

APPROVED

MARK FRASER
Chairman

TOWN OF CARMEL
ZONING BOARD OF APPEALS

MIKE CARNAZZA
*Director of Codes
Enforcement*



BOARD MEMBERS
LORRAINE MARIANI
JOHN MAXWELL
ROSE FRABIANO
ROGER GARCIA
SILVIO BALZANO

60 McAlpin Avenue
Mahopac, New York 10541
Tel. (845) 628-1500 • Fax (845) 628-6836
www.carmelny.org

ZONING BOARD OF APPEAL MINUTES

FEBRUARY 23, 2012

PRESENT: MARK FRASER, CHAIRMAN, LORRAINE MARIANI, ROGER GARCIA,
JOHN MAXWELL, SILVIO BALZANO

ABSENT: ROSE FABIANO

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Linda Natoli	54.12-1-9	1	Approved
Scott Nygard	75-16-1-22	1	Held over
NYC DEP	54.1-29-2	2	Approved
L&G, LLC Group	75.12-2-5	2	Approved
Mike Guo & Li Chi Wong	76.22-1-6	3	Approved
Mac Donald Marine/Power Repairs	76.20-1-13	3-4	Approved

The meeting was adjourned at 8:09 p.m.

Respectfully submitted,
Donna Esteves

Application of Linda Natoli, for a Variation of Section 156.15 & 156.47A (1), for permission to retain an existing shed at the rear of the house on a property that has two houses. The property is located at 16 Belden Rd, Carmel and is known by Tax map #54.12-1-9.

CODE REQUIRES	WILL EXIST	VARIANCE REQUIRED
20' Side	5'	15'

Linda and Joseph Natoli were sworn in. Mrs. Natoli stated that she inherited the above said property upon her uncles' death. They are getting ready to sell the property and were informed that an addition, which was called a "shed" on the application, requires a variance. The shed is attached to the house, does not have access from outside and runs the full width of the house. It currently houses the furnace. The applicant also stated that it could also be used as a laundry room.

Mr. Fraser stated that the space is a little more than a shed, but not being used as living space.

Mr. Balzano commented that he feels that this should be considered an addition, not a shed because it is attached to the house with no outside access. Mr. Carnazza agreed and suggested that if the variance is granted it should state "addition" on it, not shed. It will require a CO.

Mr. Fraser asked if any members from the audience would like to speak.

The neighbor from 18 Beldon Rd addressed the board and was sworn in. He commented that he has concerns about the pipes and sewer system on the property. Mr. Fraser stated that the Zoning Board does not handle those issues and it should be addressed with the Town of Carmel Engineering Department. The neighbor also argued about if and when this property was considered a legal "living" dwelling. Mr. Fraser told him that they have official documents dating back to 1930 confirming that it is.

Mr. Balzano made a motion to close the public hearing. Mr. Maxwell seconded the motion with all in favor.

DECISION OF THE BOARD

Mr. Garcia moved to grant permission to retain the existing rear addition which is currently being used as, and considered, a "mechanical room", not a shed which was implied on the application. Mr. Balzano seconded the motion with all in favor.

Application of Scott Nygard, for an Interpretation that his home is a two-family residence. The property is located at 427 Route 6, Mahopac and is known by Tax Map #75.16-1-22.

Mr. Maxwell recused himself from this application.

Mr. Nygard was sworn in.

Mr. Fraser stated that it is his understanding that there is a copy of a memorandum of law from the old neighbor that can't be located. He suggested that the application be held over until next month so that Mr. Nygard can get another copy of the memorandum and bring the affidavit to next month's meeting.

Mr. Balzano made a motion to close the public hearing. Mrs. Mariani seconded the motion with all in favor.

Application of **NYC DEP**, for Variation of Section 156.15; to extend permission to maintain 3 trailers for 5 years (2017). The property is located at 1286 Route 6 and is known by Tax Map # 54.1-29.-2.

Mr. Maxwell returned to the podium.

Mike Delucia, the NYC DEP Engineer was sworn in. He asked the board for a 5 yr. extension on the above property to maintain the 3 trailers. He stated that there are contracts still going on and they would need to utilize the trailers for that amount of time.

Mr. Fraser asked if that will give them enough time to complete the projects. Mr. Delucia responded yes.

Mr. Balzano made a motion to close the public hearing. Mr. Maxwell seconded the motion with all in favor.

DECISION OF THE BOARD

Mr. Balzano moved to grant. Mr. Garcia seconded the motion with all in favor.

Application of **L&G, LLC Group**, for a Variation of Section 156.41(C)(2); for permission to retain a sign. The property is located at 903 S. Lake Blvd and is known by Tax map #75.12-2-5.

CODE REQUIRES	WILL EXIST	VARIANCE REQUIRED
40 sq. ft.	52 sq.ft.	12 sq. ft.

Mr. Matos and Mr. Guo were sworn in. They stated that they are seeking permission to retain the sign that was put up on the building.

Mr. Fraser asked the applicant why there is an issue with the sign if the sign is new. It should have conformed to code when it was designed.

