

(Time noted: 7:00 PM)
February 23, 2006

WILLIAM HILDRETH – SPOONER SUBDIVISION

CHAIRPERSON CARDONE: I would like to call the meeting of the ZBA to order. The first order of business is a public hearing schedule for today. The procedure of the Board is that the applicant will be called upon to step forward, state his request and explain why it should be granted. The Board may then ask the applicant any questions they have. Members of the public will then be invited to ask questions or make comments. The Board may adjourn to confer with counsel after the public hearings have been completed. We will then try to render a decision this evening, however we have up to sixty-two days to render a decision.

Chairperson Cardone: Our first order of business, would the Secretary please call the roll.

Ms. Gennarelli: Thank you.

ROLL CALL TAKEN
PRESENT ARE:

GRACE CARDONE
RUTH EATON
RONALD HUGHES
JOHN MCKELVEY
ROBERT KUNKEL
JAMES MANLEY

CAROLYN MARTINI, ESQ.
BETTY GENNARELLI, ZBA SECRETARY

Chairperson Cardone: Our first applicant this evening is William Hildreth for the Spooner Subdivision. Would you please give the mailing receipts to the Secretary.

SPOONER SUBDIVISION-
WILLIAM HILDRETH

296/298 LAKESIDE ROAD (50-1-49) R-3 ZONE

WILLIAM HILDRETH – SPOONER SUBDIVISION

Applicant is seeking to subdivide property with two houses on it, into a two-lot subdivision.

Area variances for existing lot with two houses into two (2) lot subdivision, variances for lot width, side yard setback and accessory building setbacks are required.

The proposed lot widths: 55.5' & 62.5' (85' required); side yard: 4.3' (15' required); accessory bldg: 3.9 (5' required).

All mailings were in order.

William B. Hildreth, L.S. represented the applicant Donna L. Spooner at the hearing.

Mr. Hildreth: My name is William Hildreth. I am the land surveyor that prepared the subdivision plan that we are looking at and I am representing the applicant Donna Spooner for this public hearing.

Mr. Hildreth stated that the proposal is for a two lot subdivision of a piece of property on the east side of Lakeside Road, about 800' north of Gardnertown Road and its directly across the street from the apartment building, for those of you familiar with the area. The applicant recently inherited the property through a will. The previous owner purchased the property in 1942. The parcel consists of just under an acre, .96 acres; it's improved by two single family residences all on one lot, which were in place at the time of the 1942 purchase. The applicant wishes to sell the houses individually, which necessitates the subdivision. The new subdivision line will follow an existing fence that runs between the two yards, which has divided the properties for years. It makes sense to do that. However, there are some zone bulk regulations, which this sub division must comply with, which is why the Planning Board has referred us to the Zoning Board of Appeals. Those area variances consist of lot width – the requirements 85', one of the lots will be 55.5' which is about 2/3 of the requirement, the other one will be 62.5' which is about 3/4 of the requirement. The side yard requirement is a minimum of 15' with a total of 30'. One of the lots will have a 13.9' side yard. That's a pre-existing condition, which is not changed or altered or affected by this. Another lot has 4.3' side yard, which is a result of this sub division application. That 4.3' variance is the most substantial of the ones we are asking for. There is also the habitable floor area requirement of 900 sq ft. One of the lots is sub standard as it exists, its 686 which is about 3/4's. One of the garages as a result of this sub division will have a setback of 3.9', the requirements is 5' for an accessory building. Again, we are providing about 3/4's of the requirement. Those are the variances we need. The practical difficulty in this case arises from the unique use, which is two residences on one lot, as well as the fixed sized and shape of the property. The applicant has no other means by which to sub divide the lots other than what we've shown. If the variance is granted and the sub division is approved the non-conforming use of two residences on

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one lot would be removed and you would end up with two individual lots. With respect to the impact on the neighborhood and the everything OK, lets what we have here is a situation that is not unique to this area because of the age of the homes and the size of the lots. Up and down that road including the adjoining lots on either side, there

are similar conditions that exist with respect to non-conformance of lot width and setbacks. So it's not something that is unusual to the neighborhood. Both of the lots have municipal water hooked up and there are no improvements required or proposed as part of this subdivision. So there will be absolutely no visual or environmental change to the neighborhood at all as a result of this. OK, that's it. The big point I'd like to stress here is this is not an unusual situation in this neighborhood. I, in fact, myself live on Lakeside Road and have for almost 30 years. It's very common.

