

APPROVED

JOHN MAXWELL
Chairman

PHILIP AGLIETTI
Vice-Chairman

**TOWN OF CARMEL
ZONING BOARD OF APPEALS**



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MARC DITOMASO
MICHAEL SCHWARZ

ZONING BOARD OF APPEALS MINUTES

MAY 26, 2016

**PRESENT: CHAIRMAN, JOHN MAXWELL, VICE-CHAIRMAN, PHILIP AGLIETTI, ROSE FABIANO,
SILVIO BALZANO, WILLIAM ROSSITER, MICHAEL SCHWARZ, MARC DITOMASO**

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Freiman, Michael	75.7-2-18	1	Heldover.
Manfred, Francis & Ashley	64.15-1-14	1-2	Granted.
Smith, Timothy & Amy	44.15-1-11	2-3	Granted.
Grossman, Eileen	64.19-1-14	4	Granted.
Simone, Chad & Jackie	75.11-2-71	4-5	Granted.
Keogh, Craig	74.42-1-3	5-6	Granted.
EMTK Realty Corp.	44.18-1-40	6	Heldover.
Audah, Raed	76.5-1-12	7	Heldover.
Gorelick, Steven	44.13-1-13	7-8	Granted.
1979 Route 6 LLC	55.15-1-2	8-11	Granted.
Minutes- 4/28/2016		11	Approved.

The meeting was adjourned at 8:07 p.m.

Respectfully submitted,

Rose Trombetta

Application of Michael Freiman seeking permission for a Use Variance permitting dairy goats on property. The property is located at 55 Vista Terrace, Mahopac and is known by Tax Map # 75.7-2-18.

Mr. Maxwell said that for this application we have been waiting for their site plan and one was submitted to Mr. Carnazza but it wasn't legible. Giving them the benefit of the doubt I feel we should give them one more month, I know it goes against what I said last month but they did make an attempt.

Mr. Carnazza said the only problem is that since they have submitted their application they did acquire an additional animal on the property just for your knowledge.

Mr. Maxwell said my point is that they made an attempt about a week and a half ago; they theoretically could have had enough time to get a survey. I will leave it up to the Board to decide if we should give them the courtesy of one more month.

Mr. Balzano asked Mr. Carnazza if he requested a more legible copy of the survey.

Mr. Carnazza said yes as soon as she came in to give me the survey I told her that I need one that I can read. She sent me the PDF of the survey and it was the exact same thing that was printed, I thought it was just printed badly. You are unable to see the numbers on the survey and the car port was not shown on it properly. The survey had the approximate location of carport shown with an arrow, so I cannot properly measure where it is if it's the approximate location.

Mr. Balzano moved to dismiss the application without prejudice.

Mr. Maxwell stated that the Board will do a roll call vote for this application

Roll call vote was taken as follows:

- Mr. Balzano For the Motion.
- Mrs. Fabiano Against the Motion.
- Mr. Aglietti For the Motion.
- Mr. Rossiter For the Motion.
- Mr. Schwarz Against the Motion.
- Mr. DiTomaso Against the Motion.

Mr. Maxwell stated that he is also against the motion; I want to give them the benefit of the doubt so we will carry that and make this the final adjournment for the application.

Decision of the Board:

Heldover for one more month.

Application of Francis & Ashley Manfred for a Variation of Section 156-15, seeking permission to install Hot Tub. The property is located at 9 Lakeside Road, Mahopac, NY 10541 and is known by Tax Map #64.15-1-14.

Code Requires	Provided	Variance Required
10' Side	5'	5'

Mrs. Ashley Manfred was sworn in.

Mrs. Manfred said we are looking to get a variance for putting a hot tub on our property the rule is 10 feet so we are looking for a 5 foot variance.

Mr. Maxwell said I was a little confused because on your site plan you showed 5 feet for the shed.

Mrs. Manfred said the hot tub has the slashes; we looked at another location for the hot tub at first.

