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JOSEPH P. MCGLINN (1941-2000)

* ADMITTED IN NEW YORK & MASSACHUSETTS

** ADMITTED IN NEW YORK & NEW JERSEY

February 13, 2020

Via Hand Delivery and Email

Town of Newburgh Zoning Board of Appeals
Old Town Hall
308 Gardnertown Road
Newburgh, New York 12550

Re: Application of Emma Gasparini
125 Mill Street (SBL: 2-1-64)

Dear Chairman Scalzo and Members of the Board:

The above-referenced application of Emma Gasparini is scheduled for a public hearing before you on February 27, 2020. Ms. Gasparini has appealed a determination of the Building Inspector and is seeking an interpretation that the property is a legal nonconforming two-family dwelling or, in the alternative, a use variance. I write to provide you with some additional information and evidence in support of this application.

As an initial matter, the documentation offered by the Building Department in support of its determination that the dwelling is a single-family dwelling and not a two-family dwelling was a building permit from 1975 and assessment records from 1981 indicating the property was classified as a one-family dwelling.¹ However, later assessment records for this property classified the dwelling as a two-family dwelling (property classification 220), which is the classification that continues today. A copy of the Assessor's Card from 1984 containing the two-family dwelling classification is attached hereto as Exhibit "A." This is significant, because this more recent information, and the associated zoning at the time, completely undercuts the outdated basis for the Building Department's determination. In 1984, the property was located in the AR zoning district, where two-family dwellings were permitted. The property was not rezoned from AR to RR until 1991. (See Local Law 5 of 1991, an excerpt of which is attached hereto as Exhibit "B"). Thus, at the time the property was classified by the assessor's office as a two-family dwelling, that was a permitted use of the property under the zoning code.

¹ These items were produced by letter from the Town Attorney, dated July 26, 2019. This letter and the records mentioned therein were previously submitted to the Board as part of Ms. Gasparini's initial application.

I have also attached statements of neighbors regarding their knowledge of the use of the dwelling as a two-family. (See Exhibit "C" hereto). One of these statements is from a neighbor who has known the property to be used as a two-family dwelling since at least the 1970s. A very similar situation arose in a recent court decision – *Abbatiello v. Town of N. Hempstead Bd. of Zoning Appeals*, 164 A.D.3d 785 (2d Dept. 2018). The petitioner in that case purchased a property that contained what he believed was a legal two-family dwelling. When he applied for a variance to allow this use to continue, the Town of North Hempstead Board of Zoning Appeals denied it.² The Board's decision was reversed on appeal, however, based upon evidence that the property had been used as a two-family dwelling before the zoning code was amended to prohibit such use. Specifically, the Court held as follows:

Contrary to the Board's conclusion, the petitioner presented evidence, including affidavits from neighbors and others who had lived in the community for many years, which was sufficient to establish that the property was a legal two-family residence prior to the 1945 amendments to the Town Zoning Code. By contrast, there was no evidence presented at the hearing to demonstrate that the property had been converted into a two-family dwelling after the 1945 amendments. Accordingly, the record does not contain evidence to support the rationality of the Board's determination denying the proposed use variance. Since the Board's determination was irrational, and arbitrary and capricious, the Supreme Court should have granted the petition, annulled the Board's determination, and remitted the matter to the Town for the issuance of the requested use variance.

Id. at 786–87.

Here, similarly, Ms. Gasparini purchased the property with the belief that the two-family dwelling located on it was legal. The property was marketed as a two-family dwelling, the Town of Newburgh assessor's records and the Orange County Clerk records had classified the dwelling as a two-family, and the municipal violation search she received prior to purchasing the property indicated there were no known violations on the property.³ Ms. Gasparini had no reason to question the legal status of the dwelling when she purchased the property. Additionally, neighboring property owners have provided statements indicating that they have known it to be a two-family dwelling. (See Exhibit "C"). At least one of these neighbors has lived in the area long before the 1991 zoning amendment that rezoned the property to a district in which two-family dwellings were not permitted.

