marbles and says no what next? We have no cause of action against Spells. Either you can give us permission to subdivide or what you are saying if there are any conditions on it we have got to put a road in there for hundreds of feet or we have got to get Spells to put a road then you are in essence denying Mrs. Mac Nary any relief whatsoever.

Mr. Van Leeuwen: I am afraid that is the way it looks. That has been discussed long before you people came here because Hank has brought it up many times. From the conversation, you have figured it out we have sat down and discussed it two or three times before.

Mr. Babcock: The problem is that you can't get a building permit even if you had approval on it because you have to have access to an approved Town road.

Mr. Kennedy: The Department of State says you cannot make anybody dedicate a road whether they build it to Town specs or not.

Mr. Babcock: And it also has to state proposed Town road.

Mr. Rashbaum: Ownership is one indication Mrs. Mac Nary, along with Mr. Scheible and the rest of the neighbors have right of way.

Mr. Mc Carville: I say if Mrs. Mac Nary wants to bring it up to private road specs we ought to approve the subdivision give her permission to do it and let Spells sue us.

Mr. Rashbaum: Who is going to pay to bring it up to private road specs?

Mr. Mc Carville: Mr. Spells certainly isn't going to.

Mr. Rashbaum: That is true what you are saying to Mrs. Mac Nary is sell off these lots but put in a couple hundred thousand in road improvements to do it.

Mr. Reyns: You haven't gone to the owner of the property yet so I don't see how you can come here and say we are not doing a job which isn't going to the people who own the road if you go to those people then you might have an avenue if you get turned down there.

Mr. Rashbaum: I will take your suggestion I will write to Spells within the next three business days and can we get back on the agenda?

Mr. Mc Carville: On behalf of your client petition the Town Board for a road.

Mr. Rashbaum: Thank you.

CORRESPONDENCE

Mr. Schiefer noted receipt of a letter from Mr. Zimmerman regarding Grove Homes Subdivision. "On October 9, the Planning Board granted this application 6 months extension of preliminary approval. Since we need additional time to secure Health Department approval we are requesting another six months extension."

Mr. Van Leeuwen: "That the Planning Board of the Town of New Windsor grant another six month's extension with regard to Grove Homes Subdivision."

Mr. Edsall: With regard to extension of preliminary approvals it indicates that you have to be back into the Board within six months with a final plan there is no reference whatsoever as to who grants the extension or whatever as to getting back in within 6 months so there is no conflict here. It merely reflects the fact that the man continues getting the final plans back in within 6 months.

Motion seconded by Mr. Mc Carville.

Mr. Roncs: There is a difference in the ordinance with respect to site plan approval in the Town Board granting those, in order to clear up that ambiguity it might not be a bad idea to get the Town Board to revise that ordinance.

Roll Call:	Mr. Jones	Aye
	Mr. Reyns	Aye
	Mr. Mc Carville	Aye
	Mr. Schiefer	Aye
	Mr. Scheible	Aye
	Mr. Van Leeuwen	Aye
	Mr. Lander	Aye

McGoey and Hauser Request

Mr. Scheible: We have a request from Mc Goey and Hauser for a foundation approval. They are willing to be held responsible for any problems passed the foundation permit. This is an addition to their existing office.

Mr. Edsall: The property currently has two curb cuts. The existing one curb cut is where it is now the other one we are looking to relocate an existing curb



McGOEY and HAUSER
CONSULTING ENGINEERS P.C.

45 QUASSAICK AVE. (ROUTE 9W)
NEW WINDSOR, NEW YORK 12550

TELEPHONE (914) 562-8640
PORT JERVIS (914) 856-5600

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.
Associate

Licensed in New York,
New Jersey and Pennsylvania

7 April 1987

MEMORANDUM FOR RECORD

SUBJECT: TOWN OF NEW WINDSOR PLANNING BOARD
MURIEL MacNary SUBDIVISION SITE VISIT

On 2 April 1987 this writer, Building Inspector Mike Babcock and members of the Planning Board made a site visit for the subject project. The site walk was made from the existing MacNary Road down past the area which is understood to be proposed for future development of 6 lots and finally down to the proposed Muriel MacNary subdivision property. Currently, a right-of-way is reported to exist from Route 207 up to the top of the Muriel MacNary property for vehicle access and utilities to properties adjacent to the property on which the right-of-way exists. It is proposed by the Applicant to subdivide the existing lot to a total of three (3) lots and have the two (2) additional lots utilize the aforementioned right-of-way.

