

TOWN OF NEW WINDSOR

ZONING BOARD

March 23, 2015

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

ALTERNATE:               GREGORY BIASOTTI

ALSO PRESENT:   GEOFFREY CHANIN, ESQ.  
                              ZONING BOARD ATTORNEY

                              CAMMY AMMIRATI  
                              ZONING BOARD SECRETARY

MEETING AGENDA:

1.   Randacciu
2.   119 Caesar's Lane
3.   Pierre Belle (14-27)
4.   Pierre Belle (14-28)
5.   Pierre Belle (14-29)

**REGULAR MEETING:**

MR. KANE:   I'd like to call the Town of New Windsor  
Zoning Board of Appeals regular session for March 23,  
2015 to order.

APPROVAL OF MINUTES DATED 2/23/15

MR. KANE:   Motion to accept the minutes of 2/23/15  
meeting as written, they were sent 2/27/15 by e-mail.

MR. BEDETTI:   So moved.

MR. SCHEIBLE:   Second it.

ROLL CALL

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

PRELIMINARY MEETINGS:

ANTHONY & JENNIFER RANDACCIU (15-02)

MR. KANE: First on tonight's agenda, excuse me if I mess up your names, Anthony and Jennifer Randacciu. An area variance of 24 feet 6 inches requested for a side yard setback for proposed attached garage addition located at 12 Clarkview Road in an R-4 zone. For those of you that have not been here in New Windsor, what we do is we hold two hearings. One is a preliminary meeting so we can get a general idea of what you want to do, make sure that you have all the information and then by law we're required to hold a public hearing which will go basically the same way, except the public is part of that particular hearing. Other towns don't do that, you don't come in with the right information, you lose, you can't come back for six months. So we opted to go for a two step process. So come on up here, tell us exactly what you want to do, speak loud enough for that young lady over there to hear you and in your own words tell us what you'd like to do.

MR. RANDACCIU: Okay, I'd like to add a garage to my house.

MR. KANE: Please state your name for the record.

MR. RANDACCIU: Anthony Randacciu, 12 Clarkview Road, New Windsor, New York.

MR. KANE: In the building of the proposed garage, cutting down substantial trees and vegetation?

MR. RANDACCIU: No trees whatsoever.

MR. KANE: Creating any water hazards or runoff?

MR. RANDACCIU: None whatsoever.

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

MR. RANDACCIU: You're going to have to be specific what that means, I'm sorry.

MR. KANE: Is there any right-of-ways, an easement going through your property in that area?

MR. RANDACCIU: No.

MR. KANE: And by adding the garage to the home, does that keep the home similar in size and nature to other homes in your development?

MR. RANDACCIU: Yes.

MR. KANE: I see you have provided some pictures for that.

MR. RANDACCIU: Yes, I provided some pictures of comparable homes right in my block, actually similar addition.

MR. SCHEIBLE: You're on, heading towards 207 you'd be on the right-hand side on Clarkview?

MR. RANDACCIU: If you're coming from Union, you make the right, I'm on the left so the houses that I'm showing are actually on--

MR. SCHEIBLE: They're all on the left?

MR. RANDACCIU: Correct, one house is between us.

(Whereupon, Mr. Chanin entered the room.)

MR. KANE: Further questions from the board?

MR. BEDETTI: You have an existing garage?

MR. RANDACCIU: I do not, the garages that come into all those houses was turned into a family room prior to me moving in.

MR. BEDETTI: This proposal is for totally new garage for two cars?

MR. RANDACCIU: That's correct.

MR. KANE: Any further questions?

MR. SCHEIBLE: I see that the, I just want to ask to make sure I'm looking at it correctly, as you come off of Clarkview, you'll be on this map here, don't see like where the garage doors are so that would be going straight into when you come off of Clarkview and you have to put a new driveway in there?

MR. RANDACCIU: I'm going to have to widen my driveway,

I already have a permit.

MR. SCHEIBLE: Two garage doors?

MR. RANDACCIU: One garage door.

MR. SCHEIBLE: Just one?

MR. RANDACCIU: Correct.

MR. KANE: Further questions? Seeing as there's none, I'll accept a motion to set up for a public hearing.

MR. BEDETTI: I'll make a motion we schedule a public hearing for Anthony and Jennifer Randacciu for a garage, new proposed garage located at 12 Clarkview Road in an R-4 zone.

MR. TORPEY: I'll second that.