Mr. Matos explained that the platform is part of the design so they had to make it bigger to make it look proportionate.

Mr. Garcia asked if the applicant had any plans to add a free-standing sign. Mr. Guo replied no. Mr. Balzano made a motion to close the public hearing. Mr. Maxwell seconded the motion with all in favor.

DECISION OF THE BOARD

Mr. Maxwell moved the grant. Mr. Garcia seconded the motion with all in favor.

Application of Mike Guo & Li Chi Wong, for a Variation of Section 156.15; for permission to convert a two-family dwelling to a one-family, two story dwelling. The property is located at 168 E. Lake Blvd and is known by Tax Map #76.22-1-6.

CODE REQUIRES	WILL EXIST	VARIANCE REQUIRED
15' Side	5'	10'

Mr. Fraser reminded Mr. Matos and Mr. Guo that are sworn in. He also reminded everyone that this is re-hearing so they will need a unanimous vote.

Mr. Fraser asked how the plans differ from the last ones. Mr. Matos stated that they changed the size and the height. The original plans had the height at 27 ft. so they lowered it to 25 ft. Currently the house sits at 17 ½ ft. high so it is not substantial. Also, they moved the house to the right. The original plans called for the house to sit 2 ft. off the lot line and they revised it to sit 5 ft. off the lot line. They also pulled the house back to 25 ft. from the street.

Mr. Maxwell made a motion to close the public hearing. Mr. Balzano seconded the motion with all in favor.

DECISION OF THE BOARD

Mr. Maxwell moved to grant. Mr. Garcia seconded the motion with all in favor.

Application of MacDonald Marine/Power Repairs, for an Interpretation of Section 156-47-A-1. The applicant seeks to place a 200 x 100 storage building on the site for the storage of boats. Applicant agrees to a condition that there shall be no outdoor storage and seeks an interpretation that same does not constitute and "enlargement" of a pre-existing use. The property is located at 681 Union Valley Rd, Mahopac and is known by Tax Map #76.20-1-13.

Mr. Maxwell recused himself from this application.

Mr. MacDonald was sworn in.

Mr. Schilling is representing the applicant. He stated that Mr. Mac Donald is the lessee on the property through 2034. The property consists of 28 acres in a residential zone but it is pre-existing non-conforming for the storage of boats. Right now there is 2 storage buildings and the remains of another storage building on the property. There is also a frame building that is used for the repair of boats. They estimate that there is approximately 120-130 boats spread about on the property. By their estimation, there is about 72% of boat coverage on the property which is about 20 of the 28 acres.

Mr. Schilling stated that they are seeking an interpretation of the board pursuant to Section 156-47-A-1 which prohibits the enlargement of a pre-existing use.

Mr. Schilling asked the board when deliberating on this, to consider all of the criteria of an enlargement of a pre-existing use, and the criteria that he would like you to consider are as follows:

- 1) The storage building shown on the site plan would be removed
- 2) The storage of boats, which currently stands on 71% of the property, would be on 1.7% of the property
- 3) The boats that are strewn all over the property in a haphazard condition with no parameters, there are absolutely no limitations about where the boats can and cannot be stored. Furthermore the town, nor this board, can determine the number of boats stored on this property because an increase in volume is not an enlargement of use

They are seeking an interpretation that considers the fact that the two buildings will be eliminated, that the placement of all the boats will be inside the 200x100 building in a very limited area, reducing lot coverage to 1.7%. You would have the ability to limit the number of boats by conditioning that there would be no outside storage.

Mr. Schilling stated that if these conditions were part of the D&O, he would like the board to make an interpretation that the placement of this building is not an enlargement of the pre-existing, non-conforming use, but a reduction or a restriction of the non-conforming use. The building will have no electric, no septic, no water and not heat.

In support of what he is saying, you have a sworn affidavit from Ken MacDonald, Mr. Schilling's memorandum of law, and affidavit from Bill Spain in support of the application. He would also like it noted that these plans have been presented to the Planning Board as well as the DEC who were in favor of it.

Mr. Balzano made a motion to close the public hearing. Mrs. Mariani seconded the motion with all in favor.

DECISION OF THE BOARD

Mr. Garcia made a motion for an interpretation that the proposed building is more restrictive than the current "use" based on the site plan submitted to the board; provided that all boats, machinery and parts are stored (including overnight and/or any length of time) "inside" the building. The structure, as constructed, shall not include, heat, water, septic, electricity, or other utilities per the statement from the applicant and per the site plan. It is understood that a C-of-O. cannot be obtained until the property is cleared and free of all boats, parts and machinery except for what is stored inside the building.

Mr. Balzano seconded the motion with all in favor except Mr. Maxwell who recused himself from this application.

MISCELLANEOUS

Minutes: 1/12/2012

Mr. Garcia moved to approve. Mr. Balzano seconded the motion with all in favor.

The meeting was adjourned at 8:09 p.m.

Respectfully submitted,

Donna Esteves