On initial review, one would assume that the drive over the right-of-way used by the residents should be required to be brought up to (at minimum) Town private road specifications. However, investigation of prior Planning Board requirements indicates that as part of the major subdivision and development of MacNary Road, the road was to be extended (as a Town Road) from MacNary Road down to Route 207. Issuance of building permits on the six (6) remaining lots to be developed off that road are understood to be contingent upon the completion of the required MacNary Road extension to Route 207. Therefore, it can be expected that some time in the future, as is required by the Planning Board, this road will become a Town Road.

Therefore, based on this anticipated completion, the Board may wish to consider waiving the requirement that the right-of-way drive be brought up to private road specifications so as not to burden the Applicant unnecessarily. My review of the existing drive indicates both reasonable width and slope such that, until such time that the Town Road is completed, undue conditions would not be experienced.

Memorandum for Record

-2-

7 April 1987

The Board may wish to verify with the bureau of fire prevention that this waiver (pending the completion of the Town Road) would be acceptable with regard to the development of the two (2) proposed subdivision lots.

This matter should also be reviewed with the Planning Board Attorney as to acceptability of the waiver and increased use of the right-of-way by the MacNary Subdivision.

Respectfully submitted,



Mark J. Edsall, P.E.
Planning Board Engineer

MJEnjE

cc: Town of New Windsor Planning Board
Robert Rogers, Fire Prevention Bureau

MACNARY SUBDIVISION (86-83)

Feb 25 - 1987

Mr. Patrick Kennedy came before the Board representing this proposal.

Mr. Kennedy: This is a piece of property owned by MacNary on MacNary Road. They have one existing house they are looking to create two new building lots. This is our first time in. It is served by Town facilities. This is Town sewer, we didn't have Town water. The lots are all over 1 acre.

Mr. Scheible: Lot number three has access but number 2 and 1 the line would have to be continued up the road. This is a right of way not a private road. That continues from Woodwind, Mr. Spells owns the road along with the six lots. The residents who are on the road now have a right of way to use the road out to 207.

Mr. VanLeeuwen: Mr. Spells cannot build unless he does the road. Now how can we really approve this subdivision without making him put the road in.

Mr. Scheible: When they came in and started buiding they lowered the roadway down 5 or 6 feet.

Mr. McCarville: These people have an easement.

Mr. Kennedy: They have deeded rights to the right of way.

Mr. McCarville: I think they have to bring this road up to rural road specs the people that are going to build on the lots.

Mr. Scheible: They don't own the road, they can't Mr. Spells owns the road.

Mr. Kennedy: Can they legally do that?

Mr. Scheible: We are going to go out and make an inspection of this.

Mr. McCarville: If he can get an agreement with the owner of the property giving them the right to maintain it I'd have no problem with approving it.

Mr. Rones: You mean the right to approve and maintain it?

Mr. McCarville: Yes.

Mr. Scheible: We will be out there for an inspection. Thank you.

TOP ESTATES SITE PLAN (86-89)

Mr. Scheible: Before you state your case I'd like to have our attorney say a few words.

Mr. Rones: I understand there has been some site work involving the removal of trees at the front of the site and the Planning Board is very concerned about it because since there hasn't been any approval of the subdivision or site plan that is in violation of subdivision regulations and the intention of the Planning Board at the moment is to prosecute that violation in the Town Court. The possibility of penalties are pretty severe so that the Planning Board

**PREVIOUS
DOCUMENT
IN POOR
ORIGINAL
CONDITION**



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK

BUREAU OF FIRE PREVENTION

SITE PLAN APPROVAL

MURIEL MAC NARY SUBDIVISION OF LANDS

The aforementioned site plan or map was reviewed by the Bureau of Fire Prevention at a meeting held on 9 December 1996.