ROLL CALL

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

MR. KANE: More paperwork, there's always paperwork, so just follow those right there and if you have any questions, give Cam a call in the office.

MR. RANDACCIU: Is this the meeting that's set up?

MR. KANE: Just follow the directions that's on there and give Cam a call if you have any questions, okay?

MR. RANDACCIU: Thank you.

MR. KANE: You're welcome.

PUBLIC HEARINGS:

119 CAESAR'S LANE, LLC (15-01)

MR. KANE: First public hearing 119 Caesar's Lane, LLC, proposed addition of 54 percent expansion where 30 percent is permitted. A variance of 34 percent is requested. Located at 119 Caesar's Lane. Referred by the planning board. Good evening.

MR. DOUGHERTY: Good evening.

MR. KANE: Same as the prelim, name, address, your intent.

MR. DOUGHERTY: Paul Dougherty III Esq., 65 Route 4 East, River Edge, New Jersey 07661. With me to my right is the architect, John Gilcrist, we represent the applicant, 119 Caesar's Lane, LLC. This is a request of the zoning board for an area variance with respect to the truck terminal located at 119 Caesar's Lane, New Windsor. It's located at section 37, block 1, lot 35.1. The proposed expansion is 54 percent expansion of a pre-existing, non-conforming use as the trucking terminal and Mr. Gilcrist can take the board through the particulars.

MR. GILCRIST: I'm John Gilcrist, the architect, my office is in Montvale, New Jersey. The existing building on the site is a truck terminal, it's not a permitted use in the NC neighborhood commerce zone. We're proposing to build an addition on the truck terminal, a non-conforming use may be expanded in New Windsor up to 30 percent, we're proposing an expansion in excess of 30 percent, 54 percent. The building, the property is just under four acres, it's located on Caesar's Lane just off of 9W. I added a little color to my site plan, the green indicates the extent of the property, the blue area is presently paved, the hatched is the one story warehouse, the different hatched is our one story addition.

MR. KANE: Let me just get a couple questions that I have to ask even though it's obvious. Not cutting down any trees or substantial vegetation?

MR. GILCRIST: No.

MR. KANE: Not creating water hazards or runoffs?

MR. GILCRIST: Not increasing the runoff at all.

MR. KANE: There are no easements running through the proposed building area?

MR. GILCRIST: No.

MR. KANE: Okay, and also the ground as you've previously said is already paved?

MR. GILCRIST: It's paved, yes.

MR. KANE: So there's no issue with developmental coverage on the property?

MR. GILCRIST: No, there's no increase in coverage.

MR. KANE: Alright, thank you.

MR. GILCRIST: The, we're adding 12 new truck dock doors, were losing I think four so the net increase is eight. That's about it, it's a simple, one story addition.

MR. KANE: Let the record show this is not visible from the road.

MR. GILCRIST: It's not very visible.

MR. TORPEY: You'd never know it's there.

MR. GILCRIST: You'd never know it's there.

MR. KANE: Open it up to the board for questions, gentlemen?

MR. SCHEIBLE: That's the, this road that goes straight out to the end of Caesar's Lane and how far away from 9W is that?

MR. GILCRIST: This road?

MR. SCHEIBLE: Yes.

MR. KANE: That's up a bit.

MR. TORPEY: Quarter mile.

MR. KANE: You can see it on that lower map.

MR. GILCRIST: You know, it's, I would say it's 500 feet.

MR. SCHEIBLE: The road is used for ingress?

MR. GILCRIST: Yes, this is our ingress egress for the site across our neighbor's property, it's not on our property, that's the way it is.

MR. SCHEIBLE: It's not on your property?

MR. GILCRIST: No, we have an easement across our neighbor's property for that driveway.

MR. TORPEY: Seven hundred feet.

MR. SCHEIBLE: Approximately how wide is the driveway? I'm thinking about two trucks going against each other.

MR. GILCRIST: It's in operation now.

MR. KANE: They've been in operation for a lot of years.

MR. SCHEIBLE: Now we're going to be adding more traffic, I'm just curious.

MR. KANE: That's not under our jurisdiction.

MR. SCHEIBLE: You're right but I'd like to know.

MR. GILCRIST: I don't know how wide it is.

MR. GILCRIST: I'd guess it's 20 feet.

MR. TORPEY: It's a double wide.

MR. GILCRIST: Yes, it's two lanes.

MR. DOUGHERTY: We have Mr. Young is in the audience, he's a representative of the tenant, JP Express, he said the two trucks can get by one another.