Chairperson Cardone: Do we have questions from the Board?

Mr. Hughes: Are they connected to sewer also?

Mr. Hildreth: Yes, they are, sewer and water, both.

Chairperson Cardone: Do we have any other questions from the Board?

Mr. Manley: Is the property going to be sold once the properties are sub divided?

Mr. Hildreth: Yes, the person who inherited this does not desire to live there or keep it. They don't want to be landlords. Prior to this they had been rental units. They want to sell. The best thing, I think it's a win, win for the Town and the applicant, the best thing to do is to be able to sell individually. To sell them together would be limiting the market. You have a non-conforming use, which would be eliminated. It makes sense to me.

Mr. Manley: Has the applicant looked into that possibility, selling it as one piece and perhaps having somebody ... ?

Mr. Hildreth: I don't know if they have gone to the point of comparing numbers. So, maybe the answer to your question is no. But, I haven't had active conversations with them in that regard either. They came to me; they wanted to sell them individually. This is the plan that resulted. They do have an Attorney who is on board. He was not ... It was his opinion that we should proceed with this and see what happened.

Chairperson Cardone: Any other questions? Any questions or comments from the public? If so, please stand; state your name and address.

There being none I declare this part of the hearing closed. Thank you.

(Time noted: 7:07 P.M.)

WILLIAM HILDRETH – SPOONER SUBDIVISION

(Resumption for decision: 8:08 P.M.)

Chairperson Cardone: The Board is resuming its regular meeting. On our first application, William Hildreth – Spooner Subdivision on Lakeside Road, requesting an area variance for the existing lot with two houses into a two-lot subdivision. Variances for the lot width, the side yard setback and the accessory building setbacks. This is a Type II action under SEQRA. Do we have discussion on this application?

Mr. Manley: I would like to point out that presently we have one non conforming lot and if the variance is granted it's going to become two non conforming lots in the future. I think perhaps the applicant may be able to achieve a benefit from the property by using another feasible means. Perhaps selling it as one complete unit and letting it continue as one non-conforming lot.

Mr. Hughes: I have to agree. To cut it down into two 60' wide lots is going to make another problem if they knock those houses down, they will be back here to build another house with all kinds of problems. I don't agree with approving lots that make a further non-conformance.

Chairperson Cardone: I have to say I don't agree with what you are saying. I feel that it would be of more benefit to the community if it were sold as two separate houses so that you have two separate owners coming in to improve both lots.

Mr. McKelvey: I agree with that too.

Mr. Kunkel: And I agree with the Chairpersons viewpoint also. However,

Chairperson Cardone: I have a concern with something like this; you have two houses there on one lot. I have a concern with one owner and then turning it into a rental property. I think that, in my opinion it would be best to have it sold as two separate lots with two separate individuals.

Mr. McKelvey: I think we have to look at somebody buying it from out of town and being rental property, we would have a problem there too.

Chairperson Cardone: Do I have a motion for approval for this application?

Mr. McKelvey: I will move for approval.

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Mr. Kunkel: I will second.

Chairperson Cardone: We have a motion and a second for an approval on this

application. I think we will do a roll call vote.

Ms. Gennarelli: OK

Grace Cardone: Yes

Ruth Eaton: Yes

Ronald Hughes: No

John McKelvey: Yes

Robert Kunkel: Yes

James Manley: No

Chairperson Cardone: So it's 4/2, the motion is carried.

(Time noted: 8:12 P.M.)

(Time noted: 7:08 P.M.)
February 23, 2006

LEON A. ORZECOWSKI
122 LAKESIDE ROAD
(47-1-31.1&31.2) ZONE R-2

Applicant is seeking to subdivide property with one existing (front yard setback non-conforming) single family dwelling into a three-lot subdivision.

An area variance for the front yard setback will be required due to the loss of protection of the existing non-complying front yard setback upon subdivision.

All mailings were in order.

Chairperson Cardone: Our next applicant is Leon Orzechowski.