There is no evidence that the residence was converted to a two-family dwelling after the 1991 zoning amendments. To the contrary, it was listed as a two-family dwelling on the 1984 assessor's card, well before the 1991 amendments. (See Exhibit "A"). Further, Ms. Gasparini has had the property inspected by an engineer who similarly found that the building exists as a two-family dwelling. A copy of this letter report is annexed hereto as Exhibit "D." Notably, the engineer has found that there was no apparent addition to the structure and that the doors to both

² It's unclear why a use variance was sought in this case.

³ This letter from the Building Department, dated June 29, 2017, was previously submitted to the Board as part of Ms. Gasparini's initial application.

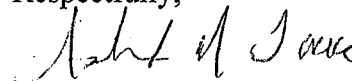
the upper and lower unit appear to be original. This, coupled with the lack of any internal staircase or other connection between the two units, further indicates that the dwelling was a two-family dwelling for an extended period of time.

I believe the evidence set forth above and in Ms. Gasparini's initial application submission warrants a reversal of the determination appealed from and a finding that the dwelling is a legal nonconforming two-family dwelling. However, Ms. Gasparini has also applied for a use variance in the alternative. While I acknowledge that satisfying the statutory test for a use variance is no easy feat, I believe this is one of the unique set of circumstances where this relief is appropriate.

Ms. Gasparini's hardship, given the circumstances noted above, is certainly unique and does not apply to a substantial portion of the district or neighborhood. The building as it exists can only be used as a two-family dwelling. There is no staircase or other internal connection between the two-floors. It is hard to imagine a single-family dwelling where you have to walk outside and up exterior stairs in order to reach the second floor. There is no other reasonable use for the building in its current form, and Ms. Gasparini would need to make substantial modifications and renovations in order to convert it into a single-family dwelling. As was detailed in Ms. Gasparini's application papers, she would be unable to realize a reasonable return on her \$118,000 investment if the property cannot be used as a two-family dwelling. The renovations to convert the home to a single-family would be upwards of \$39,000 and her projected income from renting the dwelling as a single-family is expected to be \$1,200 less than that received for the two-family dwelling. Additionally, Ms. Gasparini's hardship was not self-created, as she had no reason to question the legal status of the two-family dwelling prior to purchasing it, particularly given the assessor's classification of it as a two-family dwelling prior to the 1991 zoning change and the lack of any violations known to the Building Department. It was the zoning change adopted by the Town in 1991 that created this hardship. The requested variance, if granted, will not alter the essential character of the neighborhood, as the granting of the use variance will not alter the exterior of the home and will be consistent with the home's prior use. Neighbors have provided statements noting that they have no objection to Ms. Gasparini's application and that allowing the use of the property as a two-family dwelling will not alter the character of the neighborhood. (See Exhibit "C"). Accordingly, based on the unique circumstances here, in the event the Board does not find the dwelling to be a legal nonconforming two-family dwelling, a use variance is warranted.

Thank you for your consideration.

Respectfully,



Ashley N. Torre

cc: David A. Donovan, Esq. (via email)

EXHIBIT A

PROPERTY CLASSIFICATION CODES

AGRICULTURE-100
 105-Agricultural Vacant Land
 110-Livestock & Products
 111-Poultry & Products
 112-Dairy & Products
 113-Cattle, Hogs & Prod.
 114-Sheep & Wool
 115-Honey & Beeswax
 116-Other Livestock
 120-Field Crops
 130-Truck Crops/Muckland
 140-Truck Crops
 150-Orchard Crops
 151-Tree Fruits
 152-Vineyards
 160-Other Fruits
 170-Nursery/Greenhouse
 181-Fur Products
 182-Pheasant
 183-Aquatic
 190-Fish/Game/Wildlife
RESIDENTIAL-200
 210-1 Family Year-Round
 220-2 Family Year-Round
 230-3 Family Year-Round
 240-Rural Residence with
 Acerage
 250-Estate
 260-Seasonal Residence
 270-Mobile Home

VACANT LAND-300
 311-Residential Vacant
 312-Residential Vacant,
 Improved
 313-Waterfront Vacant
 314-Rural, 10 Acres or Less
 321-Abandon Agricultural
 322-Rural Res. 10 Ac. or More
 323-Other Rural Vacant
 330-Commercial Vacant
 340-Industrial Vacant
 350-Urban Renewal

