

The Deerpark Zoning Board of Appeals met for a public hearing for the application of Timothy Acoveno on Thursday, April 17, 2008 at 7:30 p.m. at Town Hall, Route 209, Huguenot, N.Y. The following were present:

ZBA MEMBERS

Martin D. Smith, Jr. - Chairman                      Frank Bigger  
Gerald Cedrone    Jane Lord

OTHERS

Mr. Glen A. Plotsky, Town Attorney    Mr. Tim Acoveno, Applicant  
Mr. Pete Martin, Adjoiner  
Mr. Giovanni Reda, Adjoiner  
Ms. Michelle Acoveno, Citizen

The secretary read the public hearing notice: "Notice is hereby given of a Public Hearing to be held by the Zoning Board of Appeals of the Town of Deerpark, Orange County, New York, pursuant to Article 9 of the Town of Deerpark Zoning Law on the application of Timothy Acoveno to change a single family home back into a two-family home. The application effects the following premises: Record Owner: Timothy Acoveno; Tax Map Designation: Section 28, Block 1, Lot 9; Zone Designation: Rural Residential. Located at 104 Godeffroy Road, Huguenot, Town of Deerpark, Orange County, New York. Information on this application is on file with the Town Clerk, Town Hall, Route 209, Huguenot, New York. The Hearing shall take place at 7:30 o'clock P.M. on the 17th day of April, 2008 at Deerpark Town Hall, located on Route 209, Town of Deerpark, Orange County, New York, or as soon thereafter as practicable. All parties wishing to be heard shall be heard at that time."

Martin Smith

Okay, are you ready, Mr. Acoveno to present your case?

Tim Acoveno

I'm applying for a use variance. I want to make my single family home, into a two-family home. I've recently become disabled. I'm not working. I have no income. And the variance would benefit my children and myself, so we could continue to live there. There would be no change in the health, safety or welfare of the neighborhood. There'd be no undesirable change to the nearby properties of the neighborhood. There's be no adverse impact or affect on the environmental conditions of the neighborhood. The home has always physically been a two-family home. Upon purchase of the home in 1995, the old Building Inspector, Mr. Wilson, had told me that changing the home into a two-family home was just a matter of paperwork. I was misled by Mr. Wilson. The home has been a two-family home since I bought it, even before I bought it. Mr. Wilson had changed it over to a single family, to help me out with the taxes. At one time there were three meters on the home, which made it a three-family at the time, and since then, it's been changed down to a single-family. I'd just like to change it back to a two-family. I guess that's it.

Martin Smith

Okay, any questions?

Gerald Cedrone

Does he have the mailings?

Martin Smith

Oh yes, the mailings. Do you have the return, the proof of mailing, the green cards that you got from the

post office?

Mr. Acoveno then presented the proof of mailings to the secretary.

Glen Plotsky

Mr. Acoveno, could you explain what you mean when you say that the building has always been a two-family?

Tim Acoveno

Say again?

Glen Plotsky

You said a couple of times that the building has been a two-family since you bought it. What do you mean? Explain that.

Tim Acoveno

It's always had two bathrooms, two kitchens, upstairs and downstairs. I mean, one kitchen one bathroom upstairs, and one kitchen one bathroom downstairs. It's always physically been a two-family home.

Martin Smith

Did it have two front doors when you bought it?

Tim Acoveno

Yes, it's always had two front doors. Physically, it's always been a two-family home.

Martin Smith

Since 1995, that you know of.

Tim Acoveno

Since before 1995.

Martin Smith

Well, that's when you bought it.

Tim Acoveno

Yes.

Martin Smith

Well, one of the concerns with it, is, does it have a big enough septic for a two-family. How many bedroom are there altogether?

Tim Acoveno

If you count the living room upstairs as a bedroom, there would be seven bedrooms. I had upgraded the septic system with Roto Router. I caved in the septic system a couple of years ago, and I had Roto Router come out and upgrade the septic, to meet a seven bedroom home. They do by bedrooms. So, they upgraded to a seven bedroom home.

Martin Smith

How large is this lot?

Tim Acoveno

My understanding is that it's a little more than 1/2 acre.

Martin Smith

So, it's about 20,000 square feet, or so. Do you know how big each apartment is, how many square feet, roughly?