MR. KANE: Further questions?

MR. BEDETTI: Just to the left of the extension there what's in that green area, anything, I can't tell?

MR. GILCRIST: Woods, just woods.

MR. BEDETTI: I couldn't tell.

MR. GILCRIST: There's a fence around the area, everything else outside the fence is woods.

MR. BEDETTI: I didn't know how close you were to a neighbor, that's all.

MR. DOUGHERTY: In connection with the application we did have the tenant take pictures which were forwarded on to the board, there really is not much around this property, it's all industrial uses, it's a sewage plant to the west and a boat dealership to the east.

MR. KANE: Further questions at this time? If not at this point I'll open it up to the public, ask if there's anybody in the audience for this particular hearing? Seeing as there's not, we'll bring it back to Cam and ask how many mailings we had?

MRS. AMMIRATI: On the third day of March 2015, I compared four addressed envelopes containing the public hearing notice with no responses.

MR. KANE: We'll bring it back to the board for any further questions. No further questions, I'll accept a motion.

MR. HAMEL: I'll make a motion that we grant 119 Caesar's Lane, LLC the variances as requested for the four percent.

MR. TORPEY: I'll second that.

ROLL CALL

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

MR. KANE: Thank you, have a good evening.

MR. DOUGHERTY: Thank you very much.

PIERRE BELLE (14-27)

MR. KANE: Tonight's next public hearing Pierre Belle variances. First one would be variances of 4.04 acres for gross minimum lot area, 49.1 feet for required rear yard and 190 square foot for livable minimum area located at 6 Belle Court in an R-5 zone. For anybody, let me just check, just save you a little bit of time, if you wish to speak I just need your name and address, it's for the stenographer. Okay, all set, Mr. Bloom?

MR. BLOOM: Thank you, Mr. Kane. Good evening, my name is Dan Bloom and I represent the applicant, Pierre Belle, this evening on these requests for area variances for three distinct lots in his subdivision located on Belle Court. And specifically we're speaking about property located at 6 Belle Court, 10 Belle Court and 14 Belle Court. And before I start with your permission, Mr. Chairman, I'd like to give a little history about this project because this project has probably everyone here knows does have a history and for the benefit of the public I want them to be aware as well. The first building on this property was built by my client, Pierre Belle, back in 1988. It was built with a building permit and ultimately Certificate of Occupancy for a two family. In approximately two years later, he built the second house on Belle Court, again building permit for two units, two residential units and Certificate of Occupancy ultimately issued for the two and then finally in 1991 he built the third unit again building permit for two residential units, C.O. for two residential units. Approximately six months to a year later, he became aware that he could not carry these units with just two families living in them given the economy at the time. He panicked and instead of doing things the way they should have been done in 1991, he didn't come back to this board, he didn't come back to the planning board, instead he just took the basements that he had originally built to be utilized as storage space on each of these properties and just basically built two more units in each structure. So they became four family units with C.O.s for a two family. Shortly thereafter, they became assessed as four family units and ever since 1991 my client has paid taxes on four family units to the present date, albeit they were illegal from that date forward. My client attempted on numerous occasions to obtain variances, use variances denied, appeals denied, spent thousands of dollars in the process. In an act of hopeful redemption, the town ultimately changed the

zoning on this property and now these units are legal four families. In the course of doing that, the bulk tables which were associated with that change in zoning related in violations of the setbacks and square footage, specifically square footage on most of these lots. And for that reason, we're here this evening. And on that issue, first of all, I would like to give a little bit of background and indicate that my client is not your normal tenant, not your normal landlord. First of all, he lives in this neighborhood, has always lived there, basically he lives at 2 Belle Court and so he's on top of all these units and he keeps them in good condition. And his tenants appreciate it and in fact, he appreciates good tenants that take care of his property, so in most instances he has very long term tenants there whose rents he's never increased. And in support of his application with your permission I'd like to hand up letters in support of the application from various tenants in the property. My client has also prepared at my request and I'd like to also submit to the board an affidavit of the enhancements that he's made to this property prior to bringing this application, specifically he has spent in excess of \$20,000 to bring all of the units in these buildings up to code. Now they're not up to code because there's no building permit and so there can't be a code inspection. However, the code enforcement officer has done the walk-through, is totally satisfied with the upgrades and in fact he made upgrades to the units that were pre-existing that he didn't have to make upgrades so he made them to everything. In addition, he's going before the planning board, if this board grants his application here, he's going to go back to the planning board for further approvals and further tweaking of the site plan and contemplated in that review is a blacktopping perhaps of the driveway which could cost another \$75,000 but he's prepared to do it. This is his chance at redemption, so to speak, after all these years and he wants to do it right. With respect to whether or not the variance is substantially in many cases as indicated on the map, for example, lot 12.22 we're looking for, he's looking for a variance of 4.04 acres and a rear yard variance of 49.1 feet and minimum livable area of 190 square feet in each unit. On lot 12.23, looking for 4.27 acres on minimum area and 47.9 feet on the minimum rear yard and 136 square feet on each unit, I believe it's a little bit blurred on my copy. And on lot 12.24, 2.67 acres and eight square feet on the top units and 136 square feet on the bottom units. Now, substantial though they may be, I