COMMERCIAL-400
 411-Apartments
 417-Camps, Cottages (Rental)
 418-Inns/Lodges/Boarding
 439-Small Parking Garage
 483-Partial Residential Use

WILD & FORESTED-900
 910-Private (except 920)
 920-Private Hunting & Fishing
 930-State Owned
 940-County Owned

*Consult detailed listing for further divisions as applicable

MEMORANDA

515201
FD033

ASSESSMENT	19 82	19 84
LAND	6500	8100
IMPROVEMENTS	16,900	
TOTAL	23,400	8100
EXEMPTION		
TAXABLE		

DWG. COMPUTATIONS

BASE PRICE	22115
PLUMBING	660
BASEMENT	-
BSMT. FINISH	-
ATTIC	-920
HEATING	-2000
OTHER FEATURES	
ADDITIONS	+2700
TOTAL BASE	22555
GRADE FACTOR	-
TOTAL	22555
C & D FACTOR	-
REPL. COST	22555
DEPRECIATION	25%
BLOG. VALUE	16900

334600 2 1 64
 SWIS S B L SUFFIX

PROPERTY ADDRESS: BOX 406 MILL ST WALLKILL
 OWNER: TRUBENBACH, HERBERT A & KAREN L

MAILING ADDRESS: RD #2 MILL ST WALLKILL NY 12589
 EPT 1STY

SITE: 5/22/84 2771 172.1
 PROPERTY CLASSIFICATION: 230
 EXEMPT (Y OR N) N
 GRID COORDINATES E 570.150
 N 572.507

SALE PRICE: _____ DATE: _____

SALES VERIFICATION

SOURCE: 1 BUYER 2 SELLER 3 FEE 4 AGENT	
VALID SALE: 0 NO 1 YES	
SALES TYPE: 1 LAND 2 BUILDING 3 LAND AND BUILDING	

LAND DESCRIPTION	3	VALUATION FRONTAGE	VALUATION DEPTH	UNIT PRICE	DEPTH FACTOR	ADJUSTED FF PRICE	INFLUENCE			LAND VALUE
							CODE	±	%	
0 NONE	N									
AND CODES	LOT	120	300	45	1.26	6804	4	-	05	6464
31 PRIMARY SITE	L									
32 SECONDARY SITE	L									
33 UNDEVELOPED	L									
34 RESIDUAL	L									
35 TILLABLE	L									
36 PASTURE	S		SQ. FT							
37 WOODLAND	S		SQ. FT							
38 WASTELAND	S		SQ. FT							
39 MUCK	S		SQ. FT							
10 WATERFRONT	S		SQ. FT							
11 ORCHARD	S		SQ. FT							
12 REAR	S		SQ. FT							
13 HOMESITE	A	72	ACRES	8500			9	+ 1.32		8078
14 APARTMENT SITE	A		ACRES							
15 PROPOSED ROAD	A		ACRES							
16 R.O.W.	A		ACRES							
17 OTHER	A		ACRES							
SITE VALUE	V									6500
01 SITE VALUE	V									

SITE DESCRIPTION

GENERAL PROPERTY FACTORS		2
NEIGHBORHOOD I.D.		21400
ZONING:		P.R.
TOPOGRAPHY RATING		2
1 GOOD 2 FAIR 3 POOR 4 VERY POOR		
ROAD: 1 PAVED 2 UNPAVED 3 PROPOSED 0 NONE		1
SIDEWALK: 1 YES 2 NO		2
SEWER: 0 NONE 1 PRIVATE 2 COMMERCIAL 3 PUBLIC		1
WATER: 0 NONE 1 PRIVATE 2 COMMERCIAL 3 PUBLIC		1
OTHER UTILITIES: 0 NONE 1 GAS 2 ELECTRIC 3 GAS/ELECTRIC		2

RESIDENTIAL PROPERTY FACTORS

NEIGHBORHOOD TYPE: 1 RURAL 2 URBAN 3 SUBURBAN	
4 SUBDIVISION	1
NEIGHBORHOOD DESIRABILITY: 1 EXCELLENT 2 VERY GOOD	
3 GOOD 4 AVERAGE 5 FAIR 6 POOR 7 VERY POOR	4