Mr. Orzechowski: Good Evening. I am requesting a front yard setback variance for the home that I presently live in now. In 1987, I bought this property, a house with 1.7 acres. In 1988, Vincent Doce created a two-lot subdivision for me. My thought at that time was to build a two-family house on the sub divided parcel for my two daughters. That never came about, so, now I am thinking... Last month I went before the Town of Newburgh Planning Board and I asked for a three-lot subdivision. My house is on 7/10 of an acre, and two one half acre lots, serviced by Town water and septic system. In going before the Town of Newburgh Planning Board, I had a Mr. Zimmerman, Zimmerman Engineering of Harriman represent me. He did all the necessary maps and perk tests and things like that. After we had completed our presentation, in front of the Town of Newburgh Planning Board, it was brought to my attention that my house, although my house is 70 years old, doesn't conform to the front yard setback of 40 feet. My house is presently 33 feet back from Lakeside Road. 40 feet is the requirement of the zoning now. But, I really had nothing to do about building this house 70 years ago. So, I have to just take it the way it is now. In talking with the Planning Board, at that meeting last month, they said if I were able to get the variance for the front yard set back, I could go back to the Planning Board, next month in March, and they would grant me preliminary sub division approval subject to getting this variance for my front yard set back for my house. Then I could come back next month and they will give me preliminary sub division approval. Then I have to do certain other things and then go back in another couple of months to get final approval. But, that's essentially what I am asking for is a front yard setback on my house that's existing. My house is like I said 70 years old, can't do much about that.

Chairperson Cardone: Any questions from the Board?

Mr. Hughes: That's the only one variance that you are asking for on the entire project?

LEON ORZECHOWSKI

Mr. Orzechowski: Yes

Ms. Eaton: The property that you are sub dividing has perk tests and all of that been done?

Mr. Orzechowski: Yes, that's been done.

Ms. Eaton: It's a very wet area.

Mr. Orzechowski: Pardon?

Ms. Eaton: It's a very wet area.

Mr. Orzechowski: Wet area? No, there is no wet lands on my property.

Mrs. Orzechowski: It passed all the perk tests and.

Mr. Orzechowski: I had the perk tests done by Zimmerman Engineering.

Ms. Eaton: Last time I went by it, it looked like it was very wet.

Mr. Mc Kelvey: That is only when it rains, that its there, I go by there a lot, there is a lot of water under the

Mr. Orzechowski: What's happening is Patlake Holding Company owns 35 acres around me. They are higher than my property. So when Patlake is here and I am here, their water drains on to me. But I plan to handle that, if I build the two houses there or what I do. I'll put a retaining wall or something like that to block Patlake's water from coming on to me or put a drainpipe. One or the other, because they are higher than I am lower, so,

Mr. Mc Kelvey: I know you do a lot of work on the property because when I go by there I've seen you do it all the time.

Mr. Orzechowski: Yeah.

Ms. Eaton: Do you have to put more fill in there?

Mr. Orzechowski: Pardon?

Ms Eaton: Do you have to put more fill on those other two lots?

LEON ORZECHOWSKI

Mr. Orzechowski: Well, what will happen is, there is little dips like this. I mow the grass now, its all nice and mowed and everything, but, there is little dips so when the water goes in there that lays there. But, when you build, you'll get a bulldozer and that will out slope that property. All my property will be sloped. I have a drainage ditch between where my house is and where the two lots will be.

Ms. Eaton: Hmm Hmm.

Mr. Orzechowski: And, it's oh maybe two feet lower than the property.

Ms Eaton: Yes, I am seeing that.

Mr. Orzechowski: Once the bulldozer comes in, you are going to bring topsoil in, it's got to be nice, and you have to plant grass. So, you put in like lets say 12 inches of topsoil here and you feather it down to 6 inches here. So you keep the elevation going this way to help the water go into that drainage ditch. I am fortunate that I have that ditch there.

Ms. Eaton: Thank you.

Mr. Orzechowski: And that's what happens. From front to back the property is higher, but going towards Lakeside Road it goes this way.

Ms. Eaton: It goes down. It does level out somewhat here.

Mr. Orzechowski: Yes, like I said, there is little dips. I mow the grass all year, but like now when it's wet – raining and snowing and everything it's wet. But once you start doing something then you get the bulldozer, you level it out and you take care of it. It has to be taken care of . I don't have to do it right now, because all I do is mow the grass. But once you start building its got to be beautiful.

Ms. Eaton: Thank you.

Mr. Hughes: Just so the public knows, each and every member of the Board, that rules on what we review, goes out to the site and inspects everything around it.