think they have to be considered in context and the context I suggest is that these buildings look like two families, they have always looked like two families, they have never looked like four families. And so although they don't conform to the code in terms of bulk compliance looking at them they're aesthetically pleasing and they don't appear to be larger than a standard two family. Respectfully submitted if the board grants the applications it will not change the neighborhood, it will not adversely impact the neighborhood in terms of its appearance, its environmental impact, these buildings have been in place now for in excess of 20 years. It's town water, town sewer and that having been said my client is here this evening as I say seeking this board's indulgence one more time, hopefully for the last time and hopefully he will be able to move on with his life.

MR. CHANIN: Mr. Bloom, quick question, you mentioned that the town changed the zoning ordinance at some point in the past which made the four unit dwellings in compliance with the new town code as it was amended but it was the bulk tables that resulted. Do you know when that statutory change took place approximately?

MR. BLOOM: I want to say approximately, certainly within the past year I would say.

MR. CHANIN: Recently?

MR. BLOOM: Very recently.

MR. CHANIN: We'll say within the last two years, that would be fair?

MR. BLOOM: No, definitely, this is very recent.

MR. CHANIN: Thank you.

MR. KANE: Questions from the board?

MR. BEDETTI: I have a question, are all three units or all three buildings currently fully occupied with four families in each one?

MR. BLOOM: I believe they are and in fact the affidavit I submitted to the chairman indicates the names of the tenants in each of the buildings and I submitted the affidavit to indicate the duration of the tenancy. It's quite extraordinary, I mean, there are

very few places from my experience as an attorney where I see tenants who have been there 18 years, 12 years, eight years, six years, that's quite unusual. And it usually is a reflection of a very caring landlord. I believe one of the tenants here is over 25 years and that one I believe is a vet, retired veteran's wife survivor and he's never raised her rent in 25 years.

MR. BEDETTI: Now Belle Court, is that a private road or is that town road?

MR. BLOOM: Belle Court, that's a private road and will require a maintenance agreement according to the site plan will have to be filed.

MR. KANE: Further questions? Okay, at this point then what we'll do is we're going to open it up to the public. I'm going to start off by stating that we have received two letters in the mail from neighbors and one is pretty substantial from a Mr. William Sarvis and we have another letter from six different property owners, Susan Rockafellow, Newburgh, New York, Mary Vesely, Cynthia Lombard, Joseph Vomund, Stanley Vesely, Barbara Stacchinni, I'm sorry if you're here, but all adamantly against it. They're pretty in-depth letters, the one question I will actually get to after the public portion. Anybody that wrote these letters here in the audience today? Okay, you'll get a chance to speak. So in lieu of me reading the whole thing I'll let you come up and state your positions one at a time, just please state your name, address, okay and speak loud enough for that young lady over there to hear you.

MS. ROCKAFELLOW: Good evening, I'm Susan Rockafellow, my family owns the 26 acres that abuts up to Belle Court. We did write our letter and our concerns really are about what was mentioned in your minutes from your last meeting about the drainage and when it was mentioned that there was a french drain that comes into, comes off of Belle Court and it ends up going into a swamp, well, that piece we're talking about is our property. And I don't necessarily know, I do have a map here but I don't know exactly where the french drain comes from this where it is but when you start mentioning this property here we do have a considerable amount of wetlands that has been put in by the environmental, DEC has put that forth. So our concern is certainly that the drainage of that that would be coming off of Belle Court, unfortunately we were not aware and at this time it's very difficult to get into