Mr. Maxwell asked if they spoke to their neighbors on that side.

Mrs. Manfred said so we are seasonal were not here very often so I haven't seen them yet but we did send out the letters to everybody.

Mr. Maxwell asked if there is any other property that can be purchased to bring this into conformance.

Mrs. Manfred said no.

Mr. Maxwell asked what the reasoning is for it going to that side of the house.

Mrs. Manfred said if you go to the house and your walking down the stairs we don't have 10 feet on either side so the thought was the stairs go down and the front door is on your left which we didn't want.

Mr. Maxwell said typically you would want this to get some sun or have it near the Lake side.

Mrs. Manfred said there isn't a lot of space between us and the water, we looked into putting it down on this cement patio that we have but technically it is owned by the State of New York but they won't claim it so we can't unless we get lawyers to get someone to take possession of that property.

Mr. Carnazza said someone has to claim it in order to give her permission to do it and no one will claim it.

Mr. Balzano asked what the size of the hot tub is that you are putting in.

Mrs. Manfred said it is 8 x 8 feet.

Mr. Maxwell asked if anyone from the public had any input on this application.

Mrs. Fabiano moved to close the public hearing. The motion was seconded by Mr. Schwarz with all in favor.

Decision of the Board:

Mrs. Fabiano moved to grant the variance. The motion was seconded by Mr. DiTomaso with all in favor.

Application of Timothy & Amy Smith for a Variation of Section 156-15, seeking permission to build an attached garage. The property is located at 11 St. Michaels Terrace Carmel, NY 10512 and is known by Tax Map #44.15-1-11.

Code Requires	Provided	Variance Required
15' side	6'	9'

Mr. Timothy Smith was sworn in.

Mr. Smith said I have applied for a variance for an attached garage to my residence at 11 St. Michaels Terrace in Carmel.

Mr. Maxwell stated that he was out there the other day; it is a very well kept property with a nice construction and landscaping. One of my concerns is where you plan to build this there is an old healthy tree that is on your neighbor's property. If you are going to excavate for footings you will probably affect the roots on the tree, have you guys considered that or spoke to your neighbors about it.

Mr. Smith said neither of us are that concerned about it because it hasn't come up, I was just planning to be careful. The proposed garage is about a foot or a foot and a half past my existing driveway edge so I didn't think it was that big of a deal and have not considered that.

Mr. Maxwell asked if there is any other property you can buy to bring this into conformance.

Mr. Smith said no.

Mr. Maxwell asked if he can locate this anywhere else on the property.

Mr. Smith said no.

Mr. Maxwell stated that generally the root systems on trees follow the branches, you might have finer roots at the end and you might be ok but you might want to think about that.

Mr. DiTomaso asked if he spoke to his neighbors about it and if they are ok with it.

Mr. Smith said yes extensively, he was asking what is taking so long.

Mrs. Fabiano asked if they discussed the tree.

Mr. Smith said no I have not but I will first thing tomorrow morning, he hasn't brought up any concern about it whatsoever.

Mr. Balzano asked if the only access will be from above.

Mr. Smith said yes just the stairwell inside.

Mr. Maxwell asked if there was any input from the public on this application.

Mr. Schwarz moved to close the public hearing. The motion was seconded by Mr. Aglietti with all in favor.

Decision of the Board:

Mr. Balzano moved to grant the variance. The motion was seconded by Mr. Aglietti with all in favor.

Application of Eileen Grossman for a Variation of Section 156-15, seeking permission to build a garage on a lot without principle use. The property is located at 44 Lakeside Road, Mahopac NY 10541 and is known by Tax Map #64.19-1-14.

Code Requires	Provided	Variance Required
Principle Building	Accessory Building	Use Variance
25' Front Yard	19'-6"	5'-6"
10' Side Yard	5'-6"	4'-4"

Mrs. Eileen Grossman and Mr. Scott Grossman were sworn in.