 The site plan or map was approved by the Bureau of Fire Prevention.

 The site plan or map was disapproved by the Bureau of Fire Prevention for the following reason(s).

Until such time as road is brought up to present town specifications
it is recommended that this project be rejected.

Lined area for additional text or reasons.

SIGNED: _____
CHAIRMAN

WATER, SEWER, HIGHWAY REVIEW FORM:

The maps and plans for the Site Approval _____
Subdivision _____ as submitted by
Patrick T. Kennedy for the building or subdivision of
Muriel MacNary has been
reviewed by me and is approved _____,
disapproved _____.

If disapproved, please list reason.

No information regarding Sewage Disposal

HIGHWAY SUPERINTENDENT

WATER SUPERINTENDENT

Lynman O. Masten Jr
SANITARY SUPERINTENDENT

November 5, 1986
DATE

PLANNING BOARD
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, NY 12550

Date Received _____
Preapplication Approval _____
Preliminary Approval _____
Final Approval _____
Fees Paid _____

APPLICATION FOR SUBDIVISION APPROVAL

86-83

Date: Oct. 29, 1986

1. Name of subdivision: Subdivision of lands of Muriel MacNary

2. Name of applicant: Muriel MacNary Phone: 561-5819

Address: P.O. Box 2067
MacNary Road New Windsor New York 12550
(Street No. & Name) (Post Office) (State) (Zip Code)

3. Owner of record: same as applicant Phone: _____

Address: _____
(Street No. & Name) (Post Office) (State) (Zip Code)

4. Land Surveyor: Patrick T. Kennedy, L.S. Phone: 562-6444

Address: 335 Temple Hill Rd, New Windsor, N.Y. 12550
(Street No. & Name) (Post Office) (State) (Zip Code)

5. Attorney: _____ Phone: _____

Address: _____
(Street No. & Name) (Post Office) (State) (Zip Code)

6. Subdivision location: On the South side of MacNary Road
(Street)

348.4 feet East of N.Y.S. Rte 207 (Little Britain Road)
(direction)

7. Total Acreage _____ Zone R-4 Number of Lots 3

8. Tax map designation: Section 4 ~~lots~~ Block 1 Lot: 30

9. Has this property, or any portion of the property, previously been subdivided No.
If yes, when _____; by whom _____.

10. Has the Zoning Board of Appeals granted any variance concerning this property No.
If yes, list case No. and Name _____.

List all contiguous holdings in the same ownership.

Section _____ Block(s) _____ Lot(s) _____

Attached hereto is an affidavit of ownership indicating the dates the respective holdings of land were acquired, together with the liber and page of each conveyance into the present owner as recorded in the Orange County Clerk's Office. This affidavit shall indicate the legal owner of the property, the contract owner of the property and the date the contract of sale was executed. IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers and stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached.

STATE OF NEW YORK)
COUNTY OF ORANGE : SS.:

I, Mural Mac Gary, hereby depose and say that all the above statements and the statements contained in the papers submitted herewith are true.

Mailing Address _____

SWORN to before me this
30 day of October, 1986

Jean M. Van Voorhis
NOTARY PUBLIC

JEAN M. VAN VOORHIS
Notary Public, State of New York
No. 4504952
Qualified in Orange County
My Commission expires Mar. 30, 1987

SHORT ENVIRONMENTAL ASSESSMENT FORM

INSTRUCTIONS:

(a) In order to answer the questions in this short EAF, it is assumed that the preparer will use currently available information concerning the project and the likely impacts of the action. It is not expected that additional studies, research or other investigations will be undertaken.

(b) If any question has been answered Yes the project may be significant and a completed Environmental Assessment Form is necessary.

(c) If all questions have been answered No it is likely that this project is not significant.