the property to see if where it's coming in, if there's a drain, swale, whatever and how it's impacting. My other real concern is the fact that I did take a ride and I wanted to see exactly what was here and I have to say I was rather surprised, aesthetically pleasing, I'm afraid I can't agree, it's a dirt road, it's all rutted, it's not well upkept (sic.), I'm sorry. I found that along the preliminary parts in the front on Mt. Airy Road going into Belle Court there's a tremendous amount of firewood and just buildup, I found I could see that there were oil tanks that were out there, there was excavating, like I could see from another point of view, not on Belle Court but off of Mt. Airy Road that there's dump trucks and other construction vehicles there. So I see it on your map here that you also make reference to the fact that there's going to be a shared commercial access. I guess I question what is that that piece that is here, this here, yes, because you do make mention of it over here as a shared access agreement to be filed on the lots shown. So my question is what else is being foreseen on here other than just these units? And I'm concerned with the fact that I'm amazed that you've had people living there for 25 years, 18 years and living there that long, I just, that's all I can say is I was rather surprised by that statement. But my concern is also when I could see on, from Mt. Airy, from Moores Hill Road right along here, right up against the back end of this there's a, that's where all the construction vehicles are, they say Belle Construction on them, I can see that from the road. So what is this, what is it? Is there commercial stuff going on there as well? That's a, you know, that's not being addressed here so there are some real concerns I guess for me to let this go forward.

MR. KANE: Okay, thank you very much. Any comments on the commercial portion as stated on the drawing why a commercial easement would need to be there with the residential?

MR. BLOOM: What I would suggest is there, certainly I can appreciate the concern if there's runoff, drainage problems, legitimate concerns. But my client, assuming this board approves this application, is going to the planning board, the planning board will definitely have to deal with any of those issues concerning drainage, swales, runoff, et cetera and my client fully anticipates being prepared to respond to those concerns. Now, in terms of what else is going on

there, I mean, there's nothing else going on there, outside of the fact my client does have excavating equipment and he utilizes it obviously in his, for his own personal use as well as maintaining this property. This is a private road, it's not a blacktop, but it may be and he's anticipating he probably will have to blacktop it if requested to do so by the planning board as a condition of his final site plan approval. And I would assume that if that's the case the planning board will adequately address the legitimate concerns of Miss Rockafellow concerning drainage and runoff, et cetera.

MR. TORPEY: This is just a variance, right?

MR. KANE: What's that?

MR. TORPEY: This is just a variance?

MR. KANE: Yes, substantial, and I know his new lease is to be nice but the track record isn't great as far as I'm concerned. I was here for the '95 meeting, you know I've been around that long, this is just a lot of time to get things straightened up, 20 odd years later we're going to be good boys and it's got to be proven to me. But that's just my own personal thoughts. We have some more public to speak, if you wish.

MR. SARVIS: Ladies and gentlemen, my name is William Sarvis, I live at Moores Hill Road number 167, it would be southwest of the Belle property. And I would like to say I agree with everything Mrs. Rockafellow has just stated, the property is an eyesore, it was illegal when it was done 20 years ago, it doesn't look any better now. And my facts are well-stated in the letter I gave to you and if you could read that I would appreciate it.

MR. KANE: Yes, I've gone through it.

MR. SARVIS: Okay, can that be read?

MR. KANE: Yes, I'll do that.

MR. SARVIS: Okay, thank you, sir.

MR. KANE: You're quite welcome. So this is the letter from Mr. Sarvis addressed to the Town of New Windsor Zoning Board of Appeals, attention Michael Kane, Chairman, dated March 20, 2015, re: ZBA applications 14-27, 14-28, 14-28. "To Whom it May Concern: I will