Mrs. Grossman said she is looking for a variance on our property at 44 Lakeside Road in Mahopac to build a two car garage; right now it is a vacant lot.

Mr. Maxwell stated that it is not out of character for that neighborhood, the only question I have is it looks like there is a retaining wall to the left side. He then asked if the retaining wall is on their property.

Mr. Grossman said yes it is on our property and we don't plan to disturb it at all.

Mr. Maxwell said ok because it looked like the footprint in the back corner will intersect with it.

Mr. Grossman said we took that into consideration when the architect made the plans because the garage will be forward a little bit of the wall.

Mr. Maxwell said ok the variances don't seem to extravagant in my opinion, are there any questions from the Board.

Mr. Carnazza asked if they are pulling the garage forward more then what you show on the plan.

Mr. Grossman said no the garage is exactly where the plans show.

Mr. Carnazza said ok I just wanted to make sure.

Mr. Maxwell asked if there was any input from the public on this application.

Mr. Schwarz moved to close the public hearing. The motion was seconded by Mr. Balzano with all in favor.

Decision of the Board:

Mr. Rossiter moved to grant the variance. The motion was seconded by Mr. Balzano with all in favor.

Application of Chad & Jackie Simone for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 34 Colonial Drive, Mahopac NY 10541 and is known by Tax Map #75.11-2-71.

Code Requires	Provided	Variance Required
10' Rear	0'	10'
10' Side	0'	10'

Mrs. Jackie Simone was sworn in.

Mrs. Simone stated that she is requesting a variance for my shed that has been there since we moved in at 34 Colonial Drive.

Mr. Maxwell asked how long they have lived there for.

Mrs. Simone said we have owned the house for 10 years.

Mr. Maxwell said ok I was up there the other day and the shed is kind of old but typically with a 10 foot variance we would make you move it. But, it is well screened on all sides surrounded by trees and the neighbor in the back looks like there shed is close by too. I would say if this goes fourth on a condition that if this shed needs to be replaced or repaired then you bring it into conformance. He then asked if there is any other property they can buy to bring this into conformance.

Mrs. Simone said no.

Mr. Maxwell asked if there was any input from the public on this application.

Mr. DiTomaso moved to close the public hearing. The motion was seconded by Mr. Schwarz with all in favor.

Decision of the Board:

Mrs. Fabiano moved to grant the variance with the condition that when the shed needs to be replaced that they will have to bring it into conformance. The motion was seconded by Mr. Balzano with all in favor.

Application of Craig Keogh for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 36 Secor Road, Mahopac NY 10541 and is known by Tax Map #74.42-1-3.

Code Requires	Provided	Variance Required
10' Side	3'	7'
10' Rear	2'	8'

Mr. Craig Keogh was sworn in.

Mr. Maxwell said you were here last month with your wife and she was saying that you would move the shed to bring this into conformance. What has come about since then?

Mr. Keogh said we are looking for a variance.

Mr. Carnazza said I went out there met his wife and looked for an alternate spot to move the shed and it isn't going to work.

Mr. Maxwell said because it's oblong and the door opens in the front.

Mr. Carnazza said correct and it would have closed off the whole back yard, it was difficult to make it comply properly.

Mr. Maxwell said I thought that would be an issue but she seemed confident it would work. So it's a 7 foot variance on the side and 8 foot on the rear which is not too extreme. I know we were talking about the pool being at 5 feet which is close to where the shed would have been moved too anyway. It is nestled in the corner and from what I remember there are some trees around it giving it some screening. Have you spoke to your neighbors even though it has been there for a while.

Mr. Keogh said yes they have no problem with it.

Mr. Maxwell said even though the new pool has come to the other side of the property.

Mr. Keogh said yes.

Mr. Maxwell asked if there was any input from the public on this application.

Mr. Balzano moved to close the public hearing. The motion was seconded by Mr. Schwarz with all in favor.

