

APPROVED

JOHN MAXWELL
Chairman

PHILIP AGLIETTI
Vice-Chairman

TOWN OF CARMEL ZONING BOARD OF APPEALS



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*Director of Code
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BOARD MEMBERS

ROSE FABIANO
SILVIO BALZANO
WILLIAM ROSSITER
MARC DITOMASO
MICHAEL SCHWARZ

ZONING BOARD OF APPEALS MINUTES

OCTOBER 27, 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>
Silvia Oliveri	74.43-2-1	1	Granted.
Rosalind D'Amore	87.6-1-57	1	Heldover.
Vjeko Cotaj	76.30-1-19	1-2	Granted as Amended.
Edward Mallon	85.16-1-35	2-3	Granted.
Mahopac Improvements Owner LLC - (Planet Fitness)	86.11-1-22	3	Granted as Amended.
Maria Lluka	74.34-2-23	4	Granted.
First Presbyterian Church	75.13-1-30	4-5	Granted.
NL & M Holding Corp (Mazzola)	75.44-1-47	5-7	Heldover.
Minutes- 07/28/16 & 08/25/16 09/22/16		7	Approved. Heldover.

The meeting was adjourned at 8:33 p.m.

Respectfully submitted,

Rose Trombetta

Application of Silvia Oliveri for a Variation of Section 156-15, seeking permission to retain attached pool with pool deck. The property is located at 85 Lake Shore Drive, Mahopac, NY 10541 and is known by Tax Map #74.43-2-1.

Code Requires	Provided	Variance Required
15' Rear	12'	3'

Mrs. Oliveri was sworn in. She addressed the board and stated when she replaced the damaged pool from a storm she didn't realize the pool was bigger and needed a variance.

Mr. Carnazza stated the pool they had didn't not have a deck. When they put the deck on and attached to the house the setback changed.

Mr. Maxwell asked how long have you had the pool and the deck?

Mrs. Oliveri replied a long time. She said she doesn't know exactly.

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

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

Decision of the Board:

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

Application of Rosalind D'Amore for a Variation of Section 156-15, seeking permission to retain shed. The property is located at 2 McMillan Ave, Mahopac NY 10541 and is known by Tax Map # 87.6-1-57.

Code Requires	Provided	Variance Required
10' Rear	2'	8'

Mr. Maxwell stated the applicant is requesting a holdover for inaccurate information.

Mr. Aglietti moved to holdover the application. The motion was seconded by Mr. Rossiter with all in favor.

Application of Vjeko Cotaj for a Variation of Section 156-15 and a Use Variance, Section 156-47A(1), seeking permission to construct shed. The property is located at 143 East Lake Blvd, Mahopac NY 10541 and is known by Tax Map #76.30-1-19.

Code Requires	Provided	Variance Required
10' Rear	1'	9'

Mr. Vjeko Cotaj was sworn in. He addressed the board and stated he is looking to construct a shed next to his house.

Mr. Maxwell stated you are looking for a very big variance. I think we should bring it in a little closer and you have room to come closer so you're not so close to the property line.

Mr. Cotaj replied okay.

Mr. Maxwell asked what is the size of the shed.

Mr. Cotaj replied 10' x 14'.

Mr. Maxwell asked if we came closer to the house by 3 feet will that work?

Mr. Cotaj replied okay.

The board members were in agreement with bringing it in by 3 feet.

Mr. Cotaj initialed the application indicating 3 feet provided and a variance required to 7 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. Aglietti with all in favor.

Decision of the Board:

Mrs. Fabiano moved to grant the variance as amended with the 7 foot variance required and 3 foot provided. The motion was seconded by Mr. Aglietti with all in favor.

Application of Edward Mallon for a Variation of Section 156-15, seeking permission to retain deck. The property is located at 66 Carey Road, Mahopac NY 10541 and is known by Tax Map #85.16-1-35.

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

Mr. Edward Mallon was sworn in. He addressed the board and stated he is looking to retain his deck.

Mr. Maxwell asked if there were any issues with his neighbors.

Mr. Mallon replied no.

Mr. Maxwell asked if there was any other property you could buy to bring it into conformance.

Mr. Mallon replied no.

Mr. Maxwell asked how long has the deck been there?

Mr. Mallon replied over 30 years.

Mr. Maxwell stated the deck is well screened and in good shape.