Tim Acoveno

No, not really.

Martin Smith

Do you have the measurements for the house, or anything?

Tim Acoveno

No, but Section 8 was there, and they did inspect the upstairs, and they said that it is suitable for people to move in. And I did, at one time, have a family living in there. In fact, that was only two years ago. Mr. Emerson had also said that it is suitable, but he can't make it a two-family, because it has to go before the Zoning Board of Appeals.

Gerald Cedrone

In this letter dated March 25th (2008), from Bob Emerson (Town Building Inspector) to yourself, it says that the soils for the premises are Hov and Hoc, which must be interpreted by an engineer.

Tim Acoveno

I really don't know, and I also don't know why he's also adding all of these other things on his letter, when you only asked for the soils. You didn't ask for anything else. I personally feel that Mr. Emerson is trying to do me wrong. And I'm not afraid to say it.

Frank Bigger

Have you done any physical alterations to your house, since you've been in it?

Tim Acoveno

No, nothing major. I have done repairs.

Frank Bigger

But you didn't change the inside?

Tim Acoveno

No.

Jane Lord

And the only reason that you became a one-family house, was to save money on taxes?

Tim Acoveno

From my understanding when I bought the home, yes...Mr. Wilson had told me..."here sign this paper", when I purchased the home, he said, "sign this paper and your taxes will be cheaper, make it into a single-family home." I didn't realize what I was doing, not knowing the future, etc. He also had said, "to change it back into a two-family home, it's just a matter of paperwork."

Jane Lord

That was different zoning, there's been a change in the Zoning Law since then, so it's not Mr. Wilson now.

Tim Acoveno  
I understand.

Frank Bigger  
Is it grandfathered in?

Martin Smith  
Well, we looked at this larger lot size in 1990, I believe. It probably was a two-family before that. Well, it certainly could've been grandfathered, one way or the other.

Glen Plotsky  
It can only be grandfathered, if the use hasn't lapsed for a period of a year. Mr. Acoveno has owned it since 1995. At best, at least so far as it's been related, there may have been a second family living there two years ago, but that would still be two years ago, not within the last year. So, I don't think grandfathering is the issue. With regard to Mr. Acovenos' question about Mr. Emersons' letter, a review of the minutes, which show that there was some extended discussion as to whether or not the house is located in an RR, versus the HMU zone. I think Mr. Emerson was just trying to advise the Baord, that based on his understanding of where the house is located and interpreting the Zoning Laws that applied to that particular parcel, there's a minimum of two acre for a single family lot requirement. And it is part of the Zoning Law that a two-family has to have twice as much bulk requirement, as a single family. So, that's one of the factors. Frankly, it's designed to help Mr. Acoveno, in the context of that. If the Board is inclined to grant the variance, he needs a variance as to lot size. And the Board should know what variance is being requested, so that you can either grant or deny the appropriate variance.

Martin Smith  
Why was it requested of Mr. Wilson to change it, did you express concern about the taxes, or something like that? What prompted him to change it back to a single-family?

Tim Acoveno  
I really don't know.

Martin Smith  
The reason I asked that is, generally speaking, a two-family, if you rented it out, you would have an income property. And if you have an income property, it's usually assessed at a higher rate, than a single-family dwelling. So, that's what I was getting at. You probably would save on taxes with a single-family, because that's not considered really, a commercial use, year round. That's an income producing property, and income producing properties are assessed higher than residential properties. Okay, anybody else have anything?

Tim Acoveno  
I couldn't help overhearing, I heard someone mention that there wouldn't be enough room for swing sets, parking?

Martin Smith  
Okay, that was a discussion about why we make lots twice as big for a two-family house. And all of that stuff is true. You typically would need twice as much space for everything. Now, you may not be in a position right now, where you need swing sets, parking, etc. If the tenant is a single person with only one car, but somewhere down the road, you see, this thing goes way beyond you. If you sell the house, it's still a two-family fifty years from now, and maybe there's two families with four kids each in there. And that's what we have to look at.

Tim Acoveno

If this isn't grandfathered in, I'm automatically illegally living there. I don't have 200' of road frontage, I don't have two acres or more, I only have 1/2 acre.

