

**TOWN OF NEWBURGH:  
ZONING BOARD OF APPEALS**

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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

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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

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.

**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.

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.

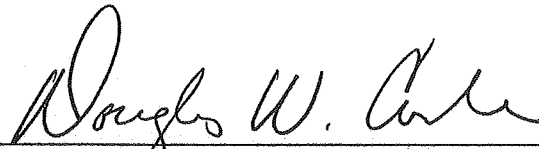
**RESOLUTION**

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.

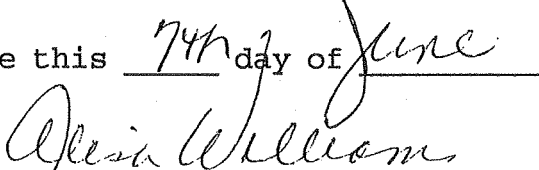
Present and Voting on this decision:

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

  
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 DOUGLAS W. CARLE, Chairman  
 Town of Newburgh Zoning  
 Board of Appeals

Filed in the Town Clerk's Office this 7th day of June,  
1996.

  
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 TOWN CLERK

# TOWN OF NEWBURGH

*Crossroads of the Northeast*

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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.

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:



Mary Salantrie, Secretary  
Zoning Board of Appeals

/ms

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

I (WE) William LeMunyan Jr. PRESENTLY  
RESIDING AT NUMBER 12 Fleetwood Dr.  
TELEPHONE NUMBER 914-564-3887

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

- A USE VARIANCE  
 AN AREA VARIANCE  
 INTERPRETATION OF THE ORDINANCE  
 ACCESSORY APARTMENT

1. LOCATION OF THE PROPERTY :

88-2-15 (TAX MAP DESIGNATION)  
12 Fleetwood Dr. (STREET ADDRESS)  
R-3 (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).

article IV section 30-4-3  
\_\_\_\_\_  
\_\_\_\_\_



3. IF VARIANCE TO THE ZONING LAW IS REQUESTED :

a). APPEAL IS MADE FROM DISAPPROVAL BY THE TOWN BUILDING INSPECTOR OF BUILDING PERMIT APPLICATION. SEE ACCOMPANYING NOTICE DATED :

19 96

OR DENIAL BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD. SEE ACCOMPANYING NOTICE DATED :

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4. DESCRIPTION OF VARIANCE SOUGHT :

2 Area Variances

(A) Front yard and (B) side yard

5. IF A USE VARIANCE IS REQUESTED : STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT :

a). UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE :

N/A

(ATTACH WITH THIS APPLICATION COMPETENT FINANCIAL EVIDENCE ESTABLISHING SUCH DEPRIVATION)

b). THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE :

N/A

c). THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE :

N/A

d). THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE :

N/A

6. IF AN AREA VARIANCE IS REQUESTED :

a). THE VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES BECAUSE :

Most of THE Homes in THE Subdivision ARE ONLY 25' AWAY FROM THE TOWN ROAD

b). THE BENEFIT SOUGHT BY THE APPLICANT CAN NOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, BECAUSE :

A VARIANCE TO ADD A SECOND FLOOR CANNOT BE APPROVED THERE FOR AN ADDITION ON THE FRONT AND SIDE IS REQUESTED

c). THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE :

THERE WILL STILL BE PLENTY OF ROOM BETWEEN FRONT ADDITION AND ROAD AND SIDE ADDITION AND BOUNDARY LINE

d). THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT BECAUSE :

SAME AS A. AND NO CHANGE NECESSARY FOR WATER OR SEWERAGE

e). THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE :

HOUSE WAS BUILT PRIOR TO ZONING

\_\_\_\_\_  
\_\_\_\_\_

7. ADDITIONAL REASONS (IF PERTINENT) :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

William J. Lemmon Jr.  
PETITIONER(S) SIGNATURE

STATE OF NEW YORK : COUNTY OF ORANGE :

SWORN TO THIS 3 DAY OF April 1996

Norma A. Jacobsen  
NOTARY PUBLIC

**NORMA A. JACOBSEN**  
Notary Public, State of New York  
No. 4988696  
Qualified in Orange County  
Commission Expires Nov. 18, 1997

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review

### SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

#### PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR <i>William J Lemunyan Jr.</i>	2. PROJECT NAME <i>Addition</i>
3. PROJECT LOCATION: <i>12 Fleetwood Dr</i>	
Municipality	County <i>ORANGE</i>
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input checked="" type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <i>Putting 16'x16' addition on front And 5x4 mud room on side</i>	
7. AMOUNT OF LAND AFFECTED: Initially _____ acres    Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No    If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If yes, list agency(s) and permit/approvals  <i>Building Dept.</i>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: _____	Date: <i>4-15-96</i>
Signature: <i>William J Lemunyan Jr.</i>	

**If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment**

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