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

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

Decision of the Board:

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

Application of Mahopac Improvements Owner LLC - (Planet Fitness) for a Variation of Section 156-41, seeking permission to install wall sign. The property is located at 135-183 Route 6, Mahopac NY 10541 and is known by Tax Map #86.11-1-22.

Code Requires	Provided	Variance Required
40 s.f.	109 s.f.	69 s.f.

Mr. Mario Canteros, applicant's architect and Nick Marangelli of Universal Signs were sworn in.

Mr. Canteros addressed the board and stated we are proposing to install a Planet Fitness wall sign in the Mahopac Village Center. At which time, he displayed photos of the adjacent stores such as the liquor store and Advanced Auto Parts. He said the Advanced Auto Parts sign is double the size of what we are proposing. He said the 40 square feet that is in the zoning ordinance is a small and we are increasing it enough so that you could see it a little better from a distance.

Mr. Maxwell asked how many square feet of space is Planet Fitness taking over.

Mr. Canteros said about 12,000 square feet, two store fronts.

Mr. Maxwell asked if they were set on that number, because you are asking over 50% variance wise.

Mr. Marangelli said it's a matter of visibility. He said if it was closer to the road it would be a possibility.

Mr. Canteros said this sign is not bigger than any of the signs in the shopping center.

Mr. Maxwell asked what can we bring this sign down to.

Mr. Canteros said how about 90 square feet.

Mr. Maxwell said we do not have any issues with the color since that is the brand color.

Mr. Maxwell asked Mr. Canteros to initial the application changing it to a 50 square foot variance, and 90 square feet provided.

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

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

Decision of the Board:

Mrs. Fabiano moved to grant the variance as amended with 50 square foot variance required and 90 provided. The motion was seconded by Mr. Balzano with all in favor.

Application of Maria Lluka for a Variation of Section 156-15, seeking permission to retain above ground pool. The property is located at 263 Rockledge Road, Mahopac NY 10541 and is known by Tax Map #74.34-2-3.

Code Requires	Provided	Variance Required
10'	3'	7'

Mrs. Maria Lluka was sworn in. She addressed the board and stated she is looking to retain an above ground pool.

Mr. Maxwell asked how long has the pool been there?

Mrs. Lluka replied about 3 years.

Mr. Maxwell said he visited the property. It is screened in and there is a fence. He asked if the neighbors were okay with it.

Mrs. Lluka replied yes.

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

Mrs. Lluka replied no.

Mrs. Fabiano asked why is this coming up now? Did you get a violation?

Mrs. Lluka replied yes.

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

Mr. Balzano 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 First Presbyterian Church for a Use Variance, seeking permission to have tag sale/flea market on select weekends. The property is located at 411 Route 6N, Mahopac NY 10541 and is known by Tax Map #75.13-1-30.

Mrs. Lisa Morrison, representing the church was sworn in. She addressed the board and stated they were looking for use variance for tag sales and occasional flea market.

Mr. Maxwell said I don't see it being a problem. There are no traffic issues, there's plenty of parking there. It's good for the community.

Mrs. Fabiano asked how often do you have tag sales/flea market.

Mrs. Morrison replied about 4 to 5 times a year.

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

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

Decision of the Board:

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

Application of NL & M Holding Corp (Mazzola) for a Variation of Section 156-15 and a Use Variance, seeking permission to complete second floor and add four apartments. The property is located at 936-942 South Lake Blvd, Mahopac NY 10541 and is known by Tax Map #75.44-1-47.

Code Requires	Provided	Variance Required
Mixed use–Not Permitted	Retail & Apartments	Use Variance
Front yard north – 40 ft	35.57 ft	4.43 ft
Front yard south – 40 ft	23.4 ft	16.6 ft
Side yard west – 25 ft	0.7 ft	24.3 ft
Parking – 30 P.S.	5 P.S.	31 P.S.
Parking – 10 ft x 20 ft	9 ft x 20 ft	1 ft width
ADA Parking	0 P.S.	1 P.S.
Side yard east – 25 ft	0.2 ft	24.8 ft

Mr. Joel Greenberg of Architectural Visions and Michael Mazzola owner of the property was sworn in.