Mrs. Orzechowski: They go out to the site and inspect everything around it.

Mr. Hughes: So we are very familiar with all of the plot.

Mr. Orzechowski: Yeah, yeah, I met this lady at the site the other day.

LEON A. ORZECOWSKI

Mr. Manley: Mr. Orzechowski, if you would, is any of the lot that you are going to be developing wooded right now? Because when I was there ...

Mr. Orzechowski: It's all grass. It's all grass.

Mr. Manley: So the entire grass area is the

Mr. Orzechowski: There are maybe 15 trees that I keep, that I kept, you know nice trees.

Mr. Manley: Well it goes from, pretty much I don't want to say vacant land but, cleared land to woods. Your property stops at the wooded area?

Mr. Orzechowski: All my property is mow able. I mow every inch of my grass that is my property.

Mr. Manley: But I guess what I am asking is

Mr. Orzechowski: But I am not mowing somebody else's property.

Mr. Manley: Is that the property that you are going to be developing? Everything that has been mowed?

Mr. Orzechowski: Everything that has been mowed from front to back.

Mr. Manley: I am just trying to get an idea of the size of the lots.

Mr. Orzechowski: Patlake surrounds me on two sides. Patlake Holding Company has about 35 acres.

Ms. Eaton: On Lakeside Road and ?

Mr. Orzechowski: Yes exactly on Lakeside and Patton. All the woods all the way around me is Patlake Holding Company. And then whatever I have is all grass.

Ms. Eaton: So, you don't go back up to that little street that comes off of Patton, I think it is, called Wandering Lane?

Mr. Orzechowski: I only have like 440 foot frontage on Patton and about 2, 210, 220 on Lakeside. 200 on Lakeside and 440 on Patton Road. No roads have ... And, there is a stone wall, it's an old, old stone wall that bounds me on the two sides. Because it was a dairy farm years and years ago.

Ms. Eaton: Scotts, Mrs. Scott lived there

LEON A. ORZECHOWSKI

Mr. Orzechowski: Exactly the Scott Farm, Mr. Scott when he passed away, it was his son that I bought it from his son in 1987. You knew the Scott's?

Ms. Eaton: He was a Teacher, I believe, a substitute Teacher. Right Ron?

Mr. Hughes: Yep

Chairperson Cardone: Do we have any other questions from the Board? Do we have any questions or comments from the public? If not, I declare this part of the hearing closed. Thank you.

(Time noted: 7:15 P.M.)

(Resumption for decision: 8:12 P.M.)

Chairperson Cardone: On the application of Leon Orzechowski at 122 Lakeside Road seeking an area variance for the front yard setback. This is a Type II action under SEQRA. Do we have discussion on this application?

Mr. McKelvey: Since the house has been there since for 75 years, I don't think we are going to make him tear it down. It's just for the front yard set back and that hasn't been a problem.

Chairperson Cardone: Do we have a motion for approval on this application?

Mr. McKelvey: I'll make a motion for it to be approved.

Mr. Kunkel: I'll second.

Mr. Manley: I would just like to add another comment for the record. The applicant is only looking for one variance for this particular site and it's only 14 feet. The required set back is 40 feet, that's 25.97. So, it's actually 14.03 feet.

Mr. McKelvey: Well it's been that way for years.

Chairperson Cardone: OK, we will have a roll call vote.

LEON A. ORZECOWSKI

Ms. Gennarelli: Grace Cardone: Yes

Ruth Eaton: Yes

Ronald Hughes: Yes

John McKelvey: Yes

Robert Kunkel: Yes

James Manley: Yes

Chairperson Cardone: The motion is carried.

(Time noted: 8:14 P.M.)

(Time noted: 7:16 P.M.)

February 23, 2006

BEVEAR & PATRICIA ROOT
9 MAJESTIC COURT
NEWBURGH, NY

RE: 31 MONARCH DRIVE (103-2-14)
ZONE R-2

Applicant is applying to keep an already built accessory apartment.

A use variance would be required to keep an accessory apartment.

All mailings were in order.

Mr. Root stated he was here for an accessory apt approval for a home that he had purchased in 2004 and that his two sons presently live in the house. Although, the real estate agent told him that it was a mother daughter and they did not advise him that he needed a special use permit to keep the accessory apartment. He said he has invested a lot of money into the home, has it well kept and is willing to deed the house over to his sons. He was here to fix the problem.