RECORD OF OWNERSHIP

1	
2	
3	
4	
5	

SPECIAL DISTRICTS

SEWER	FIRE FD033
PARK	WATER
SCHOOL 515201	LIGHT
AUDIT CONTROL	
MEASURED BY: _____ DATE _____	
LISTED BY: _____ DATE _____	

LOT LANDSCAPING: 1 EXCELLENT 2 GOOD 3 FAIR 4 POOR 5 NONE	5
DRIVEWAY: 1 IMPROVED 2 UNIMPROVED 3 NONE	3

FRONTING TRAFFIC: 1 LIGHT 2 MEDIUM 3 HEAVY 4 NONE	1
LOT COMPARED TO SURROUNDINGS: 1 TYPICAL 2 POORER 3 BETTER 4 NONE	1

EXHIBIT B

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Newburgh
Town of
~~Village~~

Local Law No. 5 of the year 19 91.

A local law Amending Chapter 30 entitled "Zoning" of the Town of Newburgh Municipal Code as Amended by Local Law No. 4 of the Year 1991: Zoning Map Amendment
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Newburgh as follows:
Town of
~~Village~~

SECTION 1. AMENDING CHAPTER 30 ENTITLED "ZONING" OF THE MUNICIPAL CODE.

Section 30.32 entitled "Zoning Map" of Chapter 30 entitled "Zoning" of the Town of Newburgh Municipal Code as amended by Section 30.3.2 entitled "Zoning Map" of Local Law No. 4 of the year 1991 is hereby amended to read as follows:

"30.3.2 Zoning Map

The boundaries of said districts hereby established are shown on the August 19, 1974 Zoning Map, Town of Newburgh last amended by the "Zoning Map" dated December 9, 1991 which accompanies and which, with all explanatory matter thereon, is hereby adopted and made a part of this Chapter. The exact location of each zoning district boundary is recorded on an official zoning map in the office of the Town Clerk in accordance with Section 264 of Town Law."

SECTION 2. AREAS OF CHANGE.

The boundaries of the areas transferred to another zoning district by the changes in district boundaries or placed in an overlay district as a result of this amendment and the rezoning as set forth in the Zoning Map dated December 9, 1991 made a part of this Local Law are described as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

#9 Part A Beginning at a point in the centerline of Interstate Highway 87 where said point intersects the Ulster County line. Running thence easterly and southerly along the Ulster County/Town of Newburgh line around the perimeter of the Town of Newburgh to the centerline of the Central Hudson Gas and Electric Company power line on lot 4-2-29.223. Running thence southwesterly 1800 feet along the centerline of said lot to a point, then running southeast on a straight line through lots 4-2-29.222, 51 and 50 for a distance of 2,400 feet to the north west corner of lot 4-2-72. Continuing along the westerly and southerly boundary of lot 4-2-52.2 to the centerline of Pressler Road. Running thence along this centerline south to the northerly boundary of lot 6-1-16. Running thence along this line east for 650 feet turning south through lots 6-1-16 and 17 and 17-2-2 for a distance of 1,500 feet to the southerly boundary of lot 17-2-2. Continuing along this line across lots 17-2-4, 6, 7 and 8 for a distance of 1,000 feet parallel to and 200 feet from the centerline of Pressler Road. Continuing along this line at the southerly boundary of lot 17-2-8 running west to intersect the centerline of Fostertown Road (County Highway 86). Continuing along the centerline of Fostertown Road north to its intersection with the centerline of Mill Street. Continuing along west on the centerline of Mill Street to its intersection with the centerline of Mountain View Avenue. Running thence along the centerline of Mountain View Avenue south to lot 14-2-5. Running thence

east following the southerly boundaries of lots 14-1-5, 4 and 10.22 to a point 700 feet from the centerline of Mountain View Avenue. At this point the line turns northeast, parallel to the centerline of Mountain View Avenue and across lots 14-1-10.22, 4-1-61, 60, 54.1, 53.11, 53.2 and 52.2 for a distance of 3,150 feet to the centerline of the Central Hudson Gas and Electric easement on lot 4-1-52.1. Running thence along this centerline west to the intersection with the centerline of Interstate Highway 87. Running thence along the centerline of Interstate Highway 87 north to the Ulster County line and the point and place of beginning.