(d) Environmental Assessment

- 1. Will project result in a large physical change to the project site or physically alter more than 10 acres of land? Yes No
2. Will there be a major change to any unique or unusual land form found on the site? Yes No
3. Will project alter or have a large effect on an existing body of water? Yes No
4. Will project have a potentially large impact on groundwater quality? Yes No
5. Will project significantly effect drainage flow on adjacent sites? Yes No
6. Will project affect any threatened or endangered plant or animal species? Yes No
7. Will project result in a major adverse effect on air quality? Yes No
8. Will project have a major effect on visual character of the community or scenic views or vistas known to be important to the community? Yes No
9. Will project adversely impact any site or structure of historic, pre-historic, or paleontological importance or any site designated as a critical environmental area by a local agency? Yes No
10. Will project have a major effect on existing or future recreational opportunities? Yes No
11. Will project result in major traffic problems or cause a major effect to existing transportation systems? Yes No
12. Will project regularly cause objectionable odors, noise, glare, vibration, or electrical disturbance as a result of the project's operation? Yes No
13. Will project have any impact on public health or safety? Yes No
14. Will project affect the existing community by directly causing a growth in permanent population of more than 5 percent over a one-year period or have a major negative effect on the character of the community or neighborhood? Yes No
15. Is there public controversy concerning the project? Yes No

PREPARER'S SIGNATURE:

TITLE:

REPRESENTING:

DATE:

WATER, SEWER, HIGHWAY REVIEW FORM:

The maps and plans for the Site Approval _____
Subdivision _____ as submitted by
P. Kennedy LS. for the building or subdivision of
Yulee Mc Nary Property has been
reviewed by me and is approved
~~disapproved~~ _____.

~~If disapproved, please list reason.~~

There is no water main in front of this prop.
water main ends just past last hydrant on
McNary Lane going west.

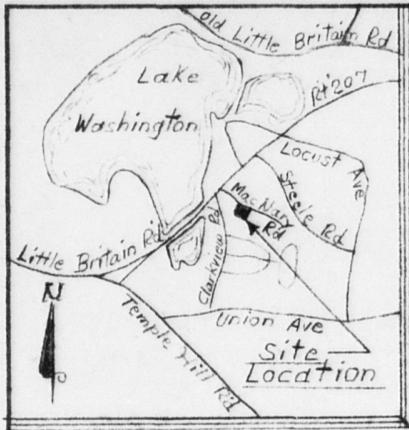
HIGHWAY SUPERINTENDENT

Steve Didio

WATER SUPERINTENDENT

SANITARY SUPERINTENDENT

DATE



Location Map
Scale: 1" = 2,000'

Zoning District: R-4

Minimum Required
 Lot Area: 15,000 S.F.
 Lot Width: 100'
 Front Yard: 35'
 Side Yard: 15/30'
 Rear Yard: 40'



Tax Map Data:
 Section: 4
 Block: 1
 Lot: 30

Deed Reference:
 Liber 1007, Page 14



Total Lot Area:
 3.085 acres

Record Owner & Subdivider:
 Muriel MacNary
 P.O. Box #2067
 MacNary Road
 New Windsor, New York
 12550

- Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7209, sub-division 2 of the N.Y. State Education Law.
- Only copies from the original of this survey marked with an original of the land surveyor's hand seal or his embossed seal shall be considered to be valid true copies.
- Certificates, including herein, signify that this survey was prepared in accordance with the official Code of Practice for Land Surveyors adopted by the New York State Association of Professional Land Surveyors. Such certifications shall run only to the person for whom the survey is prepared, and to his knowledge to the title company, governmental agencies and lending institutions listed herein, and to the assignees of the lending institution. Certifications are not transferable to additional institutions or subsequent owner.
- Underground improvements or encroachments, if any, are not shown hereon.

To Muriel MacNary and The
 Town of New Windsor, certified
 to be a correct and accurate survey.

Dated: Oct 30, 1986



Patrick T. Kennedy L.S. 335 Temple Hill Road - New Windsor, New York 12550	
SCALE: 1" = 50'	APPROVED BY:
DATE: Aug. 7, 1986	DRAWN BY:
SUBDIVISION OF LANDS FOR Muriel MacNary Town of New Windsor Orange County, New York	
DRAWING NUMBER: 86-585	