

TOWN OF NEW WINDSOR

ZONING BOARD

May 23, 2016

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

ALTERNATE: GREGORY BIASOTTI

ALSO PRESENT: GEOFFREY CHANIN, ESQ.
 ZONING BOARD ATTORNEY

 STEPHANIE RODRIGUEZ
 ZONING BOARD SECRETARY

MEETING AGENDA:

1. Amend
2. Matthew Granata

REGULAR MEETING:

MR. KANE: I'd like to call the Town of New Windsor Zoning Board of Appeals regular session for May 23, 2016 to order.

APPROVAL OF MINUTES DATED 5/9/16

MR. KANE: Motion to accept the minutes of the 5/9/16 meeting as written.

MR. BEDETTI: So moved.

MR. HAMEL: Second it.

ROLL CALL

MR. SCHEIBLE AYE

May 23, 2016

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

PRELIMINARY MEETINGS:

AMEND (16-10)

MR. KANE: Tonight's first and only preliminary meeting is Amend, 16-10. An interpretation is requested to permit proposed apartment above an existing garage. Located at 111 Toleman Road in an R-3 zone. Mr. Amend? So tell us in your own words exactly what you want to do.

MR. AMEND: How we doing today? Good evening everybody. Basically, we live over at the end of Toleman Road right on the outskirts of Washingtonville, New Windsor, there's a couple of farms through there and so on and so forth. And a couple years ago we spruced the building up because the garage was falling down and we made a garage because it was, there was issues with it and so on that we came to do and we would like to put a garage or I'm sorry an apartment above the garage to live in.

MR. KANE: Okay, and your intent is that a single family is going to living in it, you intend to rent it out?

MR. AMEND: My intention is to live in it, my brother and I own the property together.

MR. KANE: That apartment is going to be on the same gas and electric as the home?

MR. AMEND: Yes.

MR. KANE: Difficult part on this is that basically you're going to have two one-family dwellings as it's looking in a zone, an R-3 zone which only allows single-family homes, you can only have one single-family home per lot. And with putting that detached on it, that technically becomes another single-family home. So it wouldn't be any kind of, in my mind's eye it wouldn't be any kind of an area variance for that. It basically would be a use variance. And a use variance is extremely difficult. Also there's five rules from New York State that we have to apply to that question. And the first one which would pretty much I'm sure knock you out of the box is that you would have to prove to this board that you cannot sell that property for a reasonable return, which does not mean make a profit, it just means a

reasonable return for its intended use which is a single-family home.

MR. AMEND: So you're saying you want me to prove to you that I can't sell it for more money?

MR. KANE: Not more money, just you can't sell it as a single-family home. So you want to change the use of the zoning in that area, it's a very difficult thing to do, extremely difficult. The other portions of that, the other four questions are is it a self-created hardship? Yes, boom, you know, so there's just, I just don't see how a use variance would go. I will open it up, guys, what do you think? That's the way I see it but I don't see any other variance, an area variance that would do that in any way.

MR. TORPEY: What about like a mother-daughter?

MR. KANE: When you have two separate buildings that are going out then it becomes another living space, it's not an apartment that's mother-daughter where you have the second kitchen all on the same electric.

MR. TORPEY: Even though it's family?

MR. KANE: Doesn't matter, it's a separate building. If it was a building that was attached.

MR. AMEND: If I tied it together that would be--

MR. KANE: I don't know, we'd have to sit and determine that and talk to the building department too, that's something maybe if you can sit down and tell them, I don't know every rule, you know, by heart, I have to go and research.

MR. TORPEY: How about splitting the house in half?

MR. AMEND: What do you mean?

MR. TORPEY: He has to be in the house and you're going to be in the garage?

MR. AMEND: Yes.

MR. TORPEY: What if you split the house in half?

MR. AMEND: I mean it's a pretty small house.

MR. KANE: That's the issue, how far is the garage from the main house?

MR. AMEND: Ten feet, it's not far. It's my understanding of the R-3 zone was that it had to be, I understand it does have to be connected or it has to be above or in the same area so that's why I was hoping to be able to because it is so close that we would be able to work something out.