Martin Smith

Of course, that's grandfathered in, all of that stuff, and that's sort of what I was getting at with the two-family thing. It's more of a technical thing. You didn't change the size of the lot, so that's grandfathered in. The other things that don't comply are grandfathered in. But once you changed it to a single-family, you created a technical stoppage of that use, and now basically, you're asking us to re-instate that. It's more technical than it is a factual thing. We just discussed about it always being a two-family, but the technicality that once you stop that use of two-family, then it's no longer grandfathered. Does anybody in the public want to make comments on this application?

Pete Martin

Yes.

Martin Smith

Okay, if you would just come up and give your name.

Pete Martin

My name is Pete Martin, I live next door in the stone house. And I'm totally against allowing this structure to become a two-family or multi-family for numerous reasons. My first concern, is that by allowing this house to become a multi-family, it's going to lower our own home values, and their re-sale ability. We all work to keep our properties appealing and aluable and increase their worth. Home buyers are willing to spend good money to live in appealing and safe neighborhoods. My second concern, is the increase in traffic and noise generated by a two household or more house. I believe that everyone is appreciative of the traffic and noise that is currently on our road. Being outside quite often, I notice many of my neighbors choose to go for walks on Godeffroy Road, because it's very quiet. An article in the Times-Herald Record about a year ago, talked about the recent renaissance in Port Jervis, and they stated that its' rebirth was directly related to the amount of multi-famiy homes being re-converted back into single -family dwellings. And therefore, the neighborhoods are attractive with the amount of single -family homes rather than the multi-family structures. Also, renters do not have a stake in the neighborhood. They can just live as they wish and then leave when they want, just pack up and leave and move to another rental leaving any mess behind. We, as single-family homeowners care what our properties look like, and we behave and act knowing that we do live here, and must be aware of the consequences that occur because of our actions in the neighborhood. This house is currently for sale. If it is sold as a multi-family home, it can easily be purchased as an investment property by an absentee landlord, whose only concern is that the renters pay their rent, and not upkeep the property. Who then will maintain the yard and the house, or dispose of the trash that will be generated by many families living in this home. And I have seen this property being rented over the course of several years, and many families coming in and out, and according to the Building Inspector who I spoke to, this property does not have the required four acres or 400' of road frontage, need for a multi-family home in the Town of Deerpark. And as far as renovations, I have lived here and the man has worked constantly on that house, renovating it. I've never been inside, but there's always something going on. I just ask you, please don't allow this appeal to go through, for the sake of the neighborhood. Thank you.

Martin Smith

Okay. Do you want to make a comment sir. I need your name first.

Giovanni Reda

Giovanni Reda. I don't think that this is a good idea.

Jane Lord

So, you agree with this man that just sat down. And do you live on Godeffroy Road too?

Giovanni Reda

Yes, 113 Godeffroy Road.

Martin Smith

Okay, thank you. Anyone else?

Michelle Acovenno

My name is Michelle Acovenno. I am the sister of Mr. Acovenno, right here. I did live with him at one time. And to my understanding, I think it should go through. Because if it's a single family, and there's seven bedrooms, more people can in. If he ever sold it, what if they had ten people living in that house. What's the difference if one family has ten people, or two families were renting it. He keeps the house up. He maintains it. There is nor anything being done inside. The yard is picked up, he makes sure that there is garbage pick up, or he picks it up and gets rid of it. He always keeps his yard clean and picked up. I don't think that the noise will be such a problem, because he would make sure that the renters keep the noise down and respect the neighbors. I think it should go through. Thank you.

Martin Smith

Okay, anybody else? Anybody have any other questions for the applicant.

Pete Martin

When I did speak with the Building Inspector, he told me that the option that he did have, was to make it a mother/ daughter residence. The other person would have to be related to him. That's what the Building Inspector told me. He would have the option of making it into a mother/ daughter, which would require the person living in the other residence would have to be a relative.

Martin Smith

Okay, thank you.

Jane Lord

I move that we close the public hearing.

Gerald Cedrone

Second.

Martin Smith

Okay, all in favor?

Gerald Cedrone

Aye.

Martin Smith

Aye.

Jane Lord

Aye.

Frank Bigger  
Aye.

Motion carried.

Public Hearing closed at 7:55 p.m.

Respectfully submitted,

Barbara Broliier, Secretary