142369

TOWN OF NEWBURGH: ZONING BOARD OF APPEALS

In the matter of the application of:

WILLIAM LEMUNYAN, JR.

DECISION AND RESOLUTION

for a variance to the side yard and front yard setback requirements of Town Code §185-11, Table of Use and Bulk Requirements, R-3 District.

Tax Map #88-2-15 B.I. File #1040-96

The property which is the subject of this application is located at 12 Fleetwood Drive, Newburgh, New York and is designated on the tax map as Section 88, Block 2, Lot 15. It is located in the R-3 District.

The applicant seeks to construct additions onto his single family home to be used as a "mud room" and a living room. The proposed additions would result in a front yard of 31' and a side yard of 12'.

The applicant's plan requires a variance to the side yard and front yard setback requirements of Town Code §185-11, Table of Use and Bulk Requirements, which require a front yard of 40' and a side yard of 15' for properties improved by single family dwellings in the R-3 District.

A public hearing on the application was scheduled for April 25, 1996 at the Town Hall, 20-26 Union Avenue, Newburgh, New York. Notice of said public hearing, including the subject, date, place

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and time, was duly published and mailed. Proper affidavits of publication and mailing have been received from the applicant.

The public hearing was held on April 25, 1996. The applicant, appeared in person and testified before the Board. The testimony and exhibits at the Public Hearing established that the applicant's home is approximately 36'8" x 24'8". It presently has a front yard of 47' and a side yard of 16'. It is located within a subdivision in which many of the homes have front yards of only 25'.

Because his home is somewhat small, the applicant plans to construct a 16 x 16 living room on the front of the house. The applicant also plans to construct a small vestibule or "mud room" of 4' x 5' on the northerly side of the house.

The Board unanimously determines that the proposed action is a Type II action under SEQRA. The Board determines that this is an application for an area variance and that the criteria which the Board must consider in determining whether or not to grant the variance is the factors set forth in Town Law Section 267-b. In considering the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood and community by such grant, the Board has considered the following five factors.

- 2 -

I. WHETHER AN UNDESIRABLE CHANGE WILL BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES WILL BE CREATED BY GRANTING OF THE VARIANCE?

The modest additions proposed to the applicant's home will have no detrimental impact upon the neighborhood or nearby properties. In fact, the proposed improvements to the applicant's home should enhance the appearance of the property, thereby enhancing the appearance of the neighborhood.

II. WHETHER THE BENEFIT SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY SOME METHOD FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE?

Other than construction of a seven foot addition to the front of the house, it appears that the applicant can make no improvements to his home without a variance of some kind. Given the floor plan of the applicant's home, the addition of a seven foot room on its front would serve no useful purpose. It seems clear that the applicant can effect home improvements only by grant of a variance.

III. WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL?

The applicant seeks a three foot variance for his side yard and a nine foot variance for his front yard. The variances sought are numerically substantial. However, given the neighborhood in which the subject property is located, the Board finds that the effect that grant of the requested variances may have on the neighborhood and nearby properties will not be substantial.

- 3 -

IV. WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD?

Construction of the proposed 4' x 5' "mud room" and 16' x 16' living room will have no adverse effects upon the physical or environmental conditions in the neighborhood.

V. WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED?

The applicant's difficulty is clearly self-created. Notwithstanding that the home was built prior to enactment of the applicable zoning restrictions, the applicant was chargeable with knowledge of those restrictions when he purchased the property. Nevertheless, on the facts of this case the Board declines to give significant emphasis to this consideration.

RESOLUTION

The Board determines that an area variance should be granted under Town Law §267-b and hereby resolves that a variance to the side yard and front yard setback requirements of Town Code §185-11, Table of Use and Bulk Requirements, R-3 District, to permit construct of the proposed "mud room" and a living room resulting in a front yard of 31' and a side yard of 12' is granted. The Board finds that such variance is the minimum variance necessary and adequate to address the circumstances of the case.

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Present and Voting on this decision:

Douglas W. Carle,	AYE
Paul Blanchard,	AYE
Grace Cardone,	AYE
Ruth Eaton,	AYE
Michael Maher,	AYE
Frank Galli	AYE
John McKelvey	AYE

Dated:

May 17, 1996 Newburgh, New York

DOUGLAS (M. CARLE, Chairman Town of Newburgh Zoning Board of Appeals

14 day of fine William Filed in the Town Clerk's Office this 1996.

TOWN CLERK

TOWN OF NEWBURGH

_Crossroads of the Northeast _____

ZONING BOARD OF APPEALS

OLD TOWN HALL 132 GARDNERTOWN ROAD NEWBURGH, NEW YORK 12550

OFFICE OF ZONING BOARD (914) 564-7801 April 25, 1996

LE MUNYAN, WILLIAM J. 12 Fleetwood Drive Section 88, Block 2, Lot 15 Zone R-3

Applicant is seeking to construct a family room and mud room addition on his residence on property located at 12 Fleetwood Drive in the Town of Newburgh.

Applicant cannot meet the side yard setback and front yard setback requirements in an R-3 Zone.

All mailings were in order.

Applicant stated that he wanted to put a family room 16x16 on the front of his residence and also wanted to add a 5x4 mud room on the side of his residence.

Mr. Carle asked why he wanted to make these additions.

Applicant replied that the house was really quite small. The reason why he wanted to put on the mud room was because there was a side entrance and he wanted a place to take off shoes and coats. There really wasn't enough room in the rear of the house to accommodate the 16x16 family room addition.

Mr. Carle asked if he had a drawing done to scale.

Mr. Spiegel, the contractor, who was present at the hearing replied that Cuomo Engineering had a drawing.

Mr. Carle wanted to know what the additions would look like structurally.

Mr. Spiegel stated that it would tie right into the house. There would be a gable roof in the front looking toward the road. The mud room addition would follow the same pitch as the roof. It would also have a gable roof.

Mr. Carle asked if there were any other property available to him.

Applicant replied that there was no property adjacent to his parcel that was available to him.

Mr. McKelvey asked if he could give him a rough idea of where the family room would fit in the photograph of the house.

William J. LeMunyan

Page 2

April 25, 1996

Applicant stated that it would be from the door to the side of the house and the mud room would encompass the whole side porch as it appears in the photograph.

Mr. Carle then asked if there were further questions from the Board or if anyone in the audience had an interest in this application.

There being no reply, Mr. Carle declared this part of the hearing closed.

Submitted by:

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Mary Salantrie, Secretary Zoning Board of Appeals

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APPLICATION TO THE ZONING BOARD OF APPEALS, TOWN OF NEWBURGH

DATED : 4-3-96

TO : THE ZONING BOARD OF APPEALS THE TOWN OF NEWBURGH, NEW YORK 12550

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RESIDING AT NUMBER	12 Fleetwood D	Laireanna ann an an ann an an ann an an an an
	914-564-3887	

HEREBY MAKE APPLICATION TO THE ZONING BOARD OF APPEALS FOR THE FOLLOWING :



1. LOCATION OF THE PROPERTY :

SR-2-15 (TAX MAP DESIGNATION) Fladwood Dr. (STREET ADDRESS) (ZONING DISTRICT)

2. PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

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3. IF VARIANCE TO THE ZONING LAW IS REQUESTED :

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Qualified in Orange County Commission Expires Nov. 18, 199

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