The Board advised him that the special use permit does not automatically turn over to the new owners. They must reapply for it. Also, that he needed to live in the premises as part of the requirements of the code which there are many. If he deeded the house to his sons, they would be obligated to apply to the Zoning Board for a variance as well as adhere to all the other requirements including the apartment needed to be a maximum 25% of the total square footage, fire separation walls, etc.

The neighbors stated that they were concerned about an absent landlord. People have come and gone since he owned the house. That there had been problems in the past with tenants, people very loud “partying” on the deck, using filthy language, possibly illicit behavior, trash on property, cars parked all over the street.

The Board advised them if there was illicit behavior taking place that they should contact the Town of Newburgh Police Dept.

Mr. Root stated that many of the things that he heard, from the neighbors, were new to him. They had been renters and he cleaned up the place after they were gone and that now his sons were living there. The apartment was already there, he had only done cosmetics to the house - siding, windows, doors, and he has improved the property.

BEVEAR & PATRICIA ROOT

The Board and the Board Attorney advised him to get a copy of the code for Accessory Apartments and go over it with his sons, before he deeded it to them. They must reapply for the accessory apartment and there are no guarantees. They must meet all the requirements. This house is legally considered a single-family

(Time noted: 7:45 P.M.)

(Resumption for decision: 8:16 P.M.)

Chairperson Cardone: On the application of Bevear and Patricia Root at 310 Monarch Drive, seeking a variance to keep an already existing accessory apartment. Do we have discussion on this application?

Mr. McKelvey: Since he doesn't live there, we can't grant approval on that accessory apartment.

Chairperson Cardone: That is exactly true.

Mr. Kunkel: I will move for a disapproval.

Mr. Manley: I'll second.

Chairperson Cardone: We have a motion for disapproval on this application. All those in favor of disapproval

Mr. Kunkel: Aye

Mr. Hughes: Aye

Mr. Manley: Aye

Ms Eaton: Aye

Mr. McKelvey: Aye

Chairperson Cardone: Opposed? (No response) Motion for disapproval is carried.
(Time noted: 8:17 P.M.)

(Time noted: 8:17 P.M.)

Chairperson Cardone: Everyone has the minutes to last months meeting, do we have an additions, deletions, corrections?

Mr. McKelvey: I didn't see any.

Ms. Eaton: I didn't see any either.

Chairperson Cardone: Do I have a motion to approve the minutes?

Mr. McKelvey: I'll make a motion to approve the minutes.

Chairperson Cardone: Do I have a second?

Ms. Eaton: I will second.

Chairperson Cardone: All those in favor, please say Aye.

Mr. Hughes: Aye

Mr. McKelvey: Aye

Mr. Manley: Aye

Mr. Kunkel: Aye

Chairperson Cardone: Opposed? (No response) That motion is carried. Do we have any further business?

Mr. Manley: Was there anything with respect to the memo that we received from the Town Attorney with regard to the zoning changes that we needed to

Chairperson Cardone: Right, I have not received anything from any of the Board members. We are running close to the time limit on that. Everybody has that memo? If you any comments, please get them to me in writing or please get them to the Board Secretary in writing, so that we can refer them back to the Town Board. Any further business?

(No response) If not, I declare this part of the hearing closed. Thank you.

(Time noted: 8:19 P.M.)

OTHER BOARD BUSINESS (Time noted: 8:17 P.M.)

Chairperson Cardone: Everyone has the minutes to last months meeting, do we have an additions, deletions, corrections?

Mr. McKelvey: I didn't see any.

Ms. Eaton: I didn't see any either.

Chairperson Cardone: Do I have a motion to approve the minutes?

Mr. McKelvey: I'll make a motion to approve the minutes.

Chairperson Cardone: Do I have a second?

Ms. Eaton: I will second.

Chairperson Cardone: All those in favor, please say Aye.

Mr. Hughes: Aye

Mr. McKelvey: Aye

Mr. Manley: Aye

Mr. Kunkel: Aye

Chairperson Cardone: Opposed? (No response) That motion is carried. Do we have any further business?

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(No response) If not, I declare this part of the hearing closed. Thank you.

(Time noted: 8:19 P.M.)
Submitted by

Betty Gennarelli, Secretary
Zoning Board of Appeals