Mr. Greenberg addressed the board and stated on the Route 6N side there are two apartments and what we would like to do is finish the second floor and add four more apartments. He said we will completely redo the outside of the building and get rid of the stone work that was put there several years ago. He said we are going to get rid of the flat roof and provide a gable roof over the entire building. Mr. Greenberg stated the applicant submitted letters in response to the requirements for a use variance. He said the first one is the applicant is deprived of all economic use or benefit of the property in question. The applicant submitted to you the breakdown of his income and expenses and what it would be with the additional apartments. He said the second criterion is alleged hardship related to the property in question is unique and does not apply to a substantial portion of the district. He said the situation with this building is rather unique. Many of the buildings along Route 6N are retail on the first floor and apartments on the second floor. And it would be in keeping with the other buildings that are adjacent to it and that section in town. Also, if you look at zoning ordinances from surrounding towns we are probably the only town that does not allow apartments in the business district to be above retail stores. He said the third criterion is if a use variance was granted it would not alter the essential character of the neighborhood. He said this would be in keeping with the surrounding buildings on Route 6N. He said the last criterion is alleged hardship is not self-created. Basically, the building is there, we are not creating a new building. He said as far as the area variances, a lot of the variances were previously granted. He said since we are adding a second floor to the Route 6 side of the building we are increasing the non-conformities. The setbacks are the same, but because we are going to two stories instead of one we are coming back for the same variances that were granted several years ago. He said the variances are very similar to what we asked for before to put in a gable roof. He said we are asking for a parking variance of 31 parking spaces. 36 parking spaces are required as per code and we have 5 parking spaces. He stated as you drive up and down Route 6 & Route 6N there is street parking and in addition Mr. Mazzola owns two pieces of properties that are in walking distance.

Mr. Carnazza asked if Mr. Mazzola will give a perpetual easement to allow that.

Mr. Greenberg replied absolutely!

At which time, a discussion ensued regarding the parking distance for the tenants of the property and the extra parking that would occur on the streets.

Mr. Greenberg stated Mr. Mazzola is willing to provide parking at the two additional locations even though they are several hundred feet away.

The board members and the applicant continued to discuss the parking congestion on Routes 6 & 6N.

Mrs. Fabiano stated every criterion in the use variance has to be met and as far as the financials are concerned the applicant is not claiming a loss at the end of the year.

At which time, a discussed ensued regarding the profits of the proposed apartments and gas & electric.

Mrs. Fabiano stated as it is right now you are already getting a reasonable return.

Mr. Mazzola stated I have to fix the roof. He said now all I asking is to put up the walls to make an apartment.

Mrs. Fabiano said once you put a roof on that expense is gone. She asked how long have you owned the building?

Mr. Mazzola replied about 5 to 6 years.

Mrs. Fabiano said so you made \$15,000 times 5 to 6 years. She said I don't see the criterion being met with regards to economic part of it. She said I believe it was self-created. When you bought the building you know what it was, it's non-conforming. She said the goal isn't to expand pre-existing, non-conforming it's to reduce them.

At which time, a further discussion ensued regarding the applicant's financials and the substantial parking spaces variance.

Mrs. Fabiano stated a use variance is very stringent.

Mr. Greenberg stated I understand that. He said maybe Mr. Mazzola could redo his financials to make it a little clearer for the board to understand. He asked the board if the application could be heldover.

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

Mr. Balzano moved to re-open for the public to speak. The motion was seconded Mrs. Fabiano with all in favor.

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

Mr. Gino Barbaro was sworn in. He addressed the board and stated he has been a business owner for over 20 years right across the street from the property. I never had a problem with the parking before Mr. Mazzola bought the property 6 years ago. He said I have had numerous issues and complaints with his tenants parking in my parking lot to the point where they are verbally abusive. Mr. Mazzola never addressed it. He said I love what he is doing, and I think it adds value to the town, but at the same time you're adding an additional four apartments who will need more parking spots. He said I don't have a problem with the board granting the variances, but I need some type of guarantee that his tenants and clients do not park in his lot.

Mr. Bart Lansky of 947 South Lake Blvd was sworn in. He addressed the board and stated the 19 unit apartment building which is across from his plaza also park in his lot. He said there just isn't enough parking; it's been a long standing problem. As far as the financials other municipalities "return" is typically cash on cash. It's not depreciation or interest expense.

Mr. Maxwell stated our original motion to holdover the application stands.

MINUTES – 07/28/16, 08/25/16 & 09/22/16

Mr. Aglietti moved to accept the July and August minutes. The motion was seconded by Mrs. Fabiano with all in favor except Mr. Balzano who abstained from the July minutes.

The September 22, 2016 minutes were heldover.

The meeting was adjourned at 8:33 p.m.

Respectfully submitted,

Rose Trombetta