Decision of the Board:

Mr. Balzano made moved to grant the variance with the stipulation that if the shed needs to be replaced it needs to be brought into conformance. The motion was seconded by Mrs. Fabiano with all in favor.

Application of EMTK Realty Corp. for a Variation of Section 156-15, seeking permission to legalize 10 residential apartments. The property is located at 1736 Route 6, Carmel NY 10512 and is known by Tax Map #44.18-1-40.

Code Requires	Provided	Variance Required
40,000 sf area	30,990 sf	9,010 sf
200' width	72'	128'
Front yard westerly bldg. - 40'	38'	2'
Side yard westerly bldg. - 25'	4.5'	20.5'
Parking- 23 spaces	16 spaces	7 spaces
Width of parking spaces 10'	9'	1'
1 Loading space	0 Loading space	1 Loading space
Minimum width of driveway 24'	20'	4'
Side yard easterly bldg.-25'	0.4'	24.6'

Mr. Maxwell stated the applicant has requested an adjournment.

Mr. Balzano moved to holdover the application. The motion was seconded by Mrs. Fabiano with all in favor.

Application of Raed Audah for Variation of Section 156-15, seeking permission to build an addition and carport. The property is located at 49 Sycamore Road, Mahopac NY 10541 and is known by Tax Map #76.5-1-12.

Code Requires	Provided	Variance Required
Fence no higher than 4' on side	7'	3'
Building Cover 15%	25.4%	10.4%
Carport Front Yard setback 25'	23' 6"	1' 6"
Rear Yard 20'	3' 8"	16' 4"
Side Yard 15'	2' 3" carport & house	12' 9"

Mr. Maxwell said we have a request for an adjournment until next month.

Mrs. Fabiano moved to holdover this application. The motion was seconded by Mr. Balzano with all in favor.

Mr. Maxwell stated that if anyone from the public is here for this case it will be adjourned until further notice.

Application of Steven Gorelick for a Variation of Section 156-15, seeking permission to construct a carport. The property is located at 7 Collier Drive, Carmel, NY 10512 and is known by Tax Map #44.13-1-13.

Code Requires	Provided	Variance Required
15' Side	11'	4'

Mr. Greenberg was sworn in and stated that he is here representing the applicant Mr. Gorelick.

Mr. Greenberg said that this is a one family house with a single garage on the right hand side, the driveway is paved and we are proposing to put in an open car port. The base is already there and the blacktop goes to the side of the garage so we are basically putting the car port on top of the existing blacktop. As you can see from the site plan, the requirement is 15 feet we have 11 feet so we need a 4 foot variance.

Mr. Maxwell said alright so you're carrying the same roof line and material.

Mr. Greenberg said yes we are carrying the same roof line all the way across as you can see from the elevation and we are basically just extending the roof from the garage.

Mr. Maxwell asked if it goes the same depth as the roof line.

Mr. Greenberg said yes.

Mr. Maxwell said ok it is not too much of a variance, is there any other property that you can buy to bring this into conformance.

Mr. Greenberg said no.

Mr. Maxwell said you won't be disrupting anything with the footings.

Mr. Greenberg said no there is no full foundation.

Mr. Maxwell asked if they spoke to the neighbors on that side of the house.

Mr. Greenberg said it does not seem to be an issue with any of the neighbors.

Mr. Maxwell asked if there was any input from the public on this application.

Mr. DiTomaso moved to close the public hearing. The motion was seconded by Mr. Balzano with all in favor.

Decision of the Board:

Mr. Rossiter moved to grant the variance. The motion was seconded by Mr. Balzano with all in favor.

Application of 1976 Route 6 LLC for Variation of Section 156-15, 156-42a(1), 156-42d, seeking permission to construct the site plan which does not include a building and to provide 8 or 9 foot wide striped parking spaces for the outdoor vehicle storage area. The property is located at 1976 Route 6, Carmel, NY 10512 and is known by Tax Map #55.15-1-20.