The above area is to be rezoned from AR to RR and contains approximately 1726.12 acres.

All references to Tax Map parcels shall be construed as those parcels exist as of December 9, 1991.

SECTION 3. EXCEPTIONS - Subdivisions and Site Plans.

A. The new zoning density, area, and lot dimension requirements imposed by this Local Law and Local Law No. 4 of the Year 1991 shall not apply to the following:

(1) Any proposed subdivision which has duly received preliminary approval from the Town of Newburgh Planning Board prior to January 1, 1992.

(2) Any proposed site plan which the lead agency has duly reviewed pursuant to the provisions of the State Environmental Quality Review Act and the regulations promulgated thereunder to the stage of having issued a negative declaration or accepted a Final Environmental Impact Statement exclusive of any supplemental review prior to January 1, 1992.

B. All such lots or sites which may be approved under the provisions of this Section shall have three (3) years from the date of enactment of this local law to obtain a building permit. Following such a three (3) year period, said subdivision or lots thereof or site not subject to a valid building permit, shall be resubmitted to the Planning Board for approval in full conformity to the provisions of Chapter 30.

The provisions herein supersede and amend §30.57 of Chapter 30 as amended by Local Law No. 4 of the Year 1991, which otherwise remains in full force and effect and this local law is to be considered a "future amendment" for purposes of interpretation of Section 30.5.7.A.3 of Local Law No. 4 of the Year 1991 in all other applications and respects.

SECTION 4. UNCONSTITUTIONALITY OR ILLEGALITY.

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 5. EFFECTIVE DATE.

This local law shall take effect January 1, 1992.

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 1991 of the ~~(County)(City)(Town)(Village)~~ of NEWBURGH was duly passed by the TOWN BOARD on December 16, 1991, in accordance with the applicable provisions of law. (Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____ in accordance with the applicable provisions of law. (Name of Legislative Body) (Elective Chief Executive Officer*)~~

3. (Final adoption by referendum.)

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law. (Name of Legislative Body) (Elective Chief Executive Officer*)~~

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law. (Name of Legislative Body) (Elective Chief Executive Officer*)~~

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Debra M. Terotta, Deputy
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: December 20, 1991

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ORANGE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

David L. Rider
Signature DAVID L. RIDER

Title TOWN ATTORNEY

~~County~~
~~City~~ of Newburgh
~~Town~~
~~Village~~

Date: December 20, 1991

EXHIBIT C

To: Town of Newburgh Zoning Board of Appeals
From:
Date: January __, 2020
Re: Application of Emma Gasparini

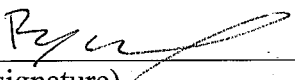
My name is Ryan Ledoux.

I have resided in the Town of Newburgh, New York for 23 years.

I currently reside at 132 Mill St in the Town of Newburgh, New York and have resided here for 23 years.

I have known the property located at 125 Mill Street in the Town of Newburgh, New York to be used as a two-family dwelling since at least 1970's.

I have no objection to Emma Gasparini's application pending before the Zoning Board of Appeals which seeks to use the property as a two-family dwelling. Allowing this use will not alter the character of the neighborhood.


(signature)

Ryan Ledoux
(printed name)

To: Town of Newburgh Zoning Board of Appeals
From:
Date: January __, 2020
Re: Application of Emma Gasparini

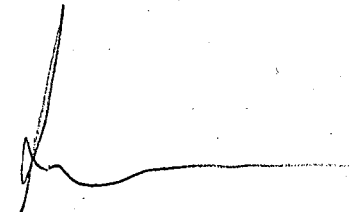
My name is Stephanie Warren

I have resided in the Town of Newburgh, New York for _____ years.

I currently reside at 143 Mill St in the Town of Newburgh, New York and have resided here for 30 years.

I have known the property located at 125 Mill Street in the Town of Newburgh, New York to be used as a two-family dwelling since at least 1999.

