

TOWN OF NEW WINDSOR

ZONING BOARD

April 28, 2014

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

ALSO PRESENT: GEOFFREY CHANIN, ESQ.
ZONING BOARD ATTORNEY

CAMMY AMMIRATI
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE

MEETING AGENDA:

1. Thomas Palmer
2. Classic Home Builders, LLC

REGULAR MEETING:

MR. SCHEIBLE: Good evening, ladies and gentlemen. I'd like to bring the, I am the substitute chairman for this evening, my name is Hank Scheible and I'd like to bring the April 28 meeting to order.

APPROVAL OF MINUTES DATED 4/14/14

MR. SCHEIBLE: I'd like to make a motion to accept the minutes of the April 14 meeting as written. Any motion?

MR. BEDETTI: So moved.

MR. HAMEL: Second it.

ROLL CALL

MR. BEDETTI AYE
MR. HAMEL AYE

April 28, 2014

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MR. TORPEY	AYE
MR. SCHEIBLE	AYE

PRELIMINARY MEETINGS:

THOMAS PALMER (14-09)

MR. SCHEIBLE: First on this evening's agenda is the Thomas Palmer 14-09 seeking a variance of 3.8 feet and 8.8 foot for side yard setbacks and a 12.6 foot total side yard setbacks for a proposed single-family dwelling with an existing foundation. This is located at 286 Lake Road in an R-4 zone.

MR. CHANIN: Is anybody here for Mr. Palmer? Stand about there and speak loud enough so that not only the board can hear you but also the members of the audience and give the young lady over there your name and address.

MR. PALMER: Thomas Palmer.

MR. CHANIN: And your address?

MR. PALMER: 508 Shore Drive.

MR. CHANIN: Tell us so everybody in the room can hear you briefly a description of why you're here and what you're asking the board to give you.

MR. PALMER: I'm here to get the variance to approve the building of a single-family home, it's about 2,100 square feet and with the side yard that you mentioned before at the opening of the meeting.

MR. CHANIN: I'm going to ask you a bunch of questions and just answer us to the best of your ability. The work that you're proposing to do, will it involve substantial cutting of vegetation?

MR. PALMER: No.

MR. CHANIN: Will it involve the creation of a ponding or erosion problem?

MR. PALMER: No.

MR. CHANIN: Are there any easements that are going to be transgressed or affected by the work you're going to do?

MR. PALMER: No easements.

MR. CHANIN: Okay, I'll turn it over to the board for your questions about this specific application.

MR. SCHEIBLE: Gentlemen, any questions?

MR. HAMEL: It says here that you're using the existing foundation.

MR. PALMER: I will not be using the existing foundation.

MR. HAMEL: You won't be, it says it on the sheet, I didn't think you would be looking at the drawing but--

MR. CHANIN: Mr. Palmer, it's, you're proposing a single-family residence of approximately 2,100 square feet, is that correct?

MR. PALMER: Yes.

MR. CHANIN: Who is it that you propose, you're the owner of this property?

MR. PALMER: Yes.

MR. CHANIN: And if I may ask, who do you propose is going to be living in this single-family residence?

MR. PALMER: I am.

MR. CHANIN: You are. And you have no intention now or in the future to use it as a rental?

MR. PALMER: No.

MR. CHANIN: How many levels is the house?

MR. PALMER: It's like a raised ranch, bi-level style.

MR. CHANIN: Like a raised ranch bi-level?

MR. PALMER: Yes.

MR. CHANIN: Is there going to be a master bedroom?

MR. PALMER: Yes.

MR. CHANIN: Is there going to be a bedroom for other people who are members of your family?

MR. PALMER: Yes.

MR. CHANIN: Are the bedrooms all going to be on one level?

MR. PALMER: Yes.

MR. CHANIN: Are you going to have utilities serve the house?

MR. PALMER: Yes.

MR. CHANIN: Are those utilities only going to be on one meter?

MR. PALMER: Correct.

MR. CHANIN: How many main entrances are there going to be to the house?

MR. PALMER: One main entrance.

MR. CHANIN: You're not going to have any portion of the house that is separated so somebody else can live there and have a separate meter or separate utilities?

MR. PALMER: No.

MR. CHANIN: And you said this is for you and your family?

MR. PALMER: Yes.

MR. SCHEIBLE: I have a question. When our attorney brought up the word utilities, what is available, is there water, sewage and possible gas available?

MR. PALMER: No gas, there's an existing well on the property that was dug recently and there's sewer there, town sewer.

MR. SCHEIBLE: But you work off of a well on this piece of property?

MR. PALMER: Yes.

MR. CHANIN: Mr. Palmer, can you please tell the board briefly what are the circumstances of the property, what's the design, the layout, the dimension, the description of the lot that requires that you need

these variances for the side yard setback and total side yard setback, why are the variances necessary?

MR. PALMER: The front and rear of the property are not the issue here, it's the side yards for the, I don't know what the--

MR. CHANIN: Well, let me ask you this, Mr. Palmer, this is an R-4 zone, zone of single-family residences?

MR. PALMER: Yes.

MR. CHANIN: Is the house that you're planning to build similar in size and design as other houses in the neighborhood?

MR. PALMER: Yes, there are several other bi-level homes on that road in the vicinity of this property.

MR. CHANIN: Off the top of your head, do you know if any of those other homes have variances where they're close to the front or side yards?

MR. PALMER: I believe the property to the right is nine feet from the structure to the property line and then I believe the one to the left is around 12 feet if I remember correctly.

MR. CHANIN: Okay.

MR. SCHEIBLE: You're presently the owner of the property?

MR. PALMER: Yes.

MR. SCHEIBLE: I want to rest assured not that it's under contract or anything like that?

MR. PALMER: No.

MR. CHANIN: Is anything that you're proposing to do suggestive that you're going to change the character of the neighborhood or have any disproportionate impact on your neighbors so that it's somehow or another a unique situation different from the situation involving all the other homes in the neighborhood?

MR. PALMER: No, I don't believe so.

MR. CHANIN: Will it be a hardship on you if this

variance is not granted?

MR. PALMER: Yes.

MR. CHANIN: In what way?

MR. PALMER: I would like to build my first home.

MR. CHANIN: Is the property vacant now? Is there anything on the property now?

MR. PALMER: There is an existing two car garage that's on the left side of the property that will, that I will be removing, taking down.

MR. CHANIN: There's a garage on the property but no home?

MR. PALMER: No home.

MR. CHANIN: You're going to take that garage down?

MR. PALMER: Yes.

MR. CHANIN: Will the home that you're building have a garage?

MR. PALMER: Yes, it's attached underneath.

MR. CHANIN: Will that be a one car or two car?

MR. PALMER: Two car.

MR. CHANIN: And what road are you near or off?

MR. PALMER: The closest intersecting road is Beaver Brook.

MR. CHANIN: And what's going to be the connection from the house to the road, driveway?

MR. PALMER: Oh, a driveway.

MR. CHANIN: How long will the driveway be?

MR. PALMER: Off a guess, 75 feet.

MR. CHANIN: Are there other driveways of other residences nearby that are similar to the driveway that you're proposing?

MR. PALMER: Yes, they're all about the same length.

MR. CHANIN: Board members?

MR. BEDETTI: I have a question relative to the garage but you already answered that's coming down. It wasn't quite clear to me whether the dimensions that were in violation were for the garage or for the dwelling but garage is coming down?

MR. PALMER: Yeah.

MR. BEDETTI: That's fine. I'm good.

MR. CHANIN: Let me ask you this, are the variances that you're requesting 3.8 feet and 8.8 feet for side yard setbacks and 12.6 feet total added together for the side yard setbacks, are those the minimum variances necessary for you to build the home according to the plans that you have submitted to the building department?

MR. PALMER: Yes.

MR. CHANIN: I have exhausted my curiosity.

MR. SCHEIBLE: And what is the dimension, you know, in square footage of the house that you intend to build, is it 2,100?

MR. PALMER: It's 2,164 to be exact and 48 feet wide by 32 feet deep.

MR. SCHEIBLE: That's just about that area, what I've seen in that area.

MR. PALMER: Yes.

MR. SCHEIBLE: Gentlemen?

MR. BEDETTI: I'm good.

MR. CHANIN: Need a motion.

MR. BEDETTI: I'll make a motion we schedule a public hearing for Thomas Palmer for side yard variances for a proposed dwelling to be located at 286 Lake Road in an R-4 zone.

MR. TORPEY: I'll second that.

ROLL CALL

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

MR. CHANIN: When you come back, you're going to be asked exactly the same questions you were asked tonight and then they'll have a public hearing so that members of the public can comment on your plan and assuming that you do all your homework as soon as you get back then the board will be in a position to vote.

MR. PALMER: Okay, thank you.

PUBLIC HEARINGS:

CLASSIC HOME BUILDERS, LLC (14-08)

MR. SCHEIBLE: We now enter the public hearing section and on this the first one is the Classic Home Builders, LLC, 14- 08. Variance of 32 foot minimum lot width and 10 foot for side yard setbacks and 20 foot for total side yard setbacks for three proposed lots located 248 Bethlehem Road in an R-1 zone. Gentlemen?

MR. CHANIN: Your names, please?

MR. FAYO: Anthony Fayo, owner

MR. BRADY: Patrick Brady, engineer.

MR. CHANIN: I'm sorry, sir, your name again please?

MR. BRADY: Patrick Brady, engineer.

MR. CHANIN: Thank you. Alright, again, as you did at the preliminary hearing, briefly please just tell the board, speak loud enough for the audience to hear what you're proposing.

MR. BRADY: What we're proposing is a three lot subdivision on a 4.17 acre lot on the easterly side of Bethlehem Road. We're here seeking variances for the lot width and the side yard setbacks for each of the lots. The lot width they're looking for 118 feet for each of the three lots and side yard seeking a variance for 30 and a total side yard of 60 feet. I'd like to point out that the property is located in the R-1 zone but the rear property to the south is in the R-3 zone and we're consistent with the zoning criteria for the R-3 zone and conforming to the existing lot configurations in the adjoining properties. At the preliminary, the chairman had asked me just to provide some pictures of the driveway distances for looking down Bethlehem to the northeast and southwest, we do have several sight distances for all the proposed driveways.

MR. SCHEIBLE: Thank you.

MR. BRADY: The lots proposed are served by sanitary, subsurface sanitary disposal systems and the lots also will be served by individual wells or public water. We're looking to go to the Board of Health for water

main extension, however, the lot can be developed with individual wells.

MR. CHANIN: Will you be cutting, substantial cutting of vegetation?

MR. BRADY: No, we're clearing out some existing trees, probably six to eight inch caliper, also have a clearing limit line to limit the amount of clearing to the sites of the house locations, driveways and the sanitary disposal system.

MR. CHANIN: And how if necessary are you going to address the problem of ponding and erosion?

MR. BRADY: What we have, we'll have a soil erosion control plan that will be reviewed by the planning board. The proposal, one of the benefits to in seeking the variances is that we don't have to construct a private road where we'd have increased runoff, the runoff typically now would be controlled through silt fencing and once the site is developed you'll have sheet flow across the lawns and there will be no off-site impact to drainage.

MR. CHANIN: If you had to construct that private road, would that be a burden and a hardship on the applicant?

MR. BRADY: And the community and the environmental issues that would be created by private road.

MR. CHANIN: Are there any easements involved on the land where you're proposing to do this work?

MR. BRADY: No.

MR. CHANIN: Are the three single-family homes that you're intending to build, are they similar in size and nature to other residences in the neighborhood?

MR. BRADY: Yes.

MR. CHANIN: Could you please tell us briefly about the dimensions? Sir, you'll get a chance to speak when we open the public hearing. Can you tell us briefly something about the dimensions and size of the lots that make it necessary for you to apply for these variances?

MR. BRADY: Well, we have provided 30 by 50 foot

footprint for the house and to get the 30 by 50 house we'd require to give an equal and suitable separation on the side yards, that's where we'd come up with the, for those side yards, also those side yards we had chosen because they're the same sides yards as in the R-3 zoning.

MR. CHANIN: Do you know if there are any other residences in the immediate vicinity that also have variances for side or rear yard setbacks?

MR. BRADY: If you look at the tax maps at the right-hand corner of the plans, you'll see there are similar configured lots which have the same widths and depths.

MR. CHANIN: Are the residential buildings that you're planning on building on all three lots similar to each other?

MR. BRADY: Yes.

MR. CHANIN: Approximately, the same footprint, same type of design?

MR. BRADY: Correct.

MR. CHANIN: And these residences are intended to be single-family homes?

MR. BRADY: Yes.

MR. CHANIN: Is there any intent now or in the future to use them as rentals for more than one family?

MR. BRADY: No.

MR. CHANIN: Just because I'm the lucky guy who gets to write these things up, would it be fair to refer to the proposed subdivision as a subdivision into lots one, two and three, is that fair?

MR. BRADY: I'm sorry?

MR. CHANIN: If I write a decision, can I refer to the three proposed lots as lot number one, lot number two and lot number three?

MR. BRADY: Yes.

MR. CHANIN: Is it correct to say with respect to lot number one you're looking for a lot width variance of 32 feet for lots one and lot number two and 32.2 feet for lot number three, is that correct?

MR. BRADY: Yes.

MR. CHANIN: Okay, and is it also correct that with respect to the side yard setback requirements which the code requires be 40 feet that for lots one and two you are proposing 32.2 or, I'm sorry, what's the side yard setback variance that they're requesting?

MR. BRADY: It's 30 and 60 total or 30 and 30.

MR. CHANIN: Well, for each individual lot one, two and three?

MR. BRADY: They're all the same.

MR. CHANIN: That's what, 30, 30 and 30?

MR. BRADY: Correct.

MR. CHANIN: So you need a 10 foot variance for each?

MR. BRADY: Yes.

MR. CHANIN: Okay, and lastly, the total, the limit is 80 and you're going to provide 60 so you need a variance of 20, is that correct?

MR. BRADY: Yes.

MR. CHANIN: Gentlemen? You want to open the public hearing unless the board has any questions?

MR. SCHEIBLE: Just a question, I'm looking at pictures that we're looking up the road, we really don't see what's towards the back here of the lots and my question is how much, you know, are there, is there quite a bit of tree growth in there that and are we going to save some of that tree growth?

MR. BRADY: I said--

MR. SCHEIBLE: Without destroying large size trees, I can't see it according to the picture because we're only looking at, you know, Bethlehem Road but there is, Mr. Fayo, is there good sized tree growth on these lots

except for where the house is going to be, the houses?

MR. FAYO: Yes, and that will remain intact.

MR. SCHEIBLE: That's my question.

MR. FAYO: Except for the house, driveway and septic area.

MR. SCHEIBLE: Takes a long time to grow these again.

MR. BEDETTI: What's driving three houses there, are these houses spec houses, are they sold?

MR. FAYO: They're spec.

MR. BEDETTI: What's driving three? In other words, if you made two lots, you can probably have adequate width, you'd be able to meet the code for the R-1 zone, is that correct?

MR. BRADY: Well, we had several lot layouts for the planning board and one of them was by right where we could achieve the three lots with a private road so we could develop it as three lots by right. However, with the private road, we have some environmental impacts and it would be with the character of the neighborhood, if you look at the tax map you can see that if we put in a private road you'd have houses in back yards and other people's back yards, whereas the configuration the planning board thought that that was the best configuration on the property.

MR. BEDETTI: That's if you held firm to three houses?

MR. BRADY: Yes.

MR. BEDETTI: You could build two houses and meet the code all the way around?

MR. BRADY: You can build one and meet code, yes.

MR. BEDETTI: You could build two and the road would only be required if you were to take one of the houses and put it in the back someplace, is that correct?

MR. BRADY: Yes, how you'd actually have the turn, if you turn lot one inward and lot three inward and push lot two to the back so you'd come up the middle of lot two.

MR. BEDETTI: So that's if you insist on having three houses you'd need the road if it wasn't like this and if you did subdivide it only into two parcels then you'd meet the code all the way around, is that correct?

MR. BRADY: That's correct.

MR. BEDETTI: I'm good.

MR. CHANIN: Are there any other questions at this point from the board? We'll open the public hearing. The way that the public hearing is conducted is members of the public can come up to the front of the room and address the board with any questions or concerns they might have, just come on up one at a time, there's a sign-up sheet I believe on the table in front of Mr. Fayó, so if you'd be good enough to sign your name on the sign-up sheet on the table, say your name nice and clear.

MR. TOLL: Michael Toll. Can you explain to us what R-1 and R-3 means so that we can understand what you're saying because we're not builders?

MR. CHANIN: Well, in brief, the preface R means residential and the number means that there are different zones that are restricted to residential use. But there can be variances, what kind and the number and nature of residences there are just in general just to give you a very--

MR. TOLL: Does R-1 mean five are lot? Does R-3 mean one acre lot? Does, I mean, how big is the zoning for the property?

MR. CHANIN: I'll have to refer you to the Town Code but they're, they're not that big. What do we have in the town, Cammy, one acre lots?

MRS. AMMIRATI: Zone 1 is 40,000 square feet and then it goes up to zone 4 is 60,000 with buildable 40,000.

MR. CHANIN: Town Code has all the specifications. Do you have a question or a comment about this specific application?

MR. TOLL: No, just wanted to know, you know, as I thought two acre zoning was changed years ago to two

acre zoning, that's what I was just wondering. And just we'd like to know, you know, when you're mentioning these numbers, I don't have an idea, you know, cause if I repair your car I say something, you ask me, I'd just like to know.

MR. CHANIN: You're entitled to know, it's a very good question. The answer is that the Town Code is a public document, it's available to everybody and I believe that it's online.

MR. TOLL: I don't have a computer, don't have a television, don't have a house phone.

MR. CHANIN: You and every other citizen have the perfect right under the law to come visit Town Hall during working hours, visit the building department and ask them if you can have a look at the hard copy.

MR. TOLL: Well, just didn't understand when you're saying R-1 just need to be, just knew what we're talking about.

MR. CHANIN: Just in general just for your information and for everyone's general information, the way it works very briefly is this. The town board who are the elected officials who govern the town pass the laws including a zoning ordinance and the zoning ordinance lays out the plan for the town, going to have commercial over here, residential over here, industrial over here so that people's quality of life isn't affected by having residences next to a factory. The town board passes that ordinance. When somebody wants to build something, they have to get a building permit from the town building inspector so we know that the building is being built according to safety and other code provisions. If the building department tells the person that they need to get their site plan approved which is this, they go to the planning board and if the building inspector or the planning board determines that the plan does not in all ways comply with the Town Code which was adopted by the town board then that person has a choice, they can either change their plans so it complies or they can come to the Zoning Board of Appeals. Why is it called the Zoning Board of Appeals is because this process stems from the denial of the person's right to build and the way that they can succeed if they appeal that denial is if this board grants them a variance which means they're allowed to vary from the provisions of the Town Code. The last

thing I will tell you about it is that the standards that this board and every other zoning board in the entire State of New York uses to determine whether or not a particular applicant should or should not be granted a variance are the same throughout the whole state. They're not criteria that we use in New Windsor that nobody else uses. They're criteria that are in a state law that apply to all variances granted everywhere.

MR. TOLL: Okay.

MR. CHANIN: So when an applicant comes here for a variance, this board employs those legal standards to determine and also takes into account and you heard the questions we've been asking and also takes into account whether or not in balancing the two sides whether the variance should be granted because the variance is the minimum required to comply with the Town Code and won't have a devastating impact on the neighborhood or whether this board thinks that it would have a significant negative impact and they deny the variance.

MR. TOLL: Okay.

MR. CHANIN: Would you agree with that summation, Mr. Brady?

MR. BRADY: Yes, sir.

MR. BEDETTI: My I may just make a comment? This proposal is actually in an R-1 zone. Based on the application in the R-1 zone it's required that the gross area be 60,000 square feet and each of the three proposed lots meet that 60,000 square feet.

MR. TOLL: Okay, yeah.

MR. BEDETTI: So I wanted to make that clear.

MR. TOLL: I just didn't know the size or whatever.

MR. BEDETTI: You mentioned zone three which is on the back side, whether that's relevant or not the fact is it's in an R-1 zone, that's what we're applying the standard to.

MR. TOLL: Okay, just didn't know what sizes were whatever so just wanted to ask so I knew through conversation.

MR. BEDETTI: Just so happens that the front is a little bit narrower but it's a deep lot.

MR. TOLL: It's my back yard.

MR. BEDETTI: You know it better than I.

MR. CHANIN: The applications that people make to the town board, to the planning board and to the zoning board are all public documents. So if you want to come in and inspect them during working hours here in town hall you're welcome to do that.

MR. TOLL: Okay, no problem, thank you for clarifying.

MR. CHANIN: Any other people wishing to speak at the public hearing? Hearing none, we can close the public hearing if the board is so willing, does the board have any other questions?

MR. BEDETTI: I just have one question then, they know the lots better than I do, what do you see as the impact of the side yard being smaller than required, what kind of impact might you expect with the neighbors, anything?

MR. BRADY: Well, our neighbor to the south is actually the utility company that transfer station is to the south so actually no residential neighbor to the south and to the east we abut the Windmere Trailer Park and we're very far from probably 400 feet from that property line. So the only neighbor that would be impacted would be the corner lot of now and formally Simon Wilkinson and if you have been out there, their driveway would be just to the east of our driveway on lot one so really wouldn't be, you know, we're not pushing a house up against them.

MR. BEDETTI: Driveway next to driveway is that what you're talking about?

MR. BRADY: Yes, yes.

MR. BEDETTI: I'm good.

MR. CHANIN: Any other questions? I'm going to ask our wonderful planning secretary Cammy to tell us about the mailings.

MRS. AMMIRATI: On the 15th day of April 2014, I compared 27 addressed envelopes containing the public hearing notice with no responses.

MR. CHANIN: Board members, any other questions? Anybody want to make a motion?

MR. BEDETTI: I'll make a motion that we grant the variances as requested by Classic Home Builders for three subdivided lots located at 248 Bethlehem Road in an R-1 zone.

MR. TORPEY: I'll second that.

ROLL CALL

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

MR. CHANIN: And board members, we don't have any decisions or any other business to approve so unless anybody wants to conduct any other business, motion to adjourn?

MR. HAMEL: So moved.

MR. TORPEY: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth
Stenographer