Code Requires	Provided	Variance Required
5,000 s.f. min. building	0 s.f. building	5,000 s.f. building (floor area)
10 feet wide min. parking stalls	8 feet wide min. parking stalls	2 foot width of parking stalls
20 feet length min. parking stalls	18 feet length min. parking stalls	2 foot length parking stalls
Off-street parking as accessory use to principal use	Only off-street parking	Accessory use (parking) without principal use
24 feet wide parking aisle	Min. off 22 feet wide parking aisle	2 foot wide parking aisle

Ms. Dawn McKenzie from Insite Engineering was sworn in.

Ms. McKenzie said this is the Volt's family Meadowland Extension project located on Route 6 across the street from there GM dealership. They came in front of the Town a few years ago to do GM mandated improvements to the site; they are so successful that they now need more space for the storage of cars. What they are looking to do with this project before the planning board to get an outdoor parking area for the storage of inventory. We are here today to get variances for a few things, we are look for parking width variance, parking stall length variance, parking aisle variance, a variance for 0 square footage for a building so we don't have to put a building on the site and we are looking for a variance for an accessory use for off street parking without a principle use.

Mr. Maxwell asked if this was directly across the street from the dealership.

Ms. McKenzie said yes it is.

Mr. Carnazza said well it is slightly up the hill just below the old credit union.

Mr. Maxwell said I drove by it and its all wooded so it's pretty hard to in vision what's going to go there but you guys are contracted by the properties is that pending or is it already purchased.

Ms. McKenzie stated that they have already purchased the property, they need more storage space for cars and this one came up for sale right across the street which will be very convenient to them. It's hard to find the right size property that is big enough and appropriately zoned.

Mr. Carnazza said our code does allow for the Board to allow parking on an adjacent lot but it is not adjacent because there is a road between it.

Mrs. Fabiano said but it is across the street, is this a use variance.

Mr. Carnazza said it is but they don't have a principle use so they can ask for that variance or go the opposite way, they are just being upfront and telling you the entire story. It is a use variance but it's not a legal use it is a use that is permitted but because they don't have the use with it, it's really just the 0 square foot building that's the problem. There first application had a building; they were just going to build a building for no reason because it is required.

Mrs. Fabiano asked if they extended out because I noticed there weren't as many cars on the other side of the street and all of a sudden in the last year I feel like it is expanded dramatically.

Mr. Carnazza said when they did Chevrolet expansion they took down some of the tree areas so I think you are seeing more then you did before.

Ms. McKenzie said they did expand and put in more vehicle storage area for the last proposal and since then there business has grown and they need more storage.

Mr. Carnazza said and only the staff is allowed in this lot.

Ms. McKenzie said correct, the lot that we are proposing is going to have a gate so it will be closed after business hours and it is going to have signs at the entrance that it is not open for public access. They actually have a system that they use already where they shuttle vehicles to the dealership for people to see or the salesman will put customers in a car and bring them to look at off site vehicles.

Mr. Maxwell said so the tight stall width is meant for the car being managed by the employees.

Ms. McKenzie said correct this is not a public parking lot this is strictly a storage area for their cars. The only vehicles driving in and out of it will be staff; they really don't expect a lot of traffic in and out of the site I believe what they said is 2-3 cars an hour and occasionally they may have a truck in there doing deliveries. We do have a DOT entrance which is sized appropriately for that and the majority of the parking stalls are conforming in width the only ones that are 8 feet wide are the parallel parking spaces along the driveway entrance. As far are parking stall length, quite a few of the spaces are conforming all of the parallel ones are 20 foot long, the perpendicular ones are 18 foot in length but a bunch of them are up against the curb and the code allows for 18 foot parking stalls with a two foot overhang. Any of the perimeter parking spaces that are perpendicular you drive into them straight on but the other ones don't have a curb but they do have room for an overhang.