I have no objection to Emma Gasparini's application pending before the Zoning Board of Appeals which seeks to use the property as a two-family dwelling. Allowing this use will not alter the character of the neighborhood.



(signature)

Stephanie Warren
(printed name)

was babysat in the house when I was younger.

To: Town of Newburgh Zoning Board of Appeals
From:
Date: January __, 2020
Re: Application of Emma Gasparini

My name is George E. Rivera

I have resided in the Town of Newburgh, New York for 17 years.

I currently reside at 134, Mill Street in the Town of Newburgh, New York and have resided here for 17 years.

I have known the property located at 125 Mill Street in the Town of Newburgh, New York to be used as a two-family dwelling since at least 17 yrs.

I have no objection to Emma Gasparini's application pending before the Zoning Board of Appeals which seeks to use the property as a two-family dwelling. Allowing this use will not alter the character of the neighborhood.

George E. Rivera
(signature)

George E. Rivera
(printed name)

To: Town of Newburgh Zoning Board of Appeals
From:
Date: January __, 2020
Re: Application of Emma Gasparini

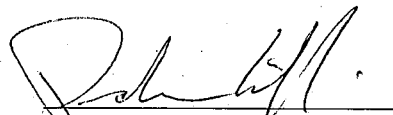
My name is Padriac Cioffi

I have resided in the Town of Newburgh, New York for 28 years.

I currently reside at 117 Mill St. in the Town of Newburgh, New York and have resided here for 6 years.

I have known the property located at 125 Mill Street in the Town of Newburgh, New York to be used as a two-family dwelling since at least 6 years

I have no objection to Emma Gasparini's application pending before the Zoning Board of Appeals which seeks to use the property as a two-family dwelling. Allowing this use will not alter the character of the neighborhood.


(signature)

Padriac Cioffi
(printed name)

EXHIBIT D



Engineers
Planners
Surveyors
Landscape Architects
Environmental Scientists

555 Hudson Valley Avenue, Suite 101
New Windsor, NY 12553-4749
T: 845.564.4495
F: 845.567.1025
www.maserconsulting.com

February 10, 2020

VIA HAND DELIVERY

Peter Gasparini
300 Walnut Avenue
New Windsor, NY 12553

Re: 125 Mill Street
Tax Lot 2-1-64
Town of Newburgh, Orange County, New York
MC Project No. 19003203A

Dear Mr. Gasparini:

On January 6, 2020 Maser Consulting P.A. conducted a site visit at 150 Mill Street, Wallkill NY 12589 under the supervision of Mr. Peter Gasparini, to provide a professional opinion in determining if the residential building is a two (2) family home. It is our understanding that the residence was labeled as a “single-family home” by the Code Compliance department when the owner applied for the installation of a landlord electric meter. Photographs from the visit on 1/6/20 have been included as an attachment of this letter.

The residence exists today as a two (2) family residence with one 3-bedroom apartment upstairs and one 3-bedroom apartment downstairs, each having separate bathroom and kitchen facilities with no internal connection between the apartments. Separate entryways to each apartment exist, and the driveway area has room for a minimum of 6 parking spaces. The lower apartment has two entryways, one on the rear (north) and one on the front (south) side of the building. The upper apartment has one entryway through a staircase and landing that leads to a door on the second story in the rear of the building. The entry door to the upper unit and the southern door to the lower unit appear to be original. Mr. Gasparini mentioned that the old deck and stair was rotting and in unsafe condition, so he replaced the wood and stairs for this landing that leads to the entry door of the second story unit. Separate electric panels and meters exist on the front of the residence. Mr. Gasparini also informed us that both apartments were renovated in the summer of 2018, which was apparent during the visit. The siding around the residence is aged and the exterior does not show any apparent signs of a building addition. According to the Orange County Real Properties report (*see attachment*) the Property Class is “220 – 2 Family Residential.”

Based on the lack of any interior connection between the units, the separate electric meters, and separate exterior entrances to each unit, it is our opinion that the residence exists today as a two (2) family residence.



Gasparini
MC Project No. 19003203A
February 10, 2020
Page 2 of 2

If you have any questions, please feel free to call me at 845.564.4495, extension 3808.