MR. KANE: There's no connection, you know, that we can't bend, we can adjust it for the right thing but there's no variance I can give to you that works that out, not that I can see.

MR. BEDETTI: The only other consideration that we'd normally make if there was some real unusual hardship and unless you can voice some unusual hardship besides the rules that he just stated, you know, you have to show that, you know, you have some real unusual hardship.

MR. AMEND: Basically, what had happened was I needed a place, our intentions were not to have to do this, it was, our intentions were to make it storage but I ran into some issues with family and things had changed for us, my wife and I had to move in there kind of abruptly.

MR. TORPEY: How much property is there?

MR. AMEND: Two acres.

MR. TORPEY: You can't even break that up and put two separate houses?

MR. AMEND: Yeah, I mean--

MR. KANE: You could, the zoning now is one acre per house, there would be variances if that building is close to the ten.

MR. TORPEY: Build your own garage with an apartment above it, make your own driveway.

MR. KANE: Yeah, the issue is the two separate buildings the way I see it on there, I see no way of us getting around that, believe me, we try to work with people as much as we can.

MR. AMEND: I understand you guys do have a very nice reputation.

MR. KANE: I can't think of anything, I really don't see how a use variance gets by, I just don't. I mean, with an area variance with this board we have some leeway on what we can do and decide for extreme situations and we can do that. When it comes to a use variance it's dictated by New York State, those rules are solid, the zoning is put in place to change the zoning, the use in a specific zone, it's very stringent, very hard to get by. In the 20 odd years that I've been doing this, I only know one that's gone through, that was a very unique situation in Ducktown. There was an old industrial building that was rat infested, didn't fit the neighborhood and everything there is a mish-mash of all kinds of stuff, all kinds of property around it and you could not sell that particular building for any kind of industrial use. Nobody will use it, it's too small going into the current zoning and nobody would use it for a single-family home. It was a brick cement building that was falling apart. The money came in to show what it would cost to tear that down and build a single-family home which is ridiculous. Basically what the guy did he turned it into a funeral home which worked. Every neighbor came out because he cleaned up the property and the area so it was a totally unusual situation with an unusual piece of property that just couldn't be done any other way. So use variances are very tough.

MR AMEND: I mean, you know.

MR. KANE: My best advice to you is honestly is to speak to a lawyer that knows zoning and see what they can come up with. And then if you would make an application for something specific with that we would address that at that point. I just can't think of anything else.

MR. AMEND: I mean, you know, if there's anything that you guys can do, you know, we tried to spruce up the property over there, you know.

MR. KANE: Again, I have no objection in putting this to a public hearing if that's what you want to do going through this but I'm just being very honest.

MR. AMEND: What would that entail?

MR. KANE: You coming in and doing a public hearing, all our decisions have to be made in a public hearing, we use a prelim so we can have these kinds of discussions, make sure that you have the information we need to make a good decision and for us to let you know what we need. In other towns you walk in, you get one shot at it, if you're not ready, you lose, you can't come back for six months. So we do a two step process. So the public hearing would be very similar to this going on except that at that point all your neighbors would be notified and they would come in to say their yeah, nay, whatever their opinion is and we would vote on it. But you'd have to pay, you pay the stenographer for every page she writes, you'd have to pay for all the mailings to all your neighbors, probably talking a couple hundred dollars going out of your pocket and I don't usually say this but I just don't--

MR. AMEND: You're saying my neighbors would probably say no?

MR. KANE: I'm not saying your neighbors are going to say no. I don't know if you'd get three votes. Your neighbors don't have a choice, they can come in and express an opinion. The five days, the guys in front of you are the guys that decide. I've been working with them for a number of years, I just don't see any way.

MR. AMEND: It's for my family, it's not for me to resell.

MR. KANE: It's state law, we can't.

MR. TORPEY: Maybe you can figure something out with the building department.

MR. KANE: Maybe you can work with them, find out some way to connect that, makes sense and is legal, and something we can address at that point.