Mr. Carnazza said everything from the blue line up on the map is wetland.

Mr. Maxwell said a majority of the property is wetland so it really wouldn't be conducive for a building and have enough parking for that building.

Mr. Carnazza said we had one applicant come on this property once before for a landscape yard and I guess they couldn't do it because of the size.

Mr. Maxwell said it is a really unique situation that it is in such close proximity to a car dealership anyway so the property seems to be perfect with the use that you're asking for.

Mr. Rossiter said that little grey building there is that the Honey Do building on the bottom by the entrance.

Ms. McKenzie said yes.

Mr. Rossiter asked if they will be pulling the trucks in there to unload or unload on the street.

Ms. McKenzie said we actually have provided a wide enough entrance with room in here to turn around a vehicle and we have a loading and unloading stall on the site. At this point they don't think they need to unload inventory over here but we did leave enough space for it just in case. We are also asking for a two foot variance to the parking aisle width but that is strictly within the parking area and the entire length of the main access drive is conforming in width.

Mr. Carnazza asked how long the front road is to get to where you will start storing cars.

Ms. McKenzie said in this location here I'm not exactly sure but I can defiantly measure it.

Mr. Carnazza said I think we went over it with the Planning Board and I thought it was 375 or 400 feet to where you start storing cars.

Ms. McKenzie said actually no we start storing cars right here and the Planning Board asked if we can have it at least 100 feet from the road.

Mr. Carnazza asked if you will see those first cars from Route 6.

Ms. McKenzie said it is highly unlikely that you will, they ones right at the entrance you may but the larger storage area in the back you won't.

Mr. Carnazza said didn't the Planning Board say they didn't want cars right at the entrance.

Ms. McKenzie said yes they are not at the entrance they are over 100 feet back which is what they asked for.

Mr. Carnazza said so the first car is a little over 100 feet back.

Ms. McKenzie said that's correct.

Mr. Maxwell said that property kind of goes up hill.

Ms. McKenzie said well we are actually coming into the site and going downhill all the way to the back so we can get the storm water management drained to the back of the site into the storm water basins. We just didn't have enough room to get anything in at the front of the site; these properties here are at a significantly higher elevation then the car storage area.

Mr. Schwarz asked if the wetlands are higher or lower.

Ms. McKenzie said lower, I know that the entire site drains down from up here down into the wetland and into the back.

Mr. Maxwell asked if they are all going to be new cars so there won't be any oil leaks or anything.

Ms. McKenzie stated that they went to the ECB and that was one of the things they asked about and they asked us to put in some additional measures to address that. We were required to prepare a Storm Water Pollution Prevention Plan and that addresses that problem, we have it covered but the ECB asked for additional measures.

Mrs. Fabiano said from Route 6 all I am going to see is a driveway.

Ms. McKenzie said yes the driveway and the gate but we do have to take down the trees in this area in order to do the site grading because if you drive through that section now the existing conditions have a 20 foot drop if you are standing on Route 6 and look down into the site. So we will need to clear that area and place fill in order to get that driveway entrance in.

Mrs. Fabiano said so the Planning Board has added trees along that roadway.

Ms. McKenzie said no not on this side but we do have screening between the entrance drive and the Honey Do Men because they are so close.

Mr. Maxwell said for future references please bring two sets of plans because we usually like one to go on the other pedestal for the camera to pick it up.

Mr. Maxwell asked if there was any input from the public on this application.

Mr. Balzano moved to close the public hearing. The motion was seconded by Mrs. Fabiano with all in favor.

Decision of the Board:

Mr. Balzano moved to grant the variance. The motion was seconded by Mr. DiTomaso with all in favor.

MINUTES - 4/28/2016

Mr. Balzano moved to accept the minutes of 4/28/2016. The motion was seconded by Mr. Rossiter with all in favor.

The meeting was adjourned at 8:07 p.m.

Respectfully submitted,

Rose Trombetta