Very truly yours,

MASER CONSULTING P.A.

A handwritten signature in blue ink, appearing to read 'Cory D. Robinson', is written over a light blue horizontal line.

Cory D. Robinson, EIT
Senior Engineer

CDR/jm

CC: File, w/ encl.

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Property Description Report For: 125 Mill St, Municipality of Newburgh



Total Acreage/Size: 135 x 308
Land Assessment: 2019 - \$8,100
Full Market Value: 2019 - \$108,700
Equalization Rate: ----
Deed Book: 14257
Grid East: 607973

Status: Active
Roll Section: Taxable
Swis: 334600
Tax Map ID #: 2-1-64
Property Class: 220 - 2 Family Res
Site: RES 1
In Ag. District: No
Site Property Class: 220 - 2 Family Res
Zoning Code: -
Neighborhood Code: 21400
School District: Wallkill
Total Assessment: 2019 - \$35,000
Property Desc: Huc
Deed Page: 474
Grid North: 1002607

Area

Living Area:	2,796 sq. ft.	First Story Area:	1,452 sq. ft.
Second Story Area:	1,344 sq. ft.	Half Story Area:	0 sq. ft.
Additional Story Area:	0 sq. ft.	3/4 Story Area:	0 sq. ft.
Finished Basement:	0 sq. ft.	Number of Stories:	2
Finished Rec Room	0 sq. ft.	Finished Area Over Garage	0 sq. ft.

Structure

Building Style:	Colonial	Bathrooms (Full - Half):	2 - 0
Bedrooms:	5	Kitchens:	2
Fireplaces:	0	Basement Type:	Full
Porch Type:	Porch-enclsd	Porch Area:	72.00
Basement Garage Cap:	0	Attached Garage Cap:	0.00 sq. ft.
Overall Condition:	Normal	Overall Grade:	Average
Year Built:	1900		

Owners

Emma Lynn Gasparini
 300 Walnut Ave
 New Windsor NY 12553

Sales

Sale Date	Price	Property Class	Sale Type	Prior Owner	Value Usable	Arms Length	Addl. Parcels	Deed Book and Page
7/10/2017	\$100,000	220 - 2 Family Res	Land & Building	Trubenbach, Herbert A	Yes	Yes	No	14257/474

Utilities

Sewer Type:	Private	Water Supply:	Private
Utilities:	Gas & elec	Heat Type:	Hot wtr/stm
Fuel Type:	Oil	Central Air:	No

Improvements

Structure	Size	Grade	Condition	Year
Porch-enclsd	72.00 sq ft	Average	Normal	1900

Special Districts for 2019

Description	Units	Percent	Type	Value
FD033-Plattekill fire	0	0%		0

Exemptions

Year	Description	Amount	Exempt %	Start Yr	End Yr	V Flag	H Code	Own %
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Taxes

Year	Description	Amount
2020	County	\$1,106.41
2019	County	\$1,077.48
2019	School	\$2,789.27

*** Taxes reflect exemptions, but may not include recent changes in assessment.**



FIGURE 1: DECK ACCESS TO SECOND STORY UNIT



FIGURE 2: LOOKING ACROSS DRIVEWAY AT SOUTHWEST CORNER OF RESIDENCE



FIGURE 3: WEST SIDE OF RESDENCE, OVERHANG, DECK ACCESS TO SECOND STORY



FIGURE 4: SOUTH SIDE OF RESIDENCE AND SOUTHERN ENTRYWAY TO LOWER UNIT



FIGURE 5: NORTH ACCESS TO GROUND FLOOR UNIT



FIGURE 6: SOUTH SIDE OF STRUCTURE - ELECTRIC METERS (LEFT IS SERVICING UPPER UNIT, RIGHT IS SERVICING LOWER UNIT)



FIGURE 7: SOUTHEAST CORNER OF RESIDENCE



FIGURE 8: NORTH SIDE OF RESIDENCE, DECK ACCESS TO SECOND STORY & NORTH ACCESS TO GROUND FLOOR UNIT



FIGURE 9: ACCESS DOOR TO SECOND STORY