MR. CHANIN: It's good advice to just go find a local attorney who knows zoning, one time only consultation fee, probably not more than \$250 and say this is what I want to do, this is what they told me at the zoning board meeting and what do you think.

MR. KANE: I can only give you so much advice.

MR. AMEND: I understand and I appreciate it, I do.

MR. KANE: I think that's your best bet is to see what they can come up with. Also maybe spend some time, go down talk to Jen, show her the plans, see what kind of plans she thinks may come up that will work on two acres of land.

MR. AMEND: Okay.

MR. KANE: Thank you.

MR. AMEND: Thank you guys, appreciate it. Alright, have a good day.

MR. KANE: Have a good evening.

PUBLIC HEARINGS

MATTHEW GRANATA (16-09)

MR. KANE: Tonight's first and only public hearing Matthew Granata. A variance is requested to permit a proposed 12' x 24 detached garage to be installed in the unapproved area between the house and the street. Located at 524 Beattie Road in an R-1 zone. Alright, in your own words just like the prelim tell us exactly what you want to do.

MR. GRANATA: Sure, let me just get my notes. So this is a, I know it's worded a garage but we spoke last time, it's actually a prefabricated shed delivered in one shot deal on compressed Item 4 gravel. It will be 173 feet from the road and 42 feet from my nearest neighbor Mr. Catalla. I chose this area because it will be the less amount of vegetation that will have to be cut down or disturbed, will not disturb any wetlands, no drainage issues in that area, it's a, you know, it's level ground, not diverting any water issues.

MR. KANE: You're not going to leave me any questions here.

MR. GRANATA: I'm not changing the landscape, I chose this area out of convenience. If you look at the survey of the property there is a lot of rock walls and mature oak trees around the property. This is the most convenient spot right off the driveway for the garage to open up to have access for this snowblowers, kids' toys.

MR. KANE: We've covered the vegetation and the water, no easements going through that particular area?

MR. GRANATA: No, sir.

MR. KANE: And it's 107?

MR. GRANATA: It's 173 feet.

MR. KANE: So 173 feet from the road, really not visible from the road?

MR. GRANATA: Correct.

MR. KANE: Not going to inhibit the view of traffic in

your area?

MR. GRANATA: Right, and still be vegetation and mature trees blocking it from the road.

MR. KANE: You stated in the preliminary hearing that you had no intentions of putting any electric or power going to this shed?

MR. GRANATA: No, sir. Also it's going to match the house exactly, vinyl siding, the black roof, the shutters, the doors.

MR. KANE: Of course, you're married, it's got to match.

MR. GRANATA: So everything is going to match, no expenses are going to be spared here.

MR. KANE: At this point, I'll close it and open it up to the public, ask if anybody is here for this particular hearing? Seeing nobody out in the audience at all, we'll close the public portion of the meeting and bring it back to Stephanie for how many mailings.

MS. RODRIGUEZ: On the 10th day of May 2016, I compared 15 addressed envelopes containing public hearing notice, sent them out and received no response.

MR. KANE: I'll open it back up to the board for any further questions?

MR. BEDETTI: I'm good.

MR. KANE: No questions, I'll accept a motion.

MR. HAMEL: I'll make a motion that we grant the variance as requested to Matthew Granata for the 12 foot by 24 foot detached garage.

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: You're all set, sir, next step, there's always a next step, there you go. Any further questions, give Steph a call.

MR. GRANATA: Thank you very much, gentlemen, have a great evening.

FORMAL DECISIONS

1. Gysel Giglio

MR. KANE: Formal decisions, we have one formal decision, Gysel Giglio, 16-07.

MR. BEDETTI: I'll make a motion that we accept the formal decision identified as Gysel Giglio identified as 16-07 that's been issued and published by e-mail.

MR. TORPEY: Second it.

ROLL CALL

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

MR. KANE: So everybody knows this year June there will not be a meeting, we'll have one meeting on the 13th, the meeting on the 27th is going to be canceled. Geoff can't be with us. We have nothing on the schedule so we're going to shut that down. 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