be unable to attend the public hearing for the above-referenced project which is scheduled March 23, 2015. I understand that the owner is requesting multiple variances to allow three separate four-family unit dwellings on three individual adjoining building lots. The lots consist of number six, number 10 and number 14 Belle Court which is a private road off of Mt. Airy Road. I would like to request that that application be denied for the following reasons. I believe the original parcel was subdivided by Pierre P. Belle into separate parcels to build single-family homes. In 1986, the town board amended the zoning to an R-3 zone which allowed two-family homes with municipal services. In 1995, a variance was attempted to convert each of these homes into three separate four-family units. This was denied on October 23, 1995, see attached minutes from that meeting. Based on the minutes from the current preliminary meeting on January 12, 2015, Mr. Bloom states they have been there since 1987, the first building was built in 1987, the second in '89, the third in '91. They have been four families ever since then and have been taxed as four families ever since then. This appears to be a blatant disregard for the Town of New Windsor's codes and boards that were approached about this matter. Also, tax property description cards indicate these properties to be two-family residences which are taxed as two-family residences per the town assessor." And let it note that there are copies of those in this packet. "Additional to the above, Mr. Bloom states that he has spent a small fortune in upgrading each of these buildings to code and they are all at code and they're ready for certificates of occupancy conditioned obviously upon the approval of this board for these variances. So after being denied in 1995, the owner went ahead and did the improvements at his own risk without any permits. Because these permits would not have been issued without the approval of this board to allow four-family units. Were there any inspections completed during all of these improvements, electrical, insulation, general construction practices, et cetera and were there any fire separations as required between floors or units? Regarding the minimum lot area needed for multi-family in an R-5 zone five acres, number six has .73 acres which will require 4.27 acres variance, an 85 percent variance. Number 10 has .96 acres which while require 4.04 acre variance which is an 81 percent variance. Number 14 has 1.2 acres which will require 3.8 acre variance for 76 variance. These percentages are clearly a major variance when this owner was the

same one who subdivided the original property knowing that only single-family homes would be allowed and then took it upon himself to change them at his own cost and now expects the board to accept this as not being a self-created hardship. Regarding the minimum livable area needed for multi-family homes in an R-5 zone, 1,000 square foot per unit, number six has 1,560 square feet per upstairs, simply cut in half as 780 square feet per unit will require 220 square feet per unit. Number six has 1,560 square feet per downstairs, simply cut in half is 780 square feet per unit will require 220 square feet per unit. Number six to sum up requires 4,000 square feet and has 3,120 square feet and will require a 22 percent variance. Number 10 has 2,200 square feet per upstairs, simply cut in half is 1,100 square feet per unit will require no additional. Number 10 has 1,792 square feet per downstairs, simply cut in half is 896 square feet per unit will require 104 square feet per unit. Number 10 to sum up requires 2,000 square feet and has 1,792 square feet and will require a 10 percent variance." And number 14 to sum up requires 2,000 square feet has 1,984 square feet and will require one percent variance. "These square footages taken from the county site, see attached, this information doesn't seem to match what the applicant has proposed and is going for. The applicant has shown numbers that he is requesting a variance for. Are these for each unit or for each of the individual buildings? Regarding central water and central sewer as needed for multi-family in an R-5 zone per the current bulk table regulations. Number six and number 10 appear to be tied into the town sewer system. Number 14 as per the town department has private sewer and well. This is not allowed as per the town bulk tables and I'm not sure if a variance can even be given for this issue. If this is actually going to be considered with all the above-listed major variances which would be required, I would say ask that at a minimum a landscape or fence type of buffer be installed to separate this property from the adjoining single-family residences and also along the back yard where it is clearly visible from Moores Hill Road. Also, please remember that this is going to set a precedent for others who subdivided their property into single-family building lots build what they want and know they can come back 25 years later to make them legal but get all the benefits of rental income for all those years without paying town taxes for them. I would ask to have this read into the minutes at the zoning board meeting, unfortunately I may not be able

to attend. Thanks for your consideration of this request. William Sarvis."

MR. SARVIS: Thank you.

MR. KANE: He follows that up with all the copies of the tax papers, copies of the ZBA meeting from 1995 and our prelim meeting, so all of that is in this particular package. Anybody else in the public care to speak? Going once. Seeing that there's nobody else, we'll bring it back to Cam and ask Cam how many mailings we had.

MRS. AMMIRATI: For 6 Belle Court on the 12th day of February 2015, I compared 20 self-addressed stamped envelopes. For 10 Belle Court on the 12th day of February 2015, I compared 13 stamped envelopes and for 14 Belle Court on the 12th of February 2015, I compared 10 addressed envelopes all containing the public notices with no responses. Well, actually two responses, excuse me.

MR. KANE: We'll then close the public portion and bring it back to the board for further questions?

MR. TORPEY: Mike, they've been taxing him?

MR. KANE: According to these statements that are in here, you know that I can go by these that were just presented that property has two-family residential site, property has two-family residential, one two-family, two family, two family, all three of them are listed with the assessor as two family, have been I would gather because of that they have been taxed that, I don't know, I can only go by the papers in front of me.

MR. CHANIN: Counsel said when he was making his presentation that these have been consistently taxed and paid as four-family units, is that not right, Mr. Bloom?

MR. BLOOM: I did not personally verify that but I did discuss that with my client as well as with Mike and I will personally verify that. But it's my understanding that it was, the classification remained the same but that he paid taxes on four families since 1991. My client was very clear on that and I would agree with you that if I had been misrepresented to, I want the board to know that and I will get to the bottom of it.

MR. KANE: I've known you for a long time. Further questions?

MR. BEDETTI: I have a question.

MR. CHANIN: Is that an argument for or against?

MR. BEDETTI: I have a comment based on the--

MR. CHANIN: I'm sorry, I couldn't resist.

MR. BEDETTI: Comment based on the assessments. My understanding that the taxes are based on the assessed valuation of the building and not necessarily on how many units are in the building the assessment is?

MR. BLOOM: Correct.

MR. BEDETTI: You can have a two family, you can have a luxurious two unit apartment that's significantly more higher assessment than a four-family unit. And my, in my conversations with the assessor, I was left with the impression that the taxes were based on the value of the structure itself, not how many units are in it.

MR. KANE: Okay.

MR. CHANIN: If I can just provide some legal guidance to the board. Certainly the board has the right to take into consideration the good welfare of the town. The zoning board of appeals in every town in the State of New York is a creature of statute and boards are supposed to either grant or withhold from granting applications for variances based on a very, very specific set of criteria. So while you can take into account the good character and the good faith of the applicant, whether or not taxes are current is not one of those criteria. Is that fair, counsel?

MR. BLOOM: Yes.

MR. TORPEY: It wasn't about the taxes being paid, it's about the town's changing him and he's paying.

MR. CHANIN: It's a fair topic for discussion but it's not a criterion that the board uses in granting or withholding from approval of an application.

MR. TORPEY: Going on 20 years.

MR. CHANIN: Then that's something that should be brought to the attention of the town but not the zoning board except in the most general way. Is that fair, counsel?

MR. BLOOM: That's fair.

MR. KANE: Further questions?

MR. HAMEL: There was a question I had all dwellings have sewer system but I thought I heard in the letter that some of the apartments are not connected to the main sewer and have well water.

MR. KANE: One of the lots is on a private well, private septic, I guess.

MR. BLOOM: I wasn't aware of that.

MR. BABCOCK: According to the survey they're all connected.

MR. BLOOM: They're all connected.

MR. TORPEY: Probably from years ago.

MR. BABCOCK: It may have been.

MR. CHANIN: One at a time because the stenographer has to hear you and take down what you're saying, so if the applicant with Mr. Bloom's permission has an answer to the question asked by the board member you may say it and provide us with the information. But please do it so the stenographer can capture your words.

MR. BABCOCK: Sure.

MR. CHANIN: Did your question get answered?

MR. TORPEY: Yes.

MR. KANE: Any further questions?

MR. SCHEIBLE: It seems that a lot of the information that we've been listening to I'm glad that we did hear, you know, what the problems seem to be throughout that, a lot of this has got to be forwarded on to the planning board now so a lot of the discussion here tonight is actually planning board.

MR. KANE: Good amount of it, yes.

MR. BLOOM: For example, and by the way, I think the suggestion the gentleman made before about a buffer zone is a perfectly legitimate suggestion. It seems to be, would be more appropriately addressed to the planning board and the planning board is in my opinion in a better position both expertise wise and jurisdictionally wise to issue those types of restrictions and directions.

MR. KANE: Further questions?

MR. CHANIN: Jurisdictionally perhaps but I put the expertise of my board members second to none.

MR. BLOOM: I didn't mean to challenge anybody in this room.

MR. KANE: Further question?

MR. BEDETTI: I have another question, are we considering these all individually or--

MR. KANE: We'll get to that after, I mean, the discussion is the same on each lot, so we might as well discuss them all on the one thing and we'll vote on them separately.

MR. CHANIN: In terms of parliamentary procedure, the answer to your question is that when more than one item is subject to the vote of a body, any one member has the right to ask that any particular item can be separated out. You can vote on them collectively as long as there are no objections from any board member, you don't need a majority, only one person has to object and that person has the right to separate out any of the items for a separate vote.

MR. KANE: We'll handle that when we go to vote.

MR. BEDETTI: Okay.

MR. KANE: Any other questions? All set, then I'll accept a motion.

MR. CHANIN: If you want to, unless there's an objection, somebody can move to approve all three collectively, but if any one of you does not want to do

that then you should vote on them separately.

MR. TORPEY: I would hit them all at one time.

MR. CHANIN: Your motion is to approve as submitted the three applications for a collective vote, is that your motion?

MR. TORPEY: Yes.

MR. HAMEL: Second it.

MR. CHANIN; Any objection?

MR. BLOOM: None, sir.

MR. KANE: I'll accept a motion.

MR. CHANIN: You've got a motion and second to approve all three collectively.

MR. KANE: That's the motion to accept the variances as listed for all three locations.

MR. CHANIN: Motion's made and seconded. Roll call.

ROLL CALL

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

MR. KANE: Approved four to one. So we'll pass this on to the planning board and make an application for that, keep an eye on it, I think that they, unlike us, they're not required if I remember correctly to have everything in the public hearing so make that notification, just make some phone calls if you want.

MR. CHANIN: She's got the paperwork, Cammy has the paperwork.

MRS. AMMIRATI: I don't have any because nothing was sent, they haven't gone to a planning board meeting so they need to make application to the planning board.

MR. KANE: Does he need for being approved for the variance that paperwork?

MRS. AMMIRATI: I don't know, I would get in touch with Mark Edsall, see what the next step would be.

MR. CHANIN: Let him know that this board approved all three and I'll get these out, these decisions out this week. They'll have to approve the decisions at their next meeting which is April 13. So my decisions won't be approved until after April 13 but these will be done.

MR. BEDETTI: We just voted on whether we would consider these as a single application?

MR. KANE: We have a misunderstanding.

MR. BEDETTI: Yes, we just voted on would we consider this as one vote which we just did, which we just did and there was one objection, that's our chairman so that means we need to vote on each one of these?

MR. CHANIN: No, no, no, the motion before the board as I understood it was to approve all three, the vote to approve all three was approved by a vote of four in favor and one against. So each one of these applications has been approved by a vote of four to one.

MR. TORPEY: Instead of doing separately.

MRS. AMMIRATI: They misunderstood what they were voting for.

MR. KANE: We have to back up, hold on.

MR. BEDETTI: Yes, we've got to back up.

MR. KANE: Your understanding we were voting whether we were going to vote--

MR. BEDETTI: When we proceeded through this and through counsel's explanation that if there was one objection doing this collectively we had to vote.

MR. CHANIN: Alright then given that there's been one objection we'll vote on each one of them separately. So what you need is a motion to approve the application on application number.

MR. TORPEY: How can we do that?

MR. CHANIN: The vote of four to one was whether or not to vote collectively or not and since one person voted no so that you cannot vote collectively you must vote on each one separately. So the first one is a motion to approve application number 14-27, 6 Belle Court, we need a motion to approve and a second.

MR. BEDETTI: I'll make a motion we approve the variance as requested on 14-27 for 6 Belle Court in an R-5 zone.

MR. TORPEY: Second it.

ROLL CALL

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

MR. CHANIN: That was approved three to two. Now we need a motion to approve for application number 14-28, 10 Belle Court, need a motion and a second.

MR. SCHEIBLE: I'll make a motion to approve Pierre Belle 14-28 variance seeking 4.27 acres with a rear yard and 136 for minimum lot livable area located at 10 Belle Court in an R-5 zone.

MR. HAMEL: Second it.

ROLL CALL

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

MR. CHANIN: Lastly, we need a motion to approve the application number 14-29 for 14 Belle Court, is there a motion?

MR. HAMEL: I'll make a motion that we grant the Belle variance of the 2.67 acres.

MR. TORPEY: Second it.

ROLL CALL

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

MR. CHANIN: Approved three to two, no paperwork so what we told you before still stands.

MR. KANE: Sorry for the confusion there.

FORMAL DECISIONS:

1. VERA PORATH (14-30)

MR. KANE: We have a formal decision to accept. I'll accept a motion on that.

MR. BEDETTI: I'll make a motion that we accept a formal decision for Vera Porath identified as 14-30 as submitted by e-mail and distributed by e-mail.

MR. HAMEL: I'll second it.

ROLL CALL

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

DISCUSSION

MR. KANE: One other thing, guys, I guess at the next meeting since we've postponed so many meetings we really need to take care of business about vote for chairman and Cam and all that stuff. So unless we can take care of that next meeting we've got to do it so just, we haven't had any meetings. So motion to adjourn?

MR. BEDETTI: So moved.

MR. SCHEIBLE: